

MINUTES
AIR QUALITY ADVISORY COUNCIL
October 12, 2016
Tulsa Tech
Owasso, Oklahoma

Official AQAC Approved
at January 18, 2017 meeting

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

MEMBERS PRESENT

Montelle Clark
Gary Collins
David Gamble
Jim Haught
Laura Lodes

DEQ STAFF PRESENT

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

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

MEMBERS ABSENT

Gerald Butcher
Robert Lynch
Sharon Myers

OTHERS PRESENT

Lynette Wrany, Court Reporter

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

See transcript pages 3 - 4

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

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

See transcript pages 4 - 5

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

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

See transcript page 6

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

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

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

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

See transcript pages 7 - 28

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

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

Appendix Q. Incorporation By Reference [REVOKED]

Appendix Q. Incorporation By Reference [NEW]

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

See transcript pages 28 – 31

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

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

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

See transcript pages 31 - 47

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

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

See transcript pages 48 - 53

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

Ms. Lodes announced the conclusion of the hearing portion of the meeting.
See transcript page 53

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

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

New Business – None

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

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

OKLAHOMA DEPARTMENT OF ENVIRONMENTAL QUALITY

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

TulsaTech
10800 North 140th East Avenue
Owasso, OK

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

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

3

1 COUNCIL MEMBERS PRESENT:
2 Mr. Montelle Clark
3 Mr. Gary Collins
4 Mr. David Gamble
5 Mr. Jim Haught
6 Ms. Laura Lodes, Vice-Chairman
7
8 COUNCIL MEMBERS ABSENT:
9 Mr. Gerald Butcher, Chairman
10 Mr. Robert Lynch
11 Ms. Sharon Myers
12
13 OTHERS APPEARING:
14 Ms. Laura Finley, Supervising Attorney, Air
15 Quality Division
16 Ms. Cheryl Bradley, Environmental Programs
17 Manager, Air Quality Division
18 Ms. Beverly Botchlet-Smith, Assistant
19 Director, Air Quality Division
20 Mr. Brooks Kirlin, Engineer, Air Quality
21 Rules and Planning Section
22 Ms. Nancy Marshment, Environmental Programs
23 Specialist, Air Quality Division
24 Ms. Melanie Foster, Environmental Programs
25 Manager
26 Mr. Eddie Terrill, Director, Air Quality
27 Division

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

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

5

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

6

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

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

8

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

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

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

22 Starting with Change Number 1, the first
23 proposed change relates to deferral of consideration
24 of CO₂ emissions that result from the combustion or
25 decomposition of biomass under the federal Greenhouse

9

1 constituents or precursors to a criteria pollutant.

2 Note that the revision would remove the
3 specific term "PM emissions" in reference to
4 condensable particulate matter since PM is not a
5 separate criteria pollutant, that is, as opposed to
6 criteria pollutants for PM_{2.5} and PM₁₀. The
7 definition will, of course, retain requirements to
8 account for condensable particulate matter for PM_{2.5}
9 emissions and PM₁₀ emissions.

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

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

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

11

1 Gas program. The proposal would remove related
2 language from the definition of the term "subject to
3 regulation" in two locations, two Subchapter 6
4 locations: Section 8-2, which in the proposal is on --
5 I believe it's on page 6 and 7 of the -- what's in the
6 packet; and then Section 8-31, which is PSD, and also
7 from the definition of "carbon dioxide equivalent
8 emissions" or CO₂e in Subchapter 1, 1-3.

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

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

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

10

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

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

7 Change Number 7 would amend Subsection 8-33(c)
8 to revise to zero, zero micrograms per cubic meter,
9 the PM_{2.5} impact amount for exemption from the
10 pre-construction ambient monitoring requirements of
11 Subsection 8-35(c), plus a related language update to
12 drop the term "significant monitoring concentration."

13 The proposal would also revise Subsection
14 8-35(a) to remove the PM_{2.5} significant impact levels
15 (SILs), in accordance with EPA's revisions in 40 CFR
16 Section 51.166. And EPA made these changes in
17 response to court actions in December 2013.

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

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

12

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

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

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

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

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

23 MR. BROOKS KIRLIN: Right.

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

13

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

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

10 MR. BROOKS KIRLIN: Well --

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

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

16 VICE-CHAIRMAN LAURA LODES: Correct. And so
17 that's what I'm saying. Under "significant" we have
18 particulate matter listed at 25 tons. But if I go
19 back to the definition of regulated NSR pollutant, one
20 of the changes we've made here is -- and what you were
21 saying is you took PM out of that list under (D),
22 because you restructured where PM_{2.5} and PM₁₀ are and
23 you moved them up to (A), to (A)(i). Yeah. I'm on
24 page 16 of the original packet that I have of the
25 rules.

15

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

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

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

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

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

14

1 MR. BROOKS KIRLIN: Right. Right.

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

6 MR. BROOKS KIRLIN: Right.

7 VICE-CHAIRMAN LAURA LODES: We struck that and
8 we changed it. And we moved the PM_{2.5} and PM₁₀ up to
9 here. And then when I flip to the next page on page
10 17, under (D) is where we used to say PM emissions,
11 but we've removed PM emissions from this section for a
12 regulated NSR pollutant, yet we still have particulate
13 matter under the definition of "significant." And I
14 don't know if that's going to be a -- I want to make
15 sure that's not a problem.

16 So if you look on page --

17 MR. BROOKS KIRLIN: Right. I understand.

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

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

23 (Pause.)

24 If we could have just a moment.

25 (Pause.)

16

1 VICE-CHAIRMAN LAURA LODES: What I'm talking
2 about is we're losing particulate matter 25 tons as an
3 NSR pollutant, regulated NSR pollutant, is what it
4 looks like. Because it was on page 17 under (D) and
5 we listed PM, PM_{2.5} and PM₁₀, and then we moved to the
6 page before PM_{2.5} and PM₁₀, but we dropped PM,
7 particulate matter, itself.

8 (Pause.)

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

15 MR. BROOKS KIRLIN: Okay. My understanding,
16 the concern primarily is that in -- under
17 "significant", the term particulate matter, 25 tons
18 per year of particulate matter emissions, it says or
19 15 tons per year of PM₁₀ emissions under (A)(IV) would
20 continue to appear. But under regulated NSR
21 pollutant, we would be pulling the reference to PM,
22 just simple PM, or, yeah, PM emissions.

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

17

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

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

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

16 VICE-CHAIRMAN LAURA LODES: Right.

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

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

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

24 VICE-CHAIRMAN LAURA LODES: Correct.

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

19

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

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

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

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

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

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

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

18

1 VICE-CHAIRMAN LAURA LODES: Okay.

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

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

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

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

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

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

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

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

20

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

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

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

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

22 MS. LAURA FINLEY: Right.

23 MR. JIM HAUGHT: Why this? Why this one?
24 Because, I mean, if it is something that's
25 significant, that's, you know, that's a threshold --

21

1 significant.

2 MS. LAURA FINLEY: Yes.

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

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

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

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

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

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

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

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

23

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

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

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

22

1 they still require it.

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

5 MS. LAURA FINLEY: Right.

6 MR. DAVID GAMBLE: Some of it.

7 MS. LAURA FINLEY: Right.

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

10 MS. LAURA FINLEY: In our state rules.

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

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

15 MS. LAURA FINLEY: Correct.

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

18 Any other questions?

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

25 MR. BROOKS KIRLIN: Right. Yeah.

24

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

25

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

27

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

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

28

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

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

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

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

29

1 motion?

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

5 MR. MONTELLE CLARK: I second that.

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

8 MS. QUIANA FIELDS: Mr. Clark?

9 MR. MONTELLE CLARK: Yes.

10 MS. QUIANA FIELDS: Mr. Collins?

11 MR. GARY COLLINS: Yes.

12 MS. QUIANA FIELDS: Mr. Gamble?

13 MR. DAVID GAMBLE: Yes.

14 MS. QUIANA FIELDS: Mr. Haught?

15 MR. JIM HAUGHT: Yes.

16 MS. QUIANA FIELDS: Ms. Lodes?

17 VICE-CHAIRMAN LAURA LODES: Yes.

18 MS. QUIANA FIELDS: Motion passed.

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

22 Laura Finley, Supervising Attorney, will present.

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

31

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

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

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

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

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

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

30

1 Division at DEQ.

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

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

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

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

25 After consideration -- after considering the

32

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

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

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

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

25 Therefore, the petition includes a proposed

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

36

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

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

10 MS. LAURA FINLEY: No.

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

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

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

37

1 consideration in January.

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

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

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

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

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

24 MR. EDDIE TERRILL: That's correct.

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

39

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

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

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

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

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

38

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

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

8 MS. LAURA FINLEY: Right.

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

11 MS. LAURA FINLEY: Right.

12 MR. MONTELLE CLARK: So then if --

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

16 MR. MONTELLE CLARK: Right. Right.

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

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

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

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

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

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

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

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

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

41

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

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

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

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

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

43

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

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

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

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

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

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

42

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

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

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

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

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

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

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

44

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

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

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

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

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

21 Any further questions for this?

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

45

1 would be locked into actually making a rule.

2 MR. MONTELLE CLARK: Okay.

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

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

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

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

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

15 MS. QUIANA FIELDS: Mr. Clark?

16 MR. MONTELLE CLARK: Yes.

17 MS. QUIANA FIELDS: Mr. Collins?

18 MR. GARY COLLINS: Yes.

19 MS. QUIANA FIELDS: Mr. Garble?

20 MR. DAVID GAMBLE: Yes.

21 MS. QUIANA FIELDS: Mr. Haught?

22 MR. JIM HAUGHT: Yes.

23 MS. QUIANA FIELDS: Ms. Lodes?

24 VICE-CHAIRMAN LAURA LODES: Yes.

25 MS. QUIANA FIELDS: Motion passed.

47

1 us at some point. Correct?

2 MS. LAURA FINLEY: Right.

3 VICE-CHAIRMAN LAURA LODES: Okay.

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

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

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

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

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

46

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

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

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

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

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

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

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

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

48

1 MR. JIM HAUGHT: Or a majority of the Council?
 2 MS. LAURA FINLEY: The majority of the members
 3 present.
 4 VICE-CHAIRMAN LAURA LODES: The majority
 5 present. Okay. So we made a second motion to carry
 6 it forward. Do we need to do anything to get rid of
 7 that motion?
 8 MS. LAURA FINLEY: That's the question I just
 9 asked Madison. And if you give me a minute to look, I
 10 can find something. But the vote to approve the
 11 minutes came first, and so --
 12 VICE-CHAIRMAN LAURA LODES: Which should trump
 13 the --
 14 MS. LAURA FINLEY: So I would say they're
 15 approved.
 16 VICE-CHAIRMAN LAURA LODES: I would say
 17 they're approved.
 18 MS. LAURA FINLEY: That's what I'm thinking.
 19 VICE-CHAIRMAN LAURA LODES: So do we want to
 20 say they're approved and move forward?
 21 MS. LAURA FINLEY: Sure.
 22 VICE-CHAIRMAN LAURA LODES: Okay. We're going
 23 to say that the --
 24 MS. LAURA FINLEY: But if you want to be safe,
 25 we could do some sort of vote to not carry over or

49

1 going, so we've got this correct.
 2 So because we made two motions earlier, we
 3 need to get rid of that second motion where we moved
 4 to carry over the minutes.
 5 MS. LAURA FINLEY: So move to not carry over.
 6 VICE-CHAIRMAN LAURA LODES: Yes. We need -- I
 7 need -- we need a -- I now need a motion to not carry
 8 over the minutes.
 9 MR. DAVID GAMBLE: I move we make a motion to
 10 not carry --
 11 VICE-CHAIRMAN LAURA LODES: I just need you to
 12 make a motion.
 13 MR. DAVID GAMBLE: Make a motion.
 14 VICE-CHAIRMAN LAURA LODES: To not carry over.
 15 MR. DAVID GAMBLE: To not carry over the --
 16 VICE-CHAIRMAN LAURA LODES: January minutes.
 17 MR. DAVID GAMBLE: January minutes.
 18 VICE-CHAIRMAN LAURA LODES: To the January
 19 2017 --
 20 MR. DAVID GAMBLE: To the next meeting.
 21 VICE-CHAIRMAN LAURA LODES: Thank you. I need
 22 a second.
 23 MR. JIM HAUGHT: I'll second that.
 24 VICE-CHAIRMAN LAURA LODES: And I will restate
 25 that for you. I have a motion to not carry over the

51

1 something. But -- if you wanted to -- yeah. If it
 2 turns out we're wrong.
 3 VICE-CHAIRMAN LAURA LODES: Okay. We'll bring
 4 it back if it turns out we're wrong. Otherwise, we're
 5 going to assume the minutes were approved from the
 6 January meeting and we're going to disregard the
 7 second motion, unless we find out that we were wrong.
 8 MS. LAURA FINLEY: Okay.
 9 VICE-CHAIRMAN LAURA LODES: Okay.
 10 MS. CHERYL BRADLEY: That concludes the
 11 hearing portion of the meeting. And now we can move
 12 on to the presentations.
 13 (Pause.)
 14 VICE-CHAIRMAN LAURA LODES: Let's take a short
 15 break. It says 10:18. Let's start back at 10:25. So
 16 that gives us seven minutes.
 17 RECESS - 10:18 A.M.
 18 RECALL TO ORDER - 10:30 A.M.
 19 VICE-CHAIRMAN LAURA LODES: We are going to
 20 reopen the hearing portion of this meeting and we are
 21 going to -- I need a motion that we move to not carry
 22 over Approval of the Minutes and defer to the original
 23 motion. And I need a second of this to approve
 24 wherein the minutes -- wherein the minutes were
 25 originally approved. And we have our court reporter

50

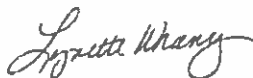
1 minutes from the January 2016 meeting to the January
 2 2017 meeting and I have a second.
 3 Would you, please, call roll?
 4 MS. QUIANA FIELDS: Mr. Clark.
 5 VICE-CHAIRMAN LAURA LODES: Mr. Clark? I need
 6 you to do this.
 7 MR. MONTELLE CLARK: I have been abstaining
 8 because --
 9 VICE-CHAIRMAN LAURA LODES: No, you did. You
 10 did vote yes on the motion to carry them forward.
 11 MR. MONTELLE CLARK: I thought I abstained.
 12 VICE-CHAIRMAN LAURA LODES: No, you -- the
 13 only thing you abstained on was approving the minutes
 14 themselves.
 15 MR. MONTELLE CLARK: Even in light of me not
 16 being present at the last meeting?
 17 VICE-CHAIRMAN LAURA LODES: Yes.
 18 MR. GARY COLLINS: That is being coached under
 19 duress.
 20 VICE-CHAIRMAN LAURA LODES: So you did
 21 actually vote on the motion to carry it forward. You
 22 voted yes. We had all five voted yes on the motion to
 23 carry it forward.
 24 MS. BEVERLY BOTCHLET-SMITH: But he can vote
 25 however he wants.

52

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

1 * * C E R T I F I C A T E * *
 2 STATE OF OKLAHOMA)
 3 COUNTY OF OKLAHOMA) SS:
 4
 5 I, Lynette Wrany, a Certified Shorthand Reporter
 6 within and for the State of Oklahoma, do hereby
 7 certify that I reported all of the foregoing meeting,
 8 and that I later reduced it to typewritten form, as
 9 the same appears herein.
 10 I further certify that I am not a relative of,
 11 nor attorney for, nor clerk or stenographer for any
 12 party to this meeting, and that I am not otherwise
 13 interested in the event of the same.
 14 I further certify that the above and foregoing
 15 typewritten pages contain a full, true and correct
 16 transcript of my stenographic notes so taken, during
 17 said meeting.
 18 WITNESS my hand and seal this the 17th day of
 19 October, 2016.
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 22
 23
 24
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LYNETTE WRANY, C.S.R.
 Oklahoma Certified Shorthand Reporter
 Certificate No. 1167
 Expiration Date: December 31, 2016

54



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October 12, 2016
Owasso, Oklahoma

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Laura Finley	PER	
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Owasso, Oklahoma

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