

DRAFT MINUTES
AIR QUALITY ADVISORY COUNCIL
October 18, 2017
Department of Environmental Quality
Oklahoma City, Oklahoma

**Official AQAC Approved
at June 20, 2018 meeting**

Notice of Public Meeting – The Air Quality Advisory Council (AQAC) convened for its Regular Meeting at 9:00 a.m. on October 18, 2017, at the Department of Environmental Quality, 707 North Robinson, Oklahoma City, Oklahoma. Notice of the meeting was forwarded to the Office of Secretary of State on October 13, 2016 and again July 19, 2017. The agenda was posted at the DEQ twenty-four hours prior to the meeting. Also, Ms. Beverly Botchlet-Smith 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, Chair, called the meeting to order. Ms. Quiana Fields called roll and confirmed that a quorum was present.

MEMBERS PRESENT

Gerald Butcher
Robert Delano
David Gamble
Jim Haught
Steve Landers
Jeffrey Taylor
Laura Lodes

MEMBERS ABSENT

Montelle Clark
Gary Collins

DEQ STAFF PRESENT

Eddie Terrill
Beverly Botchlet-Smith
Cheryl Bradley
Laura Finley
Brooks Kirlin
Tad Alford
Jonathan Truong
Nancy O'Brien
Quiana Fields
Dawson Lasseter
Curt Goeller

Cooper Garbe
Melanie Foster
Leon Ashford
Malcolm Zachariah
Jeff Davidson
Randy Ward
Ge Li
Roxanne Bueckers
Andrew Stirling
Shelby Willeby
Michelle Wynn
OTHERS PRESENT
Steve Plumbtree, Court Reporter

Approval of Minutes – Ms. Lodes called for a motion to approve the Minutes of the June 7, 2017 Regular Meeting. Mr. Taylor moved to approve and Mr. Butcher made the second.

See transcript pages 3 - 4

Gerald Butcher	Yes	Steve Landers	Yes
Robert Delano	Yes	Jeffrey Taylor	Yes
David Gamble	Yes	Laura Lodes	Yes
Jim Haught	Yes		

Meeting Schedule for Calendar Year 2018 – Ms. Lodes stated the proposed meeting scheduled dates are: January 17 in Oklahoma City, June 20 in Tulsa and October 10 in Oklahoma City. Mr. Butcher moved to approve the proposed dates. Dr. Delano made the second.

See transcript pages 4 - 6

Gerald Butcher	Yes	Steve Landers	Yes
Robert Delano	Yes	Jeffrey Taylor	Yes
David Gamble	Yes	Laura Lodes	Yes
Jim Haught	Yes		

OAC 252:100-7. Permits for Minor Facilities [AMENDED]

Mr. Leon Ashford, Environmental Programs Specialist of the Air Quality Division (AQD), stated the Department is proposing to revise Part 9 of OAC 252:100-7, Permits for Minor Facilities, by adding a new permit by rule (PBR) for minor facilities whose obligation to obtain an air quality permit is due to the presence or installation of a gasoline dispensing facility or gasoline dispensing facility and emergency engine. Following a comment by the Council and none by the public, Ms. Lodes called for a motion. Mr. Taylor moved to approve and Dr. Delano made the second.

See transcript pages 7 - 13

Gerald Butcher	Yes	Steve Landers	Yes
Robert Delano	Yes	Jeffrey Taylor	Yes
David Gamble	Yes	Laura Lodes	Yes
Jim Haught	Yes		

OAC 252:100-8. Permits for Part 70 Sources and Major New Source Review (NSR) Sources

Mr. Cooper Garbe, Environmental Programs Specialist of the AQD, stated the Department is proposing to amend OAC 252:100-8-35 to remove or revise date references to reflect EPA’s most current regulations. Following discussion by the Council and none by the public, Ms. Lodes called for a motion. Mr. Landers moved to approve and Mr. Gamble made the second.

See transcript pages 13 – 22

Gerald Butcher	Yes	Steve Landers	Yes
Robert Delano	Yes	Jeffrey Taylor	Yes
David Gamble	Yes	Laura Lodes	Yes
Jim Haught	Yes		

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

Appendix Q. Incorporation By Reference [REVOKED]

Appendix Q. Incorporation By Reference [NEW]

Ms. Nancy O’Brien, Environmental Programs Specialists of the AQD, stated the Department is proposing to update OAC 252:100, Appendix Q, Incorporation by Reference. 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. Butcher moved to approve and Dr. Delano made the second.

See transcript pages 22 - 25

Gerald Butcher	Yes	Steve Landers	Yes
Robert Delano	Yes	Jeffrey Taylor	Yes
David Gamble	Yes	Laura Lodes	Yes
Jim Haught	Yes		

Budget Resolution Draft – Ms. Melanie Foster, Environmental Programs Manager of the AQD, stated it had been suggested for the AQD staff to bring a draft budget resolution to the Council for review prior to finalization of the resolution at the January 2018 public meeting. Following discussion by the Council and the AQD staff, the Council recommended to get the budget resolution on public record at the October 18 meeting for submission during the special legislative session and the January 2018 meeting for submission during the regular legislative session, Ms. Lodes called for a motion. Mr. Delano made a motion to sign the budget resolution and go on record that the AQAC does not want their revolving fund raided and Mr. Taylor made the second.

See transcript pages 25 - 38

Gerald Butcher	Yes	Steve Landers	Yes
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Robert Delano	Yes	Jeffrey Taylor	Yes
David Gamble	Yes	Laura Lodes	Yes
Jim Haught	Yes		

Ms. Botchlet-Smith announced the conclusion of the hearing portion of the meeting.

See transcript pages 38 - 39

Division Director's Report – Mr. Eddie Terrill, 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 17, 2018 in Oklahoma City. Meeting adjourned at 9:55 a.m.

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

DEPARTMENT OF ENVIRONMENTAL QUALITY

AIR QUALITY ADVISORY COUNCIL
REGULAR MEETING
OCTOBER 18, 2017 - 9:00 A.M.

DEQ BUILDING
707 NORTH ROBINSON, MULTIPURPOSE ROOM
OKLAHOMA CITY, OKLAHOMA 73102

Reported by Steve Plumbtree, CSR, CP

Page 2

1 COUNCIL MEMBERS PRESENT
2 Mr. Gerald Butcher
3 Dr. Robert Delano
4 Mr. David Gamble, Vice Chair
5 Mr. Jim Haught
6 Mr. Steve Landers
7 Mr. Jeffrey Taylor
8 Ms. Laura Lodes, Chair
9 COUNCIL MEMBERS ABSENT
10 Mr. Montelle Clark
11 Mr. Gary Collins
12
13 OTHERS PRESENT
14
15 Mr. Leon Ashford
16 Mr. Cooper Garbe
17 Ms. Nancy O'Brien
18 Ms. Melanie Foster
19 Ms. Michelle Wynn
20 Ms. Beverly Botchlet-Smith
21 Mr. Eddie Terrill
22 Ms. Quiana Fields
23
24
25

Page 3

1 MS. LODES: I would like to call today's
2 meeting to order. Quiana, would you please call
3 roll?
4 MS. FIELDS: Mr. Butcher?
5 MR. BUTCHER: Here.
6 MS. FIELDS: Mr. Clark is absent.
7 Mr. Collins is absent.
8 Dr. Delano?
9 DR. DELANO: Here.
10 MS. FIELDS: Mr. Gamble?
11 MR. GAMBLE: Here.
12 MS. FIELDS: Mr. Haught?
13 MR. HAUGHT: Here.
14 MS. FIELDS: Mr. Landers?
15 MR. LANDERS: Here.
16 MS. FIELDS: Mr. Taylor?
17 MR. TAYLOR: Here.
18 MS. FIELDS: Ms. Lodes?
19 MS. LODES: Here.
20 MS. FIELDS: We have a quorum.
21 MS. LODES: The next item on today's Agenda
22 is the approval of the minutes from the June 7, 2017
23 regular meeting. Do we have any questions regarding
24 the minutes?
25 Hearing no questions on the minutes. Do we have

Page 4

1 a motion to pass the minutes?
2 MR. TAYLOR: So moved.
3 MR. BUTCHER: Second.
4 MS. LODES: I have a motion and a second.
5 Please call roll.
6 MS. FIELDS: Mr. Butcher?
7 MR. BUTCHER: Yes.
8 MS. FIELDS: Dr. Delano?
9 DR. DELANO: Yes.
10 MS. FIELDS: Mr. Gamble?
11 MR. GAMBLE: Yes.
12 MS. FIELDS: Mr. Haught?
13 MR. HAUGHT: Yes.
14 MS. FIELDS: Mr. Landers?
15 MR. LANDERS: Yes.
16 MS. FIELDS: Mr. Taylor?
17 MR. TAYLOR: Yes.
18 MS. FIELDS: Ms. Lodes?
19 MS. LODES: Yes.
20 MS. FIELDS: Motion passed.
21 MS. LODES: The next item on today's Agenda
22 is the meeting schedule for the calendar year 2018.
23 And these have been proposed as Wednesday,
24 January 17, 2018; Wednesday, June 20, 2018 in Tulsa;
25 and October 17, 2018 in Oklahoma City. We

Page 5

1 understand that our EFO will be on October 17th of
2 2018, so we're proposing to change to October 10th.
3 Is that correct, Eddie?
4 MR. TERRILL: Yes.
5 MS. LODES: Okay. Any discussion or
6 questions by the council on those proposed meeting
7 dates? Any known conflicts now that we know when
8 the EFO is? Any other questions or concerns
9 regarding those dates?
10 Then we need a motion to pass the approved date,
11 the new dates.
12 MR. BUTCHER: I will make that motion.
13 MS. LODES: We need a second.
14 DR. DELANO: I second.
15 MS. LODES: I have a motion and a second.
16 MS. FIELDS: Mr. Butcher?
17 MR. BUTCHER: I vote yes.
18 MS. FIELDS: Dr. Delano?
19 DR. DELANO: Yes.
20 MS. FIELDS: Mr. Gamble?
21 MR. GAMBLE: Yes.
22 MS. FIELDS: Mr. Haught?
23 MR. HAUGHT: Yes.
24 MS. FIELDS: Mr. Landers?
25 MR. LANDERS: Yes.

Page 6

1 MS. FIELDS: Mr. Taylor?
2 MR. TAYLOR: Yes.
3 MS. FIELDS: Ms. Lodes?
4 MS. LODES: Yes.
5 MS. FIELDS: Motion passed.
6 MS. LODES: We will now enter the public
7 rule-making portion of our hearing.
8 MS. BOTCHLET-SMITH: Good morning. I'm
9 Beverly Botchlet-Smith. I am the assistant director
10 of the Air Quality Division. And as such, I'll
11 serve as the protocol officer for today's hearings.
12 The hearings will be convened by the Air Quality
13 Council in compliance with the Oklahoma
14 Administrative Procedures Act in Title 40 of the
15 Code of Federal Regulations, Part 51, as well as the
16 authority of Title 27A of the Oklahoma Statutes,
17 Section 2-2-201 and Sections 2-5-101 through
18 2-5-117.
19 Notice of the October 18, 2017 hearings were
20 advertised in the Oklahoma Register for the purpose
21 of receiving comments pertaining to the proposed OAC
22 Title 252 Chapter 100 rules as listed on the Agenda
23 and will be entered into each record along with the
24 Oklahoma Register filing. Notice of the meeting was
25 filed with the Secretary of State on October 13,

Page 7

1 2016 and again on July 19, 2017. The Agenda was
2 duly posted 24 hours prior to the meeting here at
3 DEQ.
4 If you wish to make a statement, it's very
5 important that you complete the form at the
6 registration table and you'll be called upon at the
7 appropriate time. Audience members, please come to
8 the podium for your comments and please state your
9 name.
10 At this time, we'll proceed with what's marked
11 as Agenda Item Number 5A on the Hearing Agenda.
12 This is OAC 252:100-7, Permits for Minor Facilities.
13 The presentation for this will be given by Mr. Leon
14 Ashford of our staff.
15 MR. ASHFORD: Madame Chair, members of --
16 Is it not on?
17 (OFF THE RECORD)
18 MR. ASHFORD: Okay. Can you hear me now?
19 Madame Chair, members of council, members of the
20 public, the department is proposing to amend OAC
21 252:100-7, Permits for Minor Facilities, and more
22 specifically Part 9, Permits by Rule, to add a
23 rule -- excuse me, to add a Permit by Rule, also
24 referred to as a PBR, for Gasoline Dispensing
25 Facilities, also referred as a GDF, and Gasoline

Page 8

1 Dispensing Facilities with emergency engines. We
2 believe that GDFs with emergency engines should be
3 able to use a PBR. Without adding GDFs with
4 emergency engines to this rule change, they would be
5 excluded because one facility cannot have two PBRs
6 at the same time.
7 A large portion of my presentation today is a
8 repeat of the council meeting last June. We felt
9 the need to provide information in Tulsa and
10 Oklahoma City and provide ample time for public
11 comment. Gasoline Dispensing Facilities primarily
12 include gasoline stations and convenience stores,
13 but also include other facilities.
14 Building on the success of the oil and gas and
15 emergency engine PBRs, we believe that this is the
16 proper time to provide an easier and less expensive
17 mechanism for the GDFs to obtain a permit. Since
18 GDFs are covered under a National Emission Standard
19 for Hazardous Air Pollutants, NESHAP, workplace or
20 work practice standard, they are required to obtain
21 a permit. Years ago EPA developed area source rules
22 for many area sources, including GDFs. At the time
23 we felt that requiring GDFs to obtain an individual
24 permit or general permit was overly burdensome and
25 EPA was not supportive of states using a PBR system.

Page 9

1 When EPA had to develop a mechanism to address
2 NESHAP area sources on tribal land, they began to
3 understand that in the case of area sources, PBRs
4 fit the need of the regulator and the regulated
5 community.
6 To quote an EPA fact sheet on PBRs, permits by
7 rule can offer a cost-effective means of issuing
8 permits and provide a quicker and simpler
9 alternative mechanism for permitting minor sources
10 than a site-specific permitting process, reducing
11 the regulatory burden on sources and reviewing
12 authorities by requiring less information from
13 individual sources applying for a permit.
14 We have already developed PBRs for oil and gas
15 sources and emergency engines. So for the state of
16 Oklahoma, developing a GDF PBR is the next step in
17 addressing our area sources.
18 Some time ago we found a few GDFs that had been
19 constructed with improper equipment. Requiring a
20 permit will hopefully reduce the possibility that
21 that occurs in the future.
22 The permitting option currently available to
23 GDFs is to obtain a general permit at a cost of \$500
24 for construction and \$500 for an operating permit, a
25 total of \$1,000, and an individual permit is even

Page 10

1 more expensive. If we are able to provide a PBR, it
2 will only cost \$250 for a construction permit and
3 \$100 for an operating permit, a total of \$350.
4 Any GDFs constructed after the effective date of
5 this rule change will be required to obtain both a
6 construction and operating permit. Our policy will
7 be that any GDF constructed after January 10, 2008,
8 when the federal NESHAP CCCCCC came into effect,
9 will need an operating permit only. Any existing
10 GDF built before January 10, 2008 will not be
11 required to be permitted unless they undergo
12 construction or modification. This policy will
13 exempt roughly 5,600 tanks with an average size of
14 less than 9,100 gallons from the rule. Although
15 GDFs existing before January 10, 2008 do not need a
16 permit, they are required to comply with CCCCCC.
17 For our rule, we use a definition of GDF found
18 in the federal NESHAP CCCCCC. CCCCCC requires that
19 most GDFs built in Oklahoma after January 10, 2008
20 send us an initial notification and a notification
21 of compliance status. We have received 668
22 notifications. We have been able to obtain from the
23 Oklahoma Corporation Commission a database of
24 gasoline tanks for the state of Oklahoma and our
25 estimate from that database is that we should have

Page 11

1 received 950 to 1,000 notifications. The average
2 tank size for these tanks is roughly 15,300 gallons.
3 After the June council meeting and further
4 consideration by the staff, we made a change to
5 avoid making this rule overly burdensome to both the
6 regulated community and the regulators. Any GDF
7 with a monthly throughput of less than 100,000
8 gallons per month as defined in CCCCCC will be
9 exempt from permitting requirements. The definition
10 of monthly throughput in CCCCCC is to determine the
11 daily input or output, add it to the input or output
12 of the previous 364 days, and divide by 12, which is
13 a rolling annual average. Please note that this
14 exemption is only for the GDF. If a GDF with an
15 emergency engine has a monthly throughput of less
16 than 100,000 gallons, they would still be required
17 to obtain a permit for their emergency engine.
18 Before the June council meeting, we met with
19 representatives of the Oklahoma Petroleum Marketers
20 and Convenience Store Association. No comments were
21 received during the comment period.
22 Outreach efforts will begin after the adoption
23 of this rule change.
24 Staff requests that the council recommend these
25 changes to the Environmental Quality Board for

Page 12

1 adoption as a permanent rule.
2 MS. BOTCHLET-SMITH: Do we have any
3 questions from the council for Mr. Ashford?
4 MR. GAMBLE: So there weren't any comments
5 from the public or really from anybody?
6 MR. ASHFORD: No comments from anyone
7 during the open comment period.
8 MS. BOTCHLET-SMITH: Do we have any
9 comments from the public regarding this rule?
10 Seeing none, any other questions from the
11 council?
12 Laura.
13 MS. LODES: Staff has recommended that the
14 council approve this rule and submit it to the
15 Environmental Quality Board. Do we have a motion?
16 MR. TAYLOR: So moved.
17 MS. LODES: I have a motion. Do I have a
18 second?
19 DR. DELANO: I'll second.
20 MS. LODES: I have a motion and a second.
21 Please call roll.
22 MS. FIELDS: Mr. Butcher?
23 MR. BUTCHER: Yes.
24 MS. FIELDS: Dr. Delano?
25 DR. DELANO: Yes.

Page 13

1 MS. FIELDS: Mr. Gamble?
2 MR. GAMBLE: Yes.
3 MS. FIELDS: Mr. Haught?
4 MR. HAUGHT: Yes.
5 MS. FIELDS: Mr. Landers?
6 MR. LANDERS: Yes.
7 MS. FIELDS: Mr. Taylor?
8 MR. TAYLOR: Yes.
9 MS. FIELDS: Ms. Lodes?
10 MS. LODES: Yes.
11 MS. FIELDS: Motion passed.
12 MS. BOTCHLET-SMITH: The next item on
13 today's Agenda is OAC 252:100-8, Permits for Part 70
14 Sources and Major New Source Review or NSR Sources.
15 The presentation for this rule will be given by
16 Mr. Cooper Garbe of our staff.
17 MR. GARBE: Madame chair, members of the
18 council, ladies and gentlemen, good morning. I'm
19 Cooper Garbe. I'll run through the proposed changes
20 to Subchapter 8. The Department is proposing to
21 update dates used to reference three different EPA
22 publications in our Subchapter 8 rules in
23 Section 35.
24 First we are proposing to update our reference
25 to the Guideline on Air Quality Models published in

Page 14

1 Appendix W to 40 CFR 51 by removing the date in
2 Subchapter 8 and adding the Appendix to the
3 incorporation by reference table in our Appendix Q.
4 Secondly we are proposing a similar update to
5 our reference to Append B of 40 CFR 58, whereas we
6 remove the date in Subchapter 8 and add Appendix B
7 to 40 CFR 58 into our Incorporation by Reference
8 table in our Appendix Q, which is updated annually.
9 Finally we are proposing to update a reference
10 to EPA's Section 51.102. Because Section 51.102
11 regards public hearing requirements for SIPs, and
12 not standards for industry, we are proposing to
13 update the date as opposed to adding the section
14 into our Incorporation by Reference table in
15 Appendix Q. Therefore, we propose to change the
16 date to July 16, 2007, which is the publication date
17 of EPA's latest updates to Section 51.102.
18 To date we have received no comments on these
19 proposed rule changes.
20 Today the Department would like to request that
21 council recommend this proposal to the Environmental
22 Quality Board for adoption as a permanent rule
23 change.
24 Thank you.
25 MS. BOTCHLET-SMITH: Do we have any

Page 15

1 question from the council for Mr. Garbe?
2 MS. LODES: I'll ask one. Where we have
3 Section 51.102, do we have to have a date in there?
4 I mean could we not just end the sentence basically
5 after that instead of saying as it existed on some
6 date?
7 MR. GARBE: As far as I've been informed
8 that we would not want to postdate something in case
9 they were to change 51.102, if that's something they
10 did and we didn't want that into our rules. If we
11 didn't have that date, then we would just be
12 accepting anything they changed at 51.102 at any
13 time.
14 MS. LODES: Okay.
15 MS. BOTCHLET-SMITH: Any other questions?
16 MR. HAUGHT: And that same thing doesn't
17 apply to the other where we struck the Appendix B
18 references?
19 MR. GARBE: So for those we would be adding
20 it to Appendix Q, the Incorporation by Reference.
21 So if they did change it, we update that annually
22 and we could revisit that every year. And if they
23 did something to those appendices -- excuse me,
24 appendices that we didn't particularly want in our
25 rules, we could strike them from Appendix Q when we

Page 16

1 update it annually.
2 MR. HAUGHT: Well, has that -- this still
3 references Appendix B though. I guess I'm just
4 having trouble seeing what --
5 MS. LODES: Appendix --
6 MR. HAUGHT: -- on Appendix Q --
7 MS. LODES: In our Appendix Q, we
8 reference -- and that's one of the next items on the
9 Agenda. We reference all the different EPA rules
10 and appendices. So we reference Appendix B in our
11 Appendix Q.
12 MR. HAUGHT: I understand. But --
13 MS. LODES: Okay.
14 MR. HAUGHT: I just am trying to see how
15 that -- if we're trying to -- we're probably not
16 taking a snapshot at that 2006 date on --
17 MR. BUTCHER: If you want to move the --
18 MR. HAUGHT: Well, I'm just asking why they
19 are different. I mean if something changes later on
20 and we're just going to incorporate by reference.
21 If we don't like the change in B, so we're going to
22 look at it annually in Q. If it's just an automatic
23 incorporate by reference, why --
24 MR. LANDERS: Mostly we only have the one
25 date in Q. So if you renew that date every year, it

Page 17

1 applies to everything in here, right? Everything in
2 Q?
3 MR. GARBE: I'm sorry. Could you repeat
4 that question?
5 MR. LANDERS: Well, we have a reference
6 date in Appendix Q. Right now it's June 30, 2017.
7 So I guess if they -- if there was a change to one
8 of these that we did not want to incorporate, you
9 would not change the date. Or you would either
10 change or not change the date for every one of them.
11 But am I reading that right? Am I making sense with
12 my question?
13 MR. GARBE: I think you are. So we update
14 Appendix Q annually by changing the date. And that
15 date that we change it to is -- that's the
16 incorporation we're using as of that date. So that
17 publication as of that date.
18 If there was something we didn't want as of that
19 date, we would most likely drop it from Appendix Q.
20 MR. LANDERS: Drop the part entirely?
21 MR. GARBE: Most likely.
22 MR. LANDERS: Okay.
23 MR. GARBE: I mean we would have to come up
24 with a solution. But that would -- without having
25 to guarantee what we would do, that would be the

Page 18

1 most likely scenario we would go through.
2 MR. LANDERS: Is that a good idea? I mean
3 if you don't agree with something that was changed
4 and you drop a part or subpart entirely, is that --
5 you know, is that a good idea? It doesn't seem like
6 it. You just -- you just want not to adopt the
7 latest change versus eliminating the part or subpart
8 altogether.
9 MR. GARBE: If we chose to go ahead and
10 drop it from Appendix Q, but there was another
11 version that we would want to incorporate, we would
12 have to go through rulemaking to decide if previous
13 version was something we would want to incorporate
14 instead. Whereas, at the same time if we were to
15 incorporate old versions, our SIP and EPA would
16 probably have a difficult time being approved.
17 MS. LODES: So as he's saying, we're taking
18 the date out of the Subchapter 8.
19 I'll wait.
20 Okay. So if we're taking the date out of here
21 and we're just saying subject to the requirements of
22 40 CFR 58 Appendix B. We don't say in this part of
23 the rule that it's as incorporated in Appendix Q or
24 anything there. We don't circle back to it.
25 MR. GARBE: Okay.

Page 19

1 MS. LODES: So basically it's the same as
2 what I said here if we just drop the -- in some
3 respects as though you just drop the date.
4 But as you noted, so say we didn't want to adopt
5 something in Appendix W or Appendix B or something
6 going forward, when we did our annual incorporation
7 of Appendix Q, we would have to drop it out of here
8 and open up Subchapter 8 anyway to try and use a
9 different version.
10 MR. GARBE: There is an option in Appendix
11 Q that we could -- where it says unless otherwise
12 noted, that we could put a specific date to a
13 specific parts or to specific appendices.
14 MS. LODES: So now that has to get
15 incorporated had to our SIP. So wouldn't we have
16 the same problem with that as if we had it in
17 Subchapter 8?
18 MR. GARBE: I'm going to defer that one.
19 MS. LODES: I know. We just wanted to see
20 how much we could make her jump up and down.
21 MS. FOSTER: This is Melanie Foster. So I
22 don't think we'll have an issue with the SIP. So
23 the specific question, though, to make sure -- I may
24 not be answering yours, Laura, as much as Steve.
25 MS. LODES: Right.

Page 20

1 MS. FOSTER: Is that it says at the top of
2 Appendix Q, such and such date, unless otherwise
3 noted. So in that --
4 MR. LANDERS: I see a couple of those in
5 there.
6 MS. FOSTER: Yeah. So under the particular
7 subpart that we're listing there, we could say as of
8 this date. So if Appendix W got to a spot where we
9 were happy with it and we didn't want to go any
10 further, we could specify --
11 MR. LANDERS: Okay.
12 MS. FOSTER: -- up to that date and stop.
13 And I think as far as SIP goes, actually a lot of
14 our -- you know, some of our stuff already has
15 really been incorporated in SIPs, Appendix W, yeah,
16 I believe is one of the ones that we plan to make
17 sure is updated when we do our next SIP. So we hope
18 EPA is not going to change anything anytime soon
19 since they have just made this change.
20 MS. LODES: Right.
21 MS. FOSTER: But we would essentially have
22 to address it, you know, if that did happen.
23 Most likely everybody is pretty happy with
24 Appendix W. We're pretty happy with the changes
25 they've made to it, so we expect going forward with

Page 21

1 that would be the case.
2 MS. LODES: And I'll have to read it. Do
3 we submit Appendix Q down for -- as part of the SIP?
4 MS. FOSTER: We do, but we actually redact
5 quite a bit of it because, you know, our NSPS
6 delegation and our NESHAP delegation, you know, all
7 of those pieces are under those delegation
8 authorities and they are not part of the SIP. So we
9 actually redact -- there's only a few bits and
10 pieces like some of the Part 51 and those that go
11 down as part of our SIP.
12 MS. LODES: Oh.
13 MS. BOTCHLET-SMITH: Any other questions
14 from the council?
15 Do we have any questions from the public?
16 Seeing none, Laura.
17 MS. LODES: If there are no further
18 questions from the council, staff has recommended
19 that we approve this and submit it to the
20 Environmental Quality Board for incorporation in our
21 rules. Do I have a motion?
22 MR. LANDERS: I'll make a motion.
23 MR. GAMBLE: Second.
24 MS. LODES: I have a motion and a second.
25 Please call the roll.

Page 22

1 MS. FIELDS: Mr. Butcher?
2 MR. BUTCHER: Yes.
3 MS. FIELDS: Dr. Delano?
4 DR. DELANO: Yes.
5 MS. FIELDS: Mr. Gamble?
6 MR. GAMBLE: Yes.
7 MS. FIELDS: Mr. Haught?
8 MR. HAUGHT: Yes.
9 MS. FIELDS: Mr. Landers?
10 MR. LANDERS: Yes.
11 MS. FIELDS: Mr. Taylor?
12 MR. TAYLOR: Yes.
13 MS. FIELDS: Ms. Lodes?
14 MS. LODES: Yes.
15 MS. FIELDS: Motion passed.
16 MS. BOTCHLET-SMITH: The next item on
17 today's Agenda is 5C. This is OAC 252:100-2.
18 Excuse me. Incorporation by Reference, Appendix Q.
19 Revoking one and adding a new Appendix Q.
20 And the presentation will be given by Ms. Nancy
21 O'Brien of our staff.
22 MS. O'BRIEN: Good morning.
23 MR. GAMBLE: Good morning.
24 THE WITNESS: Madame chair, members of the
25 council, ladies and gentlemen, I'm Nancy O'Brien,

Page 23

1 Environmental Programs, Specialist with the Air
2 Quality Division. The Department is proposing to
3 update language in Subchapter 2, Incorporation by
4 Reference, to reflect the new date of incorporation
5 for Appendix Q.
6 In addition, the Department is proposing to
7 revoke the current Chapter 100, Appendix Q,
8 Incorporation by Reference, and adopt a new
9 Appendix Q. This proposal is part of the annual
10 update of Title 40, Code of Federal Regulations,
11 Incorporations by Reference in Chapter 100. The
12 Oklahoma Rules on Rulemaking dictate the procedure
13 for amending a rule appendix by revoking the old and
14 creating an entirely new appendix.
15 The proposed changes to Appendix Q reflect
16 federal regulations, mostly New Source Performance
17 Standards, or NSPS, and National Emission Standards
18 for Hazardous Air Pollutants, or NESHAPS, which have
19 been implemented as of June 30, 2017. The update
20 would also incorporate any amendments to standards
21 currently listed in Appendix Q. A list of all
22 changes to standards that have been made since
23 September 1, 2016 that are listed in Appendix Q was
24 provided in your packet. The list is also included
25 as the last page of the handout for the public for

Page 24

1 Subchapter 2 and Appendix Q.
2 Two federal rules are proposed to be added to
3 Appendix Q. Both rules, as Copper covered
4 thoroughly in his presentation, are being added to
5 correspond with the changes proposed for
6 Subchapter 8. The first is 40 CFR, Part 51,
7 Appendix W, Guideline on Air Quality Models, and the
8 second is Part 58, Appendix B, Quality Assurance
9 Requirements for Prevention of Significant
10 Deterioration, or PSD, Air Monitoring.
11 Notice was published in the Oklahoma Register on
12 April -- September 15, 2017 for these proposed
13 changes. The notice requested written comments from
14 the public and other interested parties. No
15 comments have been received as of today.
16 Staff requests the council recommend this
17 rulemaking to the Environmental Quality Board for
18 permanent adoption.
19 Thank you.
20 MS. BOTCHLET-SMITH: Do we have any
21 questions from the council?
22 Any questions from the public?
23 Seeing none.
24 MS. LODES: Without any further questions,
25 staff has recommended that we submit this rule for

Page 25

1 approval to the Environmental Quality Board and
2 incorporation under our rules. Do I have a motion?
3 MR. BUTCHER: Yes, I'll make that motion.
4 MS. LODES: Motion.
5 DR. DELANO: I'll second it.
6 MS. LODES: I have a motion and a second.
7 Please call roll.
8 MS. FIELDS: Mr. Butcher?
9 MR. BUTCHER: Yes.
10 MS. FIELDS: Dr. Delano?
11 DR. DELANO: Yes.
12 MS. FIELDS: Mr. Gamble?
13 MR. GAMBLE: Yes.
14 MS. FIELDS: Mr. Haught?
15 MR. HAUGHT: Yes.
16 MS. FIELDS: Mr. Landers?
17 MR. LANDERS: Yes.
18 MS. FIELDS: Mr. Taylor?
19 MR. TAYLOR: Yes.
20 MS. FIELDS: Ms. Lodes?
21 MS. LODES: Yes.
22 MS. FIELDS: Motion passed.
23 MS. BOTCHLET-SMITH: Our next item on the
24 Agenda, Number 6, budget resolution draft, is a
25 presentation by Ms. Melanie Foster.

Page 26

1 MS. FOSTER: Madame chair, members of the
2 council, ladies and gentlemen, my name is Melanie
3 Foster. I'm the Environmental Programs Manager for
4 the Rules and Planning Section of the Air Quality
5 Division.
6 Today I'm bringing you the first draft of the
7 budget resolution to send to the legislature. As
8 you may recall, at last January's council meeting,
9 Bud Grounds, EFO President, requested during new
10 business that this council develop a budget
11 resolution similar to what the Solid Waste
12 Management Advisory Council signed and provided to
13 the legislature. The resolution affirms the
14 council's support that fees collected by the
15 division be used for their intended purpose.
16 Due to the date of the January council meeting,
17 it was decided that there was not enough time to
18 develop a resolution prior to the 2017 legislative
19 session. It was suggested that air quality division
20 staff bring a draft resolution to you at this
21 meeting in October for finalization of the
22 resolution at the January 2018 public meeting. This
23 would allow the resolution to be submitted to the
24 legislature for the 2018 session.
25 In your packet you will find a copy of the draft

Page 27

1 budget resolution. This draft is based on the
2 resolution that was developed for the Solid Waste
3 Management Advisory Council, but has been revised to
4 reflect the budget concerns for the Air Quality
5 Division.
6 For members of the public, the draft resolution
7 reads as follows:
8 Resolution of the Air Quality Advisory Council.
9 Whereas, the Oklahoma Clean Air Act 27A O.S.
10 2-5-107 gives the Air Quality Advisory Council the
11 power and duty to recommend rules or amendments
12 thereto for the prevention, control, and prohibition
13 of air pollution and for the establishment of health
14 and safety tolerances for discharge of air
15 contaminants in the state; and
16 Whereas, this council is given the power and
17 duty to recommend rules or amendments thereto for
18 implementing a system of assessing and collecting
19 fees;
20 Whereas, this council supports the statutory
21 direction that permit application fees, annual
22 operating fees, and other environmental fees be used
23 only for the purposes for which they were collected
24 and balances of the fund carry over from one year to
25 the next for the same purpose with expenditures

Page 28

1 being limited to purposes defined by the law.
2 Whereas, the legislature has continually made
3 budget decisions that required DEQ to reduce
4 revolving fund balances, hindering DEQ's ability to
5 plan appropriately to fund programs that were
6 designed to directly support statewide improvements
7 to air quality that protect public health and the
8 environment.
9 Therefore, be it resolved by the Oklahoma Air
10 Quality Advisory Council that this council strongly
11 endorses DEQ's need for fees and revolving funds to
12 be utilized for purposes defined by law, thereby
13 protecting public health and the environment.
14 That, copies of this resolution be distributed
15 to the Governor of Oklahoma, the Speaker of the
16 Oklahoma House of Representatives, the President Pro
17 Tempore of the Oklahoma State Senate, Appropriations
18 Chairman of the Oklahoma House of Representatives,
19 Appropriations Chairman of the Oklahoma State
20 Senate, Natural Resources Appropriations
21 Subcommittee Chairman of Oklahoma House of
22 Representatives, and Natural Resources
23 Appropriations Subcommittee Chairman of Oklahoma
24 State Senate.
25 Adopted by majority vote in open meeting this,

Page 29

1 and it would be the meeting date.
2 Signed by the Chair and initialed by the members
3 of the council.
4 AQD staff is not recommending passage of the
5 budget resolution at this meeting, but rather
6 discussion and possible revision so that we may
7 bring you a final version to sign in January.
8 Thank you.
9 MS. LODES: Why do we need to wait?
10 MS. FOSTER: We don't necessarily need to.
11 It just -- we didn't want to try and create
12 something on the fly that we may not have time to
13 change.
14 But if you are happy with this version, I do
15 have a printout of it as it stands that you could
16 sign and initial today.
17 MS. LODES: Oh.
18 MR. HAUGHT: Do we know if there's a --
19 this might be applicable given the special session.
20 MR. TERRILL: Probably not. Because of
21 the -- it's such a short -- they were so focused on
22 just trying to plug the part that got, you know,
23 overturned by the court that I think it -- I'm going
24 to address a little bit in my Director report some
25 of the concerns that we've got about the tire fund,

Page 30

1 for instance. But I don't think that this would
2 have much impact on their special session because
3 it's such a -- we're such a polarized state right
4 now. And there's just not enough time.
5 MR. HAUGHT: Well, given that the big
6 ticket items are so polarized, I didn't know if this
7 was -- maybe there were some of these funds might
8 be -- they could target it. And if not, then, you
9 know, there's no big hurry. I was just trying to
10 decide if there's a driver for doing this at this
11 meeting or not.
12 MR. TERRILL: We don't have any indication
13 that they are. But we also have don't have any
14 indication that they are not. It's just so unknown
15 as to how they are going to resolve this crisis.
16 So -- I mean it's possible. That was one of the
17 things that was floated was to raid the revolving
18 funds that were out there now, which that will
19 create a huge problem for us because we have to have
20 that to pay our bills. So from that perspective,
21 yes, I just don't know if they would -- if you have
22 got time to have them even consider it. But yeah,
23 it's possible.
24 MR. BUTCHER: So, Melanie, is this just a
25 resolution? It's not necessarily having any

Page 31

1 authority?
2 MS. FOSTER: Correct.
3 MR. BUTCHER: It's just --
4 MS. FOSTER: It's just basically the will
5 of the council.
6 MR. BUTCHER: Trying to persuade them.
7 MS. FOSTER: Uh-huh.
8 MR. BUTCHER: Okay.
9 MR. LANDERS: The Solid Waste Council has
10 been doing this every year for quite a few years.
11 Because it's the entire fund that usually gets
12 raided.
13 MR. HAUGHT: Did it help? I mean do you
14 think it did?
15 MR. LANDERS: No. I think they are going
16 to do what they want to do when they -- but we go on
17 record. That's basically what you are doing on
18 record with your disapproval of that practice is
19 kind of what it is.
20 MS. LODES: Because that's what I'm
21 thinking. At least that puts us on record as a
22 council saying we really don't want you to raid the
23 revolving fund for the fees that are paid by our --
24 by the stakeholders for the operation of the DEQ.
25 And like I said, it doesn't carry any other merit

Page 32

1 other than that.
2 MR. BUTCHER: Yeah, I like that, I just
3 wish it had more teeth. But I --
4 MS. LODES: Yeah, I mean if we could give
5 it more teeth, that would be great.
6 MS. FOSTER: So it's up to the council.
7 Again, I have a copy, but if there are any changes
8 that you guys would prefer to make, then we can make
9 them for next time.
10 DR. DELANO: I like it. I'd like to go on
11 record that we do so. But by January could you
12 propose something that would have more teeth? Or is
13 that not possible?
14 MS. FOSTER: I believe that's outside the
15 council's authority.
16 DR. DELANO: Okay.
17 MS. LODES: We don't have the option --
18 DR. DELANO: Okay.
19 MS. LODES: -- to put any more teeth to it,
20 so that's why I'm like why wait basically.
21 DR. DELANO: Exactly.
22 MS. LODES: Thoughts?
23 MR. HAUGHT: I'm okay with waiting. I
24 don't think anybody needs to run this by anyone else
25 before they sign off on it. But I'm okay with

Page 33

1 waiting if we don't think there's a big risk that we
2 know of right now during this special session. I
3 mean that would get it there before the regular
4 session next year, next time.
5 MS. LODES: Do you need to run that by? I
6 guess is there a reason -- I guess is there a reason
7 to wait one way or the other? Do we have an
8 opinion, gentlemen?
9 MR. LANDERS: I don't see a reason to wait.
10 MR. BUTCHER: I don't either.
11 MS. BOTCHLET-SMITH: Did we need any -- any
12 other DEQ people need to weigh in on this?
13 MS. LODES: All right, Michelle, lurking in
14 the back.
15 THE WITNESS: My name is Michelle Wynn. I
16 am the DEQ legislative liaison. There have been
17 some questions that have arisen on whether you would
18 like to do it now or you would like to wait. As
19 Mr. Terrill mentioned, and as some of you all have
20 mentioned first, we are in special session and we
21 really don't know what they are going to do. But,
22 you know, honesty, this has been put on the table
23 and mentioned in the last few months, even since
24 last session. So if it was the will of the council
25 to go ahead and do it now, I would be supportive of

Page 34

1 that option.
2 MS. LODES: So that's my thing is that if
3 they are in special session now, why give them the
4 opportunity to do anything? Or without us telling
5 them what our opinion is.
6 They are going to do -- I mean they very well
7 may do want they want to do, but at least we've gone
8 on record while they are in special session with our
9 concern?
10 DR. DELANO: I agree.
11 MS. LODES: Okay.
12 MR. TERRILL: And to your point, there have
13 been some discussions about the tire fund. And
14 there also have been some discussions about the
15 revolving fund that we have that they didn't take in
16 the last session. And both of those options have
17 significant consequences for the agency, short-term
18 consequences.
19 So to Michelle's point, while we don't have any
20 indication that either one of those are going to
21 happen, we don't have any indications that they
22 won't happen either, especially if they can't come
23 to an agreement on some kind of compromise that
24 doesn't go back to the traditional ways that they
25 have plugged these holes in the past, which are to

Page 35

1 raid the revolving fund and look at other mechanisms
2 and use funds that were meant for one purpose for
3 their purpose.
4 MS. FOSTER: Counsel can also go ahead and
5 do the resolution now for the special session and we
6 could bring back essentially the same one but
7 updated for the 2018 legislative session as well if
8 that was your will.
9 MS. LODES: I like that. I guess I don't
10 know -- if we could come up with a way to put more
11 teeth into it, great. I don't know that the council
12 has the authority to put more teeth into it. But --
13 MR. TAYLOR: What I fear is that they are
14 going to take money. They are broke. They need
15 money bad and they are not telling you the whole
16 story. I'll leave it at that. I know what's going
17 on, but it's not good.
18 MS. LODES: Great. That's why I say I
19 don't want to -- I would like to get it out there in
20 public record now. And we do it again in January
21 for the existing session. Have both of them on
22 record for both sessions in an attempt to protect
23 what the DEQ has funded to do the purpose for which
24 they are intended.
25 MR. BUTCHER: Would it help to put the

Page 36

1 language in there like Eddie was mentioning that
2 this is going to have a drastic effect on the DEQ
3 budget and Air Quality such that -- would that -- it
4 doesn't really say that on there. But would that do
5 any good?
6 MS. FOSTER: Those are the type of edits
7 that I think we could incorporate, you know, for
8 January.
9 MS. LODES: So with that said, maybe we
10 pass something like Michelle and everybody has
11 recommended for today for the special session. I
12 mean if we want to come in and put more language for
13 the January one, we can get another one in January
14 for the next session.
15 MR. HAUGHT: You won't know the magnitude
16 of the impact unless you knew the specifics about
17 what they were going to do. So to say it was a
18 significant or major or dramatic, unless you knew
19 what they were talking about, you can't really say
20 that. I mean they may propose even small --
21 MR. BUTCHER: And we might know something
22 by then.
23 MR. HAUGHT: And they won't do the budget
24 until the end of the session. We won't know
25 anything different in January.

Page 37

1 So I'm okay, I'm good with doing this now. For
2 what value it is. I mean it's not going to do --
3 MS. LODES: We don't have --
4 MR. HAUGHT: -- any good in this room.
5 So --
6 MS. LODES: We don't have any teeth, but at
7 least it does put us in a public record in a public
8 forum on the fact that we are trying to protect the
9 revolving fund of the DEQ. And I think that's
10 what -- that's what authority we have.
11 MR. HAUGHT: Well, and that's the
12 responsibility we have, too.
13 MS. LODES: And that's the responsibility.
14 MR. HAUGHT: We're all representing
15 stakeholder groups. So those interests, our
16 representatives are --
17 MS. LODES: Right. And that's what we
18 will -- all of the stakeholders of this council will
19 be dramatically affected by this. And the state of
20 Oklahoma public health will be. So I think that's
21 what we've got the duty and obligation to try and do
22 something like this.
23 Okay. So with that said, gentlemen, do we have
24 a motion to do something?
25 DR. DELANO: I make that motion.

Page 38

1 MS. LODES: You've got to say what.
2 DR. DELANO: A motion to sign the statement
3 and go on record that we don't want our revolving
4 fund raided.
5 MR. TAYLOR: I'll second that.
6 MS. LODES: I have a motion and a second.
7 Please call roll.
8 MS. FIELDS: Mr. Butcher?
9 MR. BUTCHER: Yes.
10 MS. FIELDS: Dr. Delano?
11 DR. DELANO: Yes.
12 MS. FIELDS: Mr. Gamble?
13 MR. GAMBLE: Yes.
14 MS. FIELDS: Mr. Haught?
15 MR. HAUGHT: Yes.
16 MS. FIELDS: Mr. Landers?
17 MR. LANDERS: Yes.
18 MS. FIELDS: Mr. Taylor?
19 MR. TAYLOR: Yes.
20 MS. FIELDS: Ms. Lodes?
21 MS. LODES: Yes.
22 MS. FIELDS: Motion passed.
23 MS. BOTCHLET-SMITH: Okay. With the vote
24 on the rules through Agenda Item Number 5
25 technically ended the hearing portion of today's

Page 39

1 meeting, but we continued the court reporter to
2 capture the thoughts for Item Number 6. Just for
3 clarification. Was not technically part of the
4 hearing, but was action upon the council.
5 MS. LODES: I appreciate that. I like
6 having that in the public record and forum.
7 * * * *
8 (A staff presentation was made to the council, after
9 which the meeting was adjourned at 9:55 a.m.)
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Page 40

1 CERTIFICATE
2 STATE OF OKLAHOMA)
3) SS:
4 OKLAHOMA COUNTY)
5 I, Steve Plumbtree, Certified Shorthand Reporter
6 within and for the State of Oklahoma, do hereby
7 certify that the above and foregoing meeting was by
8 me taken in shorthand and thereafter transcribed;
9 that the same is true and correct; and that it was
10 taken on the 18th day of October, 2017 at the time
11 of 9:00 a.m. in the City of Oklahoma City, County of
12 Oklahoma, State of Oklahoma, and that I am not
13 attorney for or relative of any of said parties or
14 otherwise interested in the event of said action.
15 IN WITNESS WHEREOF, I have hereunto set my hand
16 and official seal this 19th day of October, 2017.
17
18
19
20
21
22
23
24 _____
25 STEVE PLUMBTREE, CSR, CP
Oklahoma Certified Shorthand Reporter
Certificate No. 00332
Expires: December 31, 2017



AIR QUALITY COUNCIL
Attendance Record
October 18, 2017
Oklahoma City, Oklahoma

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AIR QUALITY COUNCIL
Attendance Record
October 18, 2017
Oklahoma City, Oklahoma

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