MINUTES
AIR QUALITY COUNCIL
July 16, 2008
4th Street Clubhouse, 1500 4th Street
Ponca City, Oklahoma

Notice of Public Meeting The Air Quality Council convened for its regular meeting at 9:00 a.m. July 16, 2008 in the 4th Street Clubhouse, Ponca City, Oklahoma. Notice of the meeting was forwarded to the Office of the Secretary of State giving the date, time, and place of the meeting on November 2, 2007. Agendas were posted at the meeting facility and at the DEQ Central Office in Oklahoma City at least twenty-four hours prior to the meeting. Ms. Beverly Botchlet-Smith convened the hearings by the Air Quality Council in compliance with the Oklahoma Administrative Procedures Act and Title 40 CFR Part 51, and Title 27A, Oklahoma Statutes, Sections 2-5-201 and 2-5-101 - 2-5-118. Ms. Smith entered the Agenda and the Oklahoma Register Notice into the record and announced that forms were available at the sign-in table for anyone wishing to comment on any of the rules. Mr. David Branecky, Chair, called the meeting to order. Ms. Bruce called roll and a quorum was confirmed.

MEMBERS PRESENT
David Branecky
Montelle Clark
Jim Haught
Laura Worthen Lodes
Bob Lynch
Sharon Myers
Jerry Purkaple
Rick Treeman

MEMBERS ABSENT
VACANCY

DEQ STAFF PRESENT
Eddie Terrill
Beverly Botchlet-Smith
Scott Thomas
Cheryl Bradley
Joyce Sheedy
Max Price

DEQ STAFF PRESENT
Nancy Marshment
Sarah Penn
Rob Songletary
Dawson Lasseter
Kendall Stegmann
Myrna Bruce

OTHERS PRESENT
Christy Myers, Court Reporter

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

Approval of Minutes Mr. Haught made motion to approve as amended with Ms. Lodes making the second.

Jerry Purkaple Yes Jim Haught Yes
Laura Lodes Yes Bob Lynch Yes
Sharon Myers Yes Montelle Clark Yes
Rick Treeman Yes David Branecky Yes

Resolution for Mr. Martin – Mr. Branecky read into the record a resolution acknowledging Mr. Martin’s contribution to the Council.

OAC 252:100-1 General Provisions [AMENDED]
OAC 252:100-5 Registration, Emission Inventory and Annual Operating Fees [AMENDED]
Mr. Max Price identified definitions that the proposal would amend in OAC 252:100-1-3, 252:100-1-4 and 252:200-5-1.1. He noted that the changes are housekeeping in nature and asked Council’s approval to forward to the Environmental Quality Board for permanent adoption. Hearing no discussion, Mr. Branecky called for a motion. Ms. Myers made the motion and Dr. Lynch made the second.
Dr. Joyce Sheedy indicated changes proposed that would amend Subchapter 8 to correct errors in the existing rule; make changes required by revisions to the federal rule published in the *Federal Register* on November 29, 2005, May 1, 2007, and June 13, 2007; and resolve a conflict between OAC 252:100-8-4(b)(8) and 252:200-8-7.1(d) regarding permit renewal and expiration time periods. Comments received from Council included the need for “ozone transport region” to be defined. Ms. Sarah Penn, staff attorney, explained that the citation for the definition is located in U.S.C.42 §7511c. referencing control of interstate ozone air pollution. Ms. Lodes then made a motion to pass the rule with the changes noted and Ms. Myers made the second.

Mr. Max Price advised that the proposal would amend OAC 252:100-9 to modify excess emissions reporting requirements to make the rule consistent with the current interpretation of the EPA guidelines on excess emissions. He explained that a workgroup had been working on proposed language and asked that the rulemaking be continued to Council’s next meeting. After comments, Mr. Branecky called for a motion. Mr. Purkaple made the motion to continue and Ms. Lodes made the second.

Ms. Cheryl Bradley related that the Department proposed to revise Subchapter 33 to resolve issues regarding emissions standards for direct-fired fuel burning equipment, standards for fuel burning equipment that uses more than one type of fuel, and equipment with technological limitations. Ms. Bradley also identified non-substantive changes for consistencies with the other rules in Chapter 100 and corrections to grammatical errors. Mr. Terrill conveyed how staff would be looking at these rule changes and how they would be presented to the Council for permanent approval. Mr. Branecky called for a motion to continue this rulemaking to Council’s October meeting. Motion was made by Ms. Myers and second was made by Mr. Purkaple.

Mr. Terrill stated that Council had requested that in future, his report would become part of the transcript. He provided an update on the fish flesh analysis activity; explained that the DC Circuit Court had vacated and remanded the Clean Air Interstate Rule (CAIR) back to the EPA; spoke about climate change and the
Climate Registry; advised that within the next few weeks they hoped to have an audit proposal to the Council Finance Committee; and lastly, commented about the ozone season.

**New Business** – Mr. Branecky announced that the current Vice-Chair, Rick Treeman, resigned effective July 18, 2008. He thanked Mr. Treeman for his help and support during his time spent on the Council. Mr. Branecky called for nominations for replacement of the Vice-Chair position. Sharon Myers nominated Laura Worthen Lodes and the second was made by Mr. Purkaple.

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<th>Jerry Purkaple</th>
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Mr. Terrill suggested that the October 15 meeting currently scheduled in Broken Bow should be moved to the DEQ office. After dispirited discussion, Dr. Lynch moved that the next meeting be held in Oklahoma City at the DEQ. Mr. Haught made the second.

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<td>Rick Treeman</td>
<td>Abstain</td>
<td>David Branecky</td>
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**Adjournment** -- Meeting adjourned at 11:00 a.m.

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

DAVID BRANECKY, CHAIRMAN
RICK TREEMAN, VICE-CHAIRMAN
JIM HAUGHT, MEMBER
DR. ROBERT LYNCH, MEMBER
SHARON MYERS, MEMBER
JERRY PURKAPLE, MEMBER
LAURA LODES, MEMBER
MONTELLE CLARK, MEMBER

DEQ STAFF

EDDIE TERRILL - DIRECTOR
BEVERLY BOTCHLET-SMITH - ASSISTANT DIRECTOR
MYRNA BRUCE - SECRETARY
CHERYL BRADLEY - ENVIRONMENTAL PROGRAMS MANAGER
DR. JOYCE SHEEDY - ENGINEER
MAX PRICE - ENVIRONMENTAL PROGRAM SPECIALIST
PROCEEDINGS

MR. BRANECKY: Good morning. We'll get this started.

Before we do, I'd like to remind everyone to turn your cell phones off or put them on mute.

The first item on the agenda, we'd ask Myrna to call the roll.
MS. BRUCE: Jerry Purkaple.
MR. PURKAPLE: Here.
MS. BRUCE: Laura Lodes.
MS. LODES: Here.
MS. BRUCE: Sharon Myers.
MS. MYERS: Yes.
MS. BRUCE: Rick Treeman.
MR. TREEMAN: Here.
MS. BRUCE: Jim Haught.
MR. HAUGHT: Here.
MS. BRUCE: Bob Lynch.
DR. LYNCH: Here.
MS. BRUCE: Montelle Clark
MR. CLARK: Here.
MS. BRUCE: And we have a

vacancy, we do have a quorum.
MR. BRANECKY: I'm here too.

MS. BRUCE: David Branecky. That was not the vacancy, sir, I promise.

MR. BRANECKY: Thank you, Myrna. The next item on the agenda is the Approval of the Minutes from our last meeting. Do we have any discussion on the Minutes?

No discussion, I'll ask for a motion for approval.
MR. HAUGHT: I move we approve the minutes, as written.

MS. LODES: I'll second.

MR. BRANECKY: I have a motion and a second. Myrna, call the roll please.

MS. BRUCE: Jerry Purkaple.

MR. PURKAPLE: Yes.

MS. BRUCE: Laura Lodes.

MS. LODES: Yes.

MS. BRUCE: Sharon Myers.

MS. MYERS: Yes.

MS. BRUCE: Rick Treeman.

MR. TREEMAN: Yes.

MS. BRUCE: Jim Haught.

MR. HAUGHT: Yes.
MS. BRUCE: Bob Lynch.

s.

MS. BRUCE: Montelle Clark

MR. CLARK: Yes.

MS. BRUCE: David Branecky.

MR. BRANECKY: Yes.

MS. BRUCE: Motion passed.

MR. BRANECKY: Thank you. The next item is that we would like to just point out that Mr. Gary Martin will no longer be on the Council, he was unable to get reappointed. We had a resolution and a dinner honoring him last night.

In addition, Mr. Treeman has resigned. He has taken another job and has resigned from the Council, so this will be his last Council Meeting. We would like to thank Rick for all his support and help over the years.

So we currently have two vacancies on the Council and we'll be actively trying to fill those.

MR. TERRILL: Yes.

MR. BRANECKY: With that, Beverly, I guess we'll go on to the public hearing portion.
MS. BOTCHLET-SMITH: Good morning, I am Beverly Botchlet-Smith, I am the Assistant Director of Air Quality Division. As such, I will be serving as the Protocol Officer for today's hearings.

The hearings will be convened by the Air Quality Council in compliance with the Oklahoma Administrative Procedures Act and Title 40 of the Code of Federal Regulations, Part 51, as well as the authority of Title 27A of the Oklahoma Statutes, and Section 2-2-201, Sections 2-5-101 through 2-5-118.

Notice of the July 16, 2008 hearings were advertised in Oklahoma Register for the purpose of receiving comments pertaining to the proposed OAC Title 252 Chapter 100 rules as listed on the Agenda and will be entered into each record along with the Oklahoma Register filing. Notice of the meeting was filed with the Secretary of State on November 2, 2007. The Agenda was duly posted 24 hours prior to the meeting at this facility and at DEQ.

If you wish to make a statement, it
is very important that you complete the form that was at the registration table and we will call upon you at the appropriate time. Audience members please come to the podium and state your name before making a comment.

At this time, we will proceed with what's marked as agenda Item Number 5A on the hearing agenda.

This is OAC 252:100-1; General Provisions.

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

Mr. Max Price of our staff will give the presentation.
MR. PRICE: Thank you, Beverly.

Mr. Chairman, Members of the Council, ladies and gentlemen, the Department is proposing to amend the definitions sections OAC 252:100-1-3, 252:100-1-4 and 252:100-1.1.

The definitions for "direct" and "indirect fired" are being moved from Subchapter 19 to Subchapter 1, General
Provisions.

This is being done because these definitions will be used in the proposed Subchapter 33 as well as Subchapter 19.

The other significant change is the addition of a definition for regulated air pollutant to Subchapter 1 because the definition is used in other subchapters.

The definition for regulated air pollutant is also being deleted from Subchapter 5, Registration, Emission Inventory and Annual Operating Fees.

In addition, the abbreviation for nanograms per Joule is being added and the phrase "heat input in" is being deleted from the phrase "heat input in million British thermal units per hour" in OAC 252:100-1-4.

Since these amendments are primarily simple housekeeping, staff asks that the Council vote to send these proposals to the Environmental Quality Board with a recommendation that they be adopted as permanent rules. Thank you.
MS. BOTCHLET-SMITH: At this time, we'll take any questions or comments from the Council.

Hearing none -- I also have not received any notice of comment from the public. Is there anyone that has a question?

Seeing no hands and hearing no comments, David, I'll put it back to you.

MR. BRANECKY: Okay. Well with no discussion we're up for a motion for approval.

MS. MYERS: So moved.

DR. LYNCH: Second.

MR. BRANECKY: All right. I have a motion and a second. Myrna, call the roll, please.

MS. BRUCE: Jerry Purkaple.

MR. PURKAPLE: Yes.

MS. BRUCE: Laura Lodes.

MS. LODES: Yes.

MS. BRUCE: Sharon Myers.

MS. MYERS: Yes.

MS. BRUCE: Rick Treeman.

MR. TREEMAN: Yes.
MS. BRUCE: Jim Haught.
MR. HAUGHT: Yes.
MS. BRUCE: Bob Lynch.
DR. LYNCH: Yes.
MS. BRUCE: Montelle Clark
MR. CLARK: Yes.
MS. BRUCE: David Branecky.
MR. BRANECKY: Yes.
MS. BRUCE: Motion passed.

(Items 1-5A Concluded)
CERTIFICATE
STATE OF OKLAHOMA )
) ss:
COUNTY OF OKLAHOMA )

I, CHRISTY A. MYERS, Certified Shorthand Reporter in and for the State of Oklahoma, do hereby certify that the above proceedings is the truth, the whole truth, and nothing but the truth; that the foregoing proceedings were taken by me in shorthand and thereafter transcribed under my direction; that said proceedings were taken on the 16th day of July, 2008, at Ponca City, Oklahoma; and that I am neither attorney for nor relative of any of said parties, nor otherwise interested in said action.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal on this, the 18th day of July, 2008.

CHRISTY A. MYERS, C.S.R.
Certificate No. 00310
DEPARTMENT OF ENVIRONMENTAL QUALITY
STATE OF OKLAHOMA

* * * * *

TRANSCRIPT OF PROCEEDINGS
OF THE REGULARLY SCHEDULED MEETING
OF THE AIR QUALITY
ADVISORY COUNCIL
ITEM 5B
HELD ON July 16, 2008
AT 9:00 A.M.
PONCA CITY, OKLAHOMA

* * * * *

MYERS REPORTING SERVICE
Christy Myers, CSR
P.O. BOX 721532
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405-721-2882
c_myers@cox.net
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RICK TREEMAN, VICE-CHAIRMAN
JIM HAUGHT, MEMBER
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SHARON MYERS, MEMBER
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PROCEEDINGS

MS. BOTCHLET-SMITH: The next item on today's agenda is Number 5B, OAC 252:100-8. This is Permits for Part 70 Sources. And Dr. Joyce Sheedy of the DEQ staff will make the presentation.

DR. SHEEDY: Mr. Chairman, Members of the Council, ladies and gentlemen, we are proposing to amend Subchapter 8 to correct errors in the existing rules; make the changes required by revisions to the federal Title V, PSD and NSR rules published in the Federal Register on November 29, 2005, May 1, 2007, and June 13, 2007; and resolve a conflict regarding permit renewal and expiration time periods.

On March 27, 2008 EPA published its finding that Oklahoma's State Implementation Plan did not include all the basic program elements for implementation of the 1997 8-hour ozone NAAQS. The proposed changes address these deficiencies.

We are proposing to follow the subsequent changes.
On Page 3, in the third line of Paragraph (A)(I) in the definition of "major source" in OAC 252:100-8-2, the draft rule in your packet includes striking the words "10 tons per year"; however for improved clarity, we now propose to leave "10 tons per year" as it is and strike the lower case "TPY" in parentheses and replace it with upper case "TPY" in parentheses.

On Page 3, Paragraph (B) in the definition of "major source" also in OAC 252:100-8-2. We replaced "that fraction of particulate matter that exhibits an average aerodynamic particle diameter of more than 10 micrometers" with "GPM" which we wish to change to "gross particulate matter". Gross particulate matter is defined as particulate matter with an aerodynamic diameter greater than 10 micrometers.

On Page 4, the proposed change to paragraph (B)(xx) of the definition of "major source" for Part 70 sources, was revised to exclude certain ethanol production facilities from being considered chemical process plants and thus the
fugitive emissions from these facilities will no longer be used to determine if a source is major for Part 70. This is from the 5-1-07 Federal Register.

On Page 5, the definition of "responsible official" has been deleted since it is essentially the same as the definition in Subchapter 1.

On Pages 8 and 9, the time period in OAC 252:100-8-4(b)(8) for a timely application for permit renewal is 6 months prior to the date of permit expiration and the time period in 252:100-8-7.1(d)(1) for a timely renewal application is 180 days before the date of expiration. Although used interchangeably, the two time periods are not necessarily the same. Since 180 days is the more precise term, the 6 months time period in OAC 252:100-8-4(b)(8) has been changed to 180 days. For consistency 18 months has also been changed to 540 days.

On Page 10, the last sentence of OAC 252:100-8-30(b)(5) was deleted in the revision to the federal rule published in
the Federal Register on June 13, 2007, in response to the DC Circuit Court Decision of June 24, 2005. We, therefore, propose to delete this sentence from our rule.

On Page 10, in the second sentence in the first paragraph of 252:100-8-31, we propose to replace "Subsection" with "Section" to correct an error.

On Page 15, in Paragraph 8-1 under (A)(I) the definition of "major modification" in OAC 252:100-8-31 is changed to indicate that a major stationary source that is significant for NOx shall be considered significant for ozone. This is from the November 29, 2005 Federal Register.

On Page 16, in (A)(i)(III) of the definition of "major stationary source" in 252:100-8-31 was revised to exclude certain ethanol production facilities from being considered chemical process plants and this changed their PSD threshold emission rate from 100 tons per year to 250 tons per year. This change is from the June 1, 2007 Federal Register.
On Page 17, Paragraph (B) of the definition of "major stationary source" being 252:100-8-31, was changed to indicate that a major stationary source that is significant for NOx shall be considered significant for ozone. This is from the November 29, 2005 Federal Register.

On Page 19, Paragraph (A)(i) of the definition of regulated NSR pollutant was changed to list NOx as a precursor for ozone. This is also from the 11-29-05 Federal Register.

On Page 20, Paragraph (A)(v) of the definition of "significant" in 252:100-8-31 was changed to list the significant level for ozone as 40 tons per year of VOC or NOx. This is based on the revision to the federal rule contained in the November 29, 2005 Federal Register.

On Page 21, Subsection (c) of OAC 252:100-8-33 was changed to allow exemption from some air quality analysis requirements for ozone if the air quality impacts are less than 100 tons per year of NOx. This change is from the November 29, 2005
Federal Register.

On Page 23, the incorporation by reference date in 252:100-8-38(a) was updated to July 2, 2007 for consistency with IBR dates in Part 9.

On Page 23, language was added to 252:100-8-38(c)(3) to clarify that the term "EPA" in section 40 CFR 51.166(w) which was incorporated by reference, is usually synonymous with DEQ unless the context clearly indicates that EPA means EPA.

On Page 25, the last sentence of OAC 252:100-8-50(b)(5) was deleted in the revision to the federal rule published in the Federal Register on June 13, 2007, in response to the DC Circuit Court Decision of June 24, 2005. We, therefore, propose to delete this sentence from our rule.

On Page 25, language was added to OAC 252:100-8-50.1(b)(3) to clarify that the term "EPA" in 40 CFR 51.165, portions of which were incorporated by reference is usually synonymous with DEQ unless the context clearly indicates that EPA means EPA.
On Page 25, the incorporation by reference date in the first paragraph of 252:100-8-51 was updated to include the later changes made to the federal rule.

On Page 26, new paragraphs (c) and (D) were added to the definition of major modification in 252:100-8-51.

Paragraph (c), in conjunction with 252:100-8-54.1(a), makes the VOC requirements in Part 9 of Subchapter 8 also apply to NOx emissions and paragraph (D) provides that any physical change or change in operation of a major source of VOC that results in any increase in VOC emissions shall be considered a major modification for ozone if the source is located in an extreme ozone nonattainment area. These changes are based on the revision to the Federal Register that was dated 11-29-05.

On Page 27, we propose to update the incorporation by reference date in 252:100-8-51.1(a) to include later changes made in the federal rule.

On Page 27 new subsection 252:100-8-51.1(b) incorporates by reference
the emission offset requirements in 40 CFR 51.165(a)(9). This is from the November 29, 2005 Federal Register.

On Page 27, we propose to update the incorporation by reference date in 252:100-8-52(a) for consistency with other IBR dates in Part 9.

On Page 28, we propose to correct an error to OAC 252:100-8-52(c) by replacing OAC 252:100-8-52(1) with OAC 252:100-8-52(a).

On Page 28, we propose to update the incorporation by reference date in OAC 252:100-8-53 to include later changes made in the federal rule.

On Page 28, we propose to correct an error in OAC 252:100-8-53(c) by replacing OAC 252:100-8-52(4) with OAC 252:100-8-52(d).

On Pages 28 and 29, a new subsection 252:100-8-54.1(a) makes the requirements of Part 9 to major sources and modifications of VOC applicable to NOx in certain circumstances. This was from the November 29, 2005 Federal Register.
On Page 29, the new subsection OAC 252:100-8-54.1(b) makes the PM-10 requirements in Part 9 of Subchapter 8 also apply to PM-10 precursors. This was added in response to changes in the federal rule contained in the November 29, 2005 Federal Register.

On Page 29, we propose to update the incorporation by reference date in 252:100-8-55(b) for consistency with other IBR dates in Part 9.

On Page 29, an error in a reference was corrected in OAC 252:100-8-55(c)(1) and (2) and the dates of incorporation on Page 29 have been updated for consistency with other IBR dates in Part 9 of Subchapter 8.

Also on Page 29, we propose to update the incorporation by reference date in 252:100-8-55(c) for consistency with other IBR Part 9 dates.

Again on Page 29, we propose to update the incorporation by reference to 252:100-8-56 for consistency with other IBR dates.
Several non-substantive scriveners errors were also corrected. Except as noted earlier, the lower case "TPY" was replaced with an uppercase "TPY" throughout the revision.

Notice of the proposed rule changes was published in the Oklahoma Register on June 16, 2008 and comments were requested from members of the public.

We received comments from EPA in which they stated they have no comments. We received no other written comments, to date.

Although this is the first time this proposed revision to Subchapter 8 has been presented to the council, because it consists primarily of corrections of errors and to correct deficiencies in our program brought about by revisions to federal regulations, we request that the Council recommend this revision to the Environmental Quality Board for adoption as a permanent rule. Thank you.

MS. BOTCHELET-SMITH: Do we have questions from the Council?
MS. LODES: I have some comments.

Under insignificant activities, you have tons per year spelled out for both the fives (5's).

   On Page 2, since that's the first place the "tons per year" seems to appear, why don't you put the parenthesis "TPY" on that one. I'm being nit-picky. Under insignificant activities, to be consistent with where you're changing it.

   DR. SHEEDY: Insignificant activities.

   MS. LODES: At the bottom of the page.

   DR. SHEEDY: Yeah, I don't see why we can't do that.

   MS. LODES: Okay. Just to be consistent with where -- since you went to the effort to change it everywhere else.

   DR. SHEEDY: I'm sorry, I just missed that.

   MS. LODES: Okay. And then the only other question I have is on Page 29 where we get into adding ozone -- for major modifications of NOx and other transport
region or in an ozone nonattainment area.

DR. SHEEDY: On Page 29?

MS. LODES: Yes. The top of the page.

DR. SHEEDY: Okay.

MS. LODES: Where is ozone transport region defined; do we know?

DR. SHEEDY: At this point in time, I don't know where it's defined, or if it's defined.

MS. LODES: Okay.

MR. HAUGHT: I was going to ask the same thing, the same reference is on Page 26, in (c) the first time I saw -- when I read through it. And I got the same question. It's just not a term I'm familiar with the definition of.

MS. LODES: I just want to know, I guess, how liberally or conservatively is that defined in regards to Oklahoma. Because all of Oklahoma could be defined as an ozone transport region from Texas. And are we going to put ourselves into a really stringent --

DR. SHEEDY: Does anyone know the
answer to that question?

MR. TERRILL: I think it's defined in the Clean Air Act, if I'm not mistaken. I think it is in the ozone, but I'm not 100 percent sure about that. But I'm pretty sure this came -- this came directly from the Federal Register; didn't it Joyce?

DR. SHEEDY: Yes, it did.

MR. TERRILL: I'm pretty sure that that's defined in the Clean Air Act. So I don't know that we're going to be able to change that even if we wanted to. I thought about bringing the Clean Air Act with me. I had it laid out and I didn't do it. I don't know what made me even think about it this time.

MS. LODES: And my big question is, is Oklahoma an ozone transport region or not under this definition?

MR. TERRILL: Well, according to the modeling they did for CAIR, no. But then CAIR doesn't exist anymore.

MS. LODES: Right.

MR. TERRILL: I think that's
decided at a time when you have a
nonattainment situation, either within the
state or in a bordering state. So, again
I'm almost positive that that's defined in
the Clean Air Act as -- is where that came
from.

MR. THOMAS: Eddie, I'm pretty
sure that they might also be talking about
the formalized ozone transport regions in
which states have joined together in
compacts like the Northeast and where they
have made a large -- you know
nonattainment area with those problems. I
know we have the ozone northeast-type of
thing.

MR. TERRILL: So the
OTC -- the Ozone Transport Commission?

MR. THOMAS: Yeah. I don't know
how (inaudible).

MR. TERRILL: That may be
correct. It may be in relation to that.

MR. HAUGHT: We're used to seeing
real defined boundaries and borders for
nonattainment areas. But now the ozone
transport -- I'm just not familiar with.
MS. LODES: I'm just worried about how nebulous -- I realize it's probably the Clean Air Act, but how nebulous that is and what does that mean the way we have it in here --

MR. HAUGHT: If we don't define it --

(Both talking at the same time)

MS. LODES: Whether they're permitting applications of we don't put a citation as to where this is defined. Because you know is, say Walters, Oklahoma a transport region.

MR. TERRILL: I don't know, I can't see that. To be honest with you, I don't think that this is that big of a deal because I think in the overall scheme of doing your analysis, the definition of that is going to be minuscule compared to the other issues you are going to have. Obviously, we're doing this in response to the notice in the Federal Register of the deficiency in our SIP.

Joyce, if we wanted to hold this over, is there going to be a big -- I don't
know that there would be a big concern if we wanted to take a look at this. I've got a feeling that we may -- if we wanted to define it, it's probably going to be a repetition of what already exists, or maybe a reference back to where this is at in either the Clean Air Act or the Federal Register.

MS. LODES: Actually, I'd just like to see a citation to where it is in the Federal Register or the Clean Air Act, so that you've got an idea of where to go look.

MR. PRICE: I have a proposal here. The only person that really knows about this is Leon Ashford, and I think he is in the office. I can call him and ask him precisely about that. He's not there? Okay.

MS. BRADLEY: With regard to the consequence, EPA published the findings of deficiency, which sets a two-year clock for the state to have approved SIP provision in place.

And with regard to holding it over,
ultimately it adds more work for us for the next meeting. That's my concern. However, it will not change ultimately the effective date of the rule and the timeline for submitting the change for approval as a SIP provision.

MS. LODES: I would really like to see a citation as to where it is. I mean, even if it is just a citation in the Clean Air Act so that we've got something spelled out when going to look at it, to try to make your determination.

MR. BRANECKY: Could we say as defined in the Clean Air Act; be more specific? Or is defined okay?

MS. LODES: Are we totally sure it is defined in the Clean Air Act?

MR. BRANECKY: Is there any way we can find out this morning?

MS. BOTCHLET-SMITH: Let's go ahead and call for any questions from the public.

MR. BRANECKY: What we can do -- we can, I guess -- do you want me to table this and go on and come back to it?
MS. BOTCHLET-SMITH: We could table it but I'll go ahead and take comments.

MR. BRANECKY: We can take comments and then we can --

MR. CLARK: I actually have one question.

MS. BOTCHLET-SMITH: I'm sorry Montelle has a question.

MR. CLARK: It's a minor question, but under the definitions, Dr. Sheedy, this is the first time I've seen a reference to -- maybe it's in here in other places too, but extreme ozone nonattainment area. I wondered if extreme is a technical definition or is it more descriptive?

DR. SHEEDY: This is not as simple as one would hope. Extreme ozone nonattainment area is defined in the Clean Air Act -- there is a table that has it on it. However, it's for the one-hour standard, which doesn't exist anymore. And not the eight-hour standard. It's not as simple as us writing a definition into here or we cited that. It actually already is
MS. BRADLEY: Joyce, would you like for me to explain that?

DR. SHEEDY: Yes, would you like to? You're more familiar with this than I am.

MS. BRADLEY: Extreme nonattainment areas definition made by EPA. The power or the authority for making those designations is included in the rule, under the Subpart 2, Part D, Title 1. And as Joyce alluded to when the Clean Air Act amendments were adopted, they were tailored from one-hour standards. Subsequent to that we went to the eight-hour ozone standard. So we had case law and other changes so it's not -- coming up with a specific definition would be difficult for us. We have a moving target, and since we do not as an Agency make the designations, those are made by EPA. Under this authority, we evaluated the pros and cons and have elected not to include an additional definition. Because it would be limiting for us. And when the extreme
nonattainment areas are designated, it's very (inaudible) and a national notice in the Federal Register. So at this point, I think we've got enough to actually identify that. And that information is readily available. And the boundaries for those areas will be clear.

MR. CLARK: We don't have any extreme nonattainment in Oklahoma; correct?

MS. BRADLEY: No. I don't expect that we would.

MS. LODES: I don't even know, Montelle, that Houston or Los Angeles are extreme. I think they're just severe;

aren't they?

MS. BOTCHELET-SMITH: It's marginal, moderate, severe and extreme are I think the four EPA designations, and it spelled out by County when you're looking at the Clean Air Act for the tables.

MR. CLARK: Okay.

MS. BRADLEY: Houston, I think was just bumped up or was proposed to bump and they did not go to extreme.

MS. LODES: Well, they dropped
all the way down I think to marginal, so
they went back to 100 ton threshold for
Title V to coming in from the 25 ton, then
with the change they went back to 25 ton.

MS. BOTCHLET-SMITH: Do we have
any other questions?

MS. LODES: So it's not a concern
here.

MR. CLARK: No, no. I have just
not ran across that before.

MS. BOTCHLET-SMITH: Do we have
any other questions that we want to ask
right now about other parts of the rule;
from the Council?

MR. BRANECKY: I would then
suggest that we table this and then come
back to it later on this morning, while
staff is trying to find an answer to it.
So do we need to take vote on that or how
do we table something?

MS. BOTCHLET-SMITH: I think you
need a motion to table a rule, a second,
and then we'll bring it back.

Let's take a short break, ten
minutes.
MR. BRANECKY: It's easier that way, take a break.

(Break)

MS. PENN: In response to your question, the cite is found in Section 184(a). And the cite that we would like to use in the rule to reference ozone transport region would be U.S.C. 42, Section 7511c, period. And this is -- that particular section references control of interstate ozone air pollution. And under Section A, it states ozone transport regions. And it defines ozone transport regions as a certain block of states. I don't know how to say this, but they're simply the northeast region of the country. And then Section B references the opportunity for -- it essentially explains how other states would necessarily be put into the ozone transport region. Oklahoma is not in that, and we are not listed as one of the ozone transport region states. So, therefore, there is really no applicability to us. It could happen in the future, but it seems remote based on
our standard of the laws. And so if you reduce reference U.S.C. 42, Section 7511c, period, that I believe would address your concern. Is that all right?

MS. LODES: That's fine.

MS. BOTCHELET-SMITH: Any other questions from the Council? I didn't have any notice of comment from the public. During our break, I didn't receive any additional ones. But if someone has a comment -- I'm looking for hands. Seeing none, David, the Council has no further comments or discussion. I'll give it back to you.

MR. BRANECKY: Okay. So if there is no further discussion from the Council, I would entertain a motion.

MS. LODES: I move to pass the rule with the changes noted to the "tons per year" in "insignificant activities" and with a citation added under 252:100-8-51, definitions, under (C). And as well as adding a citation under 252:100-8-54.1(a), citation for ozone transport region.

MS. MYERS: I second it.
MR. BRANECKY: Okay. Did staff get that? Did you understand the need for the additions?

DR. SHEEDY: I think so.

MR. BRANECKY: Okay. All right. I just wanted to make sure. I have a motion and a second. Myrna, will you call roll, please.

MS. BRUCE: Jerry Purkaple.

MR. PURKAPLE: Yes.

MS. BRUCE: Laura Lodes.

MS. LODES: Yes.

MS. BRUCE: Sharon Myers.

MS. MYERS: Yes.

MS. BRUCE: Rick Treeman.

MR. TREEMAN: Yes.

MS. BRUCE: Jim Haught.

MR. HAUGHT: Yes.

MS. BRUCE: Bob Lynch.

DR. LYNCH: Yes.

MS. BRUCE: Montelle Clark

MR. CLARK: Yes.

MS. BRUCE: David Branecky.

MR. BRANECKY: Yes.

MS. BRUCE: Motion passed.
(Item 5B Concluded)
CERTIFICATE

STATE OF OKLAHOMA

COUNTY OF OKLAHOMA

I, CHRISTY A. MYERS, Certified Shorthand Reporter in and for the State of Oklahoma, do hereby certify that the above proceedings is the truth, the whole truth, and nothing but the truth; that the foregoing proceedings were taken by me in shorthand and thereafter transcribed under my direction; that said proceedings were taken on the 16th day of July, 2008, at Ponca City, Oklahoma; and that I am neither attorney for nor relative of any of said parties, nor otherwise interested in said action.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal on this, the 18th day of July, 2008.

CHRISTY A. MYERS, C.S.R.
Certificate No. 00310
DEPARTMENT OF ENVIRONMENTAL QUALITY
STATE OF OKLAHOMA

* * * * *

TRANSCRIPT OF PROCEEDINGS
OF THE REGULARLY SCHEDULED MEETING
OF THE AIR QUALITY
ADVISORY COUNCIL

ITEM 5C
HELD ON JULY 16, 2008
AT 9:00 A.M.
IN PONCA CITY, OKLAHOMA

* * * * *

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SHARON MYERS, MEMBER
JERRY PURKAPLE, MEMBER
LAURA LODES, MEMBER
MONTELLE CLARK, MEMBER

DEQ STAFF

EDDIE TERRILL - DIRECTOR
BEVERLY BOTCHLET-SMITH - ASSISTANT DIRECTOR
MYRNA BRUCE - SECRETARY
CHERYL BRADLEY - ENVIRONMENTAL PROGRAMS MANAGER
DR. JOYCE SHEEDY - ENGINEER
MAX PRICE - ENVIRONMENTAL PROGRAM SPECIALIST
MS. BOTCHLET-SMITH: The next item on the Agenda is OAC 252:100-9. This is Excess Emission Reporting Requirements, and presentation will be made by Mr. Max Price of our staff.

MR. PRICE: Thank you, Beverly.

Mr. Chairman, Members of the Council, ladies and gentlemen, the Department is proposing changes to OAC 252:100-9, Excess Emission Reporting Requirements, to make the rule consistent with the current interpretation of the EPA guidelines on excess emissions.

At the April and October, 2007 Air Quality Advisory Council Meetings, staff asked for public comment on the existing rule.

On November 26, 2007, the Department held a public meeting to present information on the options being considered and to provide an additional opportunity for informal comments and discussion.
At the October 17th, 2007 Council Meeting, it was decided that the Subchapter 9 workgroup would be formed. The workgroup is composed of select Air Quality Division and legal staff, interested parties and Council Members. The Subchapter 9 workgroup has met five times this year; January 9th and 31st, February 22nd, May 30th and July 11th.

This year at the January 17th Air Quality Advisory Council Meeting, staff first proposed amendments to Subchapter 9. Council tabled the proposals until this meeting to allow more time for the workgroup to craft a better excess emission and reporting rule. This version of the proposal differs from the January draft in that it includes a provision for reducing duplicate reporting when applicable NSPS or NESHAP requirements provide the same information that is required in the reporting requirements of this proposed subchapter. In addition, staff believes that the
The proposal would benefit from the addition of language setting a threshold for the emitted reporting of excess emissions contained in the proposed OAC 252:100-9-7(a). And I believe that language is on Page 4 in your proposed rule. Copies have been provided to the Council and the public.

Staff and the workgroup believe that the threshold levels in the draft language are conservative and aren’t likely to cause an exceedance of any applicable emission standard.

In addition, the draft language will lessen the reporting burden to the facility owners.

To allow time for staff and the workgroup to finalize this language and incorporate into the proposed rule, staff asked that the Council carry this proposal over to the next Air Quality Council Meeting. Thank you.

MS. BOTCHELET-SMITH: At this time we’ll take comments or questions from the Council.
MR. PURKAPLE: I don't know if there's any feedback here. Max, a couple questions, on Pages 6 and 7 of the rule. For example, on Page 7, under B, that very first sentence towards the last says the owner or operator of a facility must meet the notification requirements of OAC 252:100-9-7. Section C has the same phrase, "must meet the notification requirements." And then on Page 7, Section E, also references the notification. Is that referring to all of 100-9-7 or is it just 100-9-7(a) which is immediate notice?

MR. PRICE: It is actually referring to the entire section.

MR. PURKAPLE: That seems a little confusing to me if I read through it that -- I mean, I look at 100-9-7, I would look for something relative to notice and that seems to be part (a); part (b) is the actual event report.

MR. PRICE: There are some other errors like that -- not errors, but meanings that were not exactly -- this
wasn't --

MR. PURKAPLE: Okay.

MR. PRICE: That's one of the things I've noted that we probably need to take care of at the next meeting.

Actually, the language should read the "requirements of".

MR. PURKAPLE: Yes. I think that would help, that would tighten it up.

Otherwise you're left with the fact that immediate notices are not required for startups and shutdowns if you have the affirmative defense comment over here that says you have to meet notification operations.

MR. PRICE: Right. There's a lot of little subtleties like that we'll be correcting.

MR. PURKAPLE: Then another question on Page 4, this would be 100-9-7(b) where it says at the end of that after receiving a written request prior to the 30 day deadline, a Director may grant an extension.

Is there any thought about
tightening up the timetable there? If we send in a notice, would we expect to have a response back within a certain amount of time? If I sent in a notice and yet didn't receive a response back from the Director, would it be assumed that it would be okay, unless we received an affirmative no?

MR. TERRILL: I would never assume that because until you get it in writing you really don't know that it didn't get lost in transit. I suspect that we didn't put something in here, because we're probably going to be dependent upon not only our own staff making recommendations but the concurrence of EPA and that may take ten days or that may take a hundred days. So if we were to put something in there, it would probably be with the understanding that that may have to be extended, we could probably do something like that.

Let me point out too for those of you -- it's a little bit confusing this time because we had an addition that we wanted to make after the rule was
published. And we've been chastised by
previous Councils about having more than
one copy of a rule that we bring to the
Council. It is confusing to the Council
and the public. So what we elected to do
is, we have a one-page sheet that outlines
incorporations relative to the reportable
quantity that will be made into the next
draft, that should be posted in probably a
month or so. We may try to come out with a
draft quicker than we would for the final
draft that will be going to the Council in
October for comment. But you need to be
aware that we do have one-page that goes
along with this that outlines how we
anticipate the reportable quantity section
of this to work. We still have to take a
final draft, if you will, to EPA for their
concurrence both on the compliance side and
the enforcement side. So enforcement and
legal at EPA will take a look at this for
concurrence, because this is a requirement
that states take a look at this rule.
We've still got a little bit more work to
do but we're real close to having a final
draft and we're really going to try to pass this rule in October.

MS. BOTCHELET-SMITH: Other questions from the Council? Okay.

From the public, Grover Campbell.

MR. CAMPBELL: I'll pass.

MS. BOTCHELET-SMITH: Okay. He declines to comment this time. Anyone else from the public wishing to comment on this?

Julia?

MS. BEVERS: I'm Julia Bevers and I'm speaking on behalf of EFO today. I just would like to express appreciation to the staff for supporting the workgroup that worked on this rule and their willingness to listen and understand our industries position on this. And I just want to thank you.

MS. BOTCHELET-SMITH: Any other comments from the public? David, I don't see any other hands out there.

MR. BRANECKY: All right. Any further discussion from the Council?

MR. PURKAPLE: I just have a question on the revised language here, for
those that have been on the workgroup. 100:9-7(a)(1)(B) talks about not having to make notification if you're less than 200 pounds of the relevant regulated pollutant for any 24 hour period. So an application, that would be if you had a permit limit of X, then a notification would be required if you were less than 200 pounds above X in any 24 hour period; is that the intent of that?

MR. PRICE: Yes, sir. Actually, we set two separate limits here. We set a ten percent above the standard, which is a short-term thing. It's usually a per hour pounds per million BTUs. If you exceed that then you have to do an immediate report. But because we have large facilities, that could apt to, you know, several hundred thousand -- several thousand tons. So we put a cap to prevent any possible level of exceeding any AGS (inaudible) and that is based on 24 hours.

In other words, the point is it's actually a cap to prevent the large
facilities -- if they break this cap then
they have to notify us no matter if it's
just one percent. That's why we did that.

MR. PURKAPLE: Okay. So it's ten
percent above their limit not to exceed 200
pounds?

MR. PRICE: Not to exceed 200
pounds; correct, sir.

MS. LODES: 200 pounds over the
limit?

MR. PRICE: 200 pounds in any 24
hours, where they go over the limit. In
other words, if you have a spike, and then
it drops back down within 24 hours and it's
not over 200 pounds and it doesn't go above
the ten percent where your standard is,
then you don't have to do the follow-up.

***myrna's tape***

MR. TREEMAN: The only other
thing that I can think of, Max, is you
might put that 200 pounds directly after
you put your limit of standard and then put
the opacity in, because it's real hard to
quantify.

MR. PRICE: That's a good point.
In fact, I was thinking about making out a separate thing leading past the -- because it's own separate creation.

MS. BOTCHLET-SMITH: Any other comments or questions from the Council?

MR. BRANECKY: Okay. With that I'll entertain a motion. Staff has asked that we continue this Subchapter 9 until the October meeting.

MR. PURKAPLE: I move to continue until the October meeting.

MS. LODES: I'll second.

MR. BRANECKY: All right. I have a motion and a second. Myrna.

MS. BRUCE: Jerry Purkaple.

MR. PURKAPLE: Yes.

MS. BRUCE: Laura Lodes.

MS. LODES: Yes.

MS. BRUCE: Sharon Myers.

MS. MYERS: Yes.

MS. BRUCE: Rick Treeman.

MR. TREEMAN: Yes.

MS. BRUCE: Jim Haught.

MR. HAUGHT: Yes.

MS. BRUCE: Bob Lynch.
DR. LYNCH: Yes.

MS. BRUCE: Montelle Clark

MR. CLARK: Yes.

MS. BRUCE: David Branecky.

MR. BRANECKY: Yes.

MS. BRUCE: Motion passed.

(Item 5C Concluded)
CERTIFICATE

STATE OF OKLAHOMA )
COUNTY OF OKLAHOMA ) ss:

I, CHRISTY A. MYERS, Certified Shorthand Reporter in and for the State of Oklahoma, do hereby certify that the above proceedings is the truth, the whole truth, and nothing but the truth; that the foregoing proceedings were taken by me in shorthand and thereafter transcribed under my direction; that said proceedings were taken on the 16th day of July, 2008, at Ponca City, Oklahoma; and that I am neither attorney for nor relative of any of said parties, nor otherwise interested in said action.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal on this, the 18th day of July, 2008.

CHRISTY A. MYERS, C.S.R.
Certificate No. 00310
DEPARTMENT OF ENVIRONMENTAL QUALITY

STATE OF OKLAHOMA

* * * * *

TRANSCRIPT OF PROCEEDINGS

OF THE REGULARLY SCHEDULED MEETING

OF THE AIR QUALITY

ADVISORY COUNCIL

ITEM 5D

HELD ON July 16, 2008

AT 9:00 A.M.

IN PONCA CITY, OKLAHOMA

* * * * *

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JERRY PURKAPLE, MEMBER
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CHERYL BRADLEY - ENVIRONMENTAL PROGRAMS
MANAGER
DR. JOYCE SHEEDY - ENGINEER
MAX PRICE - ENVIRONMENTAL PROGRAM
SPECIALIST
MS. BOTCHLET-SMITH: The next item on the agenda is Number 5D. This is OAC 252:100-33, Control of Emission of Nitrogen Oxides. And presentation will be made by Ms. Cheryl Bradley.

MS. BRADLEY: Mr. Chairman, Members of the Council, ladies and gentlemen, we are proposing to amend Subchapter 33 to resolve issues regarding NOx emission limits for direct-fired fuel-burning equipment and equipment with technological limitations. We are also proposing some non-substantive changes for consistencies with the other rules in Chapter 100 and proposed to correct some grammatical errors.

These changes were first presented to the Council at the Council meeting held on January 17, 2008. That hearing was continued until today. We have made some substantive changes to the revision presented at the
January 2008 hearing.

These are the changes to our original proposal.

We propose to move the definitions of direct-fired and indirect-fired to Subchapter 1, instead they were formerly in Subchapter 33 -- in the last revision to 33. Since these definitions are used in more than one subchapter, you've approved that change to it in your action on Subchapters 1 and 5.

We propose to add a definition for solid fossil fuel to OAC 252:100-33-1.1 on Page 1. And we propose to leave out the proposed definition of technological limitation.

In OAC 252:100-33-2(b) on Page 2, we propose to include maintenance as one of the conditions that might have technological limitations.

The following are the substantive changes that were presented at the January Council Meeting.

In OAC 252:100-33-1.2(b) on Page 1, we are proposing to create a conditional
exemption that would apply to all
direct-fired fuel-burning equipment. We
propose to provide a means for direct-fired
gas fuel-burning equipment to qualify for
exemption from emission limits contained in
Subchapter 33. To be exempt, the
direct-fired fuel-burning equipment must be
subject to Best Available Control
Technology contained in a currently
applicable Air Quality Division permit and
the emissions from such equipment must not
cause or contribute to an exceedance of any
National Ambient Air Quality Standard or
PSD increment.

On Page 2, in OAC 252:100-33-2(a) --
it's actually on Page 1 of Subsection (b).
Subsection (b) sets forth the requirements
for fuel-burning equipment that because of
technological limitations cannot meet the
emission limits in Subchapter 33 during
startup, shutdown or maintenance.
Subsection (b) allows such fuel-burning
equipment to comply instead with BACT for
startup, shutdown or maintenance. BACT
must be contained in a currently applicable
Air Quality Division permit and the emissions from this equipment must not cause or contribute to an exceedance of a NAAQS or a PSD increment.

After publication of the proposed rule on June 16, the Department became aware of an issue that may not be resolved by the proposed amendments. Sources with low NOx burners or ultra low NOx burners may comply with the NOx pounds per hour and tons per year emission limits in their permits but be unable to meet additional limitations in Subchapter 33. It has been determined that this operating mode is not always characterized as a startup, shutdown or maintenance operation and staff is currently evaluating potential solutions to this particular situation.

Notice for the proposed rule changes was published in the Oklahoma Register on June 16, 2008 and comments were requested from members of the public.

Due to the shared issues between Subchapter 9 and Subchapter 33 regarding
technological limitations and excess emissions, and the outstanding issue mentioned earlier, we ask the Council to continue the hearing on this rule until its next meeting. Thank you.

MS. BOTCHLET-SMITH: Do we have any questions for Ms. Bradley from the Council?

MR. PURKAPLE: Question. On Page 2, Number (4), on the equation at the very end, the NO2 limit; is that equation correct?

MS. BRADLEY: I believe it is. What would be your question?

MR. PURKAPLE: So it's .2, and .3, and then .7?

MS. BRADLEY: Yes.

MR. PURKAPLE: Okay. That is actually correct?

MS. BRADLEY: That is correct. Each of the individual rules -- the quantity of their -- their proportion emissions to the overall is related to that particular constants.

MR. PURKAPLE: So you're not
looking for 100 percent then?

MS. BRADLEY: No.

MR. PURKAPLE: Okay.

MS. BRADLEY: I believe that portion relates to the NOx emissions from that particular category of fuel source.

MR. PURKAPLE: Okay.

MR. BRANECKY: Those are the standards for each type of fuel; .2, .3, and .7.

MR. PURKAPLE: Okay. Thank you.

MR. TERRILL: We have not decided how we're going to address this -- the change that we need to make to this rule. It's obvious that we're not going to be able to take care of the issue by making changes just to the rule itself. We're probably going to have to do what actually the Board ask us not to do a number of years ago, when we had the situation where we had a new facility that wanted to construct in southern Oklahoma and could not meet -- they actually were putting on LAER controls for NOx with being analyzed under BACT, but the actual control would
have qualified for LAER, Lowest Achievable
Emission Rate, but they still couldn't meet
33. So we did a fix just for that
particular -- actually just that particular
company. And the Board did not like us
doing that and I kind of understand that.
But we may have to do some fixes on this
with -- because this rule is kind of
antiquated. And in the best of all worlds
we would probably do away with 33 and just
rely on the federal requirements. However
we do that would require a massive amount
of work on our part, because it is part of
our SIP. And to prove to EPA that this
wouldn't weaken the SIP would be a lot more
work than it would be worth at this point.
So EPA has recommended that rather
than look at this rule in totality, we look
at specific instances or specific problems
that we see that we can address on a more
narrow basis. That's their preference. So
that's probably what we're going to do.
We are looking at some averaging
times and see if that might work. But we
need to fix this across two or three
industrial sectors, not just one.

So we may very well come back with specific industry fixes for the rule that we will take to the Board and we'll brief the Board as to the reason for that. I think it should be fine.

So we are going to continue to work on this and hopefully we'll have something in October to bring to you to at least fix parts of it, if not all of it.

MS. BOTCHELET-SMITH: Other questions from the Council? Again on this rule, I didn't have any notice of comment from the public. If anyone wishes to do so, if you would indicate such.

And seeing no hands, I believe there are no comments from the public.

MR. BRANECKY: All right. If there is no further discussion from the Council, then staff has asked that we continue Subchapter 33 to the October meeting.

MS. MYERS: So moved.

MR. BRANECKY: I have a motion.

MR. PURKAPLE: I'll second.
MR. BRANECKY: I have a motion
and a second. Myrna.

MS. BRUCE: Jerry Purkaple.

MR. PURKAPLE: Yes.

MS. BRUCE: Laura Lodes.

MS. LODES: Yes.

MS. BRUCE: Sharon Myers.

MS. MYERS: Yes.

MS. BRUCE: Rick Treeman.

MR. TREEMAN: Yes.

MS. BRUCE: Jim Haught.

MR. HAUGHT: Yes.

MS. BRUCE: Bob Lynch.

DR. LYNCH: Yes.

MS. BRUCE: Montelle Clark

MR. CLARK: Yes.

MS. BRUCE: David Branecky.

MR. BRANECKY: Yes.

MS. BRUCE: Motion passed.

MS. BOTCHLET-SMITH: David that concludes the hearing portion of today's Agenda.

(Item 5D Concluded)
CERTIFICATE

STATE OF OKLAHOMA )
COUNTY OF OKLAHOMA ) ss:

I, CHRISTY A. MYERS, Certified Shorthand Reporter in and for the State of Oklahoma, do hereby certify that the above proceedings is the truth, the whole truth, and nothing but the truth; that the foregoing proceedings were taken by me in shorthand and thereafter transcribed under my direction; that said proceedings were taken on the 16th day of July, 2008, at Ponca City, Oklahoma; and that I am neither attorney for nor relative of any of said parties, nor otherwise interested in said action.

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CHRISTY A. MYERS, C.S.R.
Certificate No. 00310
DEPARTMENT OF ENVIRONMENTAL QUALITY

STATE OF OKLAHOMA

* * * * *

TRANSCRIPT OF PROCEEDINGS

OF THE REGULARLY SCHEDULED MEETING

OF THE AIR QUALITY

ADVISORY COUNCIL

DIRECTOR’S REPORT

HELD ON July 16, 2008

AT 9:00 A.M.

IN PONCA CITY, OKLAHOMA

* * * * *

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BEVERLY BOTCHLET-SMITH - ASSISTANT DIRECTOR
MYRNA BRUCE - SECRETARY
CHERYL BRADLEY - ENVIRONMENTAL PROGRAMS MANAGER
DR. JOYCE SHEEDY - ENGINEER
MAX PRICE - ENVIRONMENTAL PROGRAM SPECIALIST
MR. BRANECKY: Do we have the Director's Report? And before we do the Director's Report there was some discussion among Council Members. Typically what we have done is have the court reporter report everything up to the Director's Report, but it would be nice -- members expressed desire to have a record of what Eddie says. And it would be nice to be able to recall what is in the Director's Report.

THE REPORTER: You know, I record those anyway.

MR. BRANECKY: On tape?

THE REPORTER: At anytime, I can go back and --

MR. BRANECKY: You've already got them.

MS. MYERS: I think we need to start putting them in our packet.

MR. BRANECKY: Just include them in our packet. Okay.

MR. BRANECKY: Okay. I will see
-- watch what he says now.

MR. TERRILL: I don't have anything to say now. Anybody that knows me knows I've always got something to say, whether it is right, wrong or indifferent. For those of you that have been coming to the last several meetings, this is the first one we've had that we haven't talked about mercury. And the reason for that is we're not quite ready to talk about it because our fish flesh analysis activity is not quite done yet. I got an update about three weeks ago, relative to where the Customer Service Division is in doing this work. They've had some problems. We seem to have some problems with this since we started this quite a while back. But they've had some boat problems, and they've had some lake levels being high, problems. But they've assured me that they will get this done, enough so that we can take at least a preliminary findings report to the Council in October. I'd say we're about 10 percent -- 15 percent through with this. But they've got
a plan to really work hard over the next month and a half to wrap this. They've got the manpower issue taken care of and I think their boats have been taken care of, it's back up and operating. I really want to do a report in October, if we can, at least to give the public and the regulated community some idea of where we are, relative to our fish flesh values within the state.

Having said that there's still some outstanding issues that we need to determine. One of them being monitoring and whether or not we're going to try to do a rule or something. And we're probably going to tie that somewhat to our fish flesh analysis. But we're also doing some evaluation with other states to determine exactly what we would do with that data. Originally the monitoring that was required under CAMR was designed to ensure compliance with a standard. And since that doesn't exist anymore -- monitoring for the sake of monitoring, if we're not going to be able to do something with the data, it's
something I'm not in favor of. Both from our end of having to look at it and the regulated end not to have to collect something that's not going to be used.

So if we determine that there is really not a need to do that then as long as we can figure out some way to give the public knowledge of what is in the inventory, we may fall back with that.

Because I've just got to believe that EPA is going to have to address mercury, probably in the next administration -- next EPA Administrator.

So that's the reason why we don't have mercury on the agenda this time. But once our fish flesh analysis is done we'll come back with a report to the Council, and give some recommendations to the Council, and take direction from the Council and the public, as to what they would like to see done relative to the mercury.

By the way, if anyone has any questions at anytime, just feel free to break in, I mean, this is real informal.

For those of you who have been
following the news lately, the CAIR rule, the Clean Air Interstate Rule failed last July -- the 11th last week. The District Court, the District of Columbia, the DC Circuit remanded it, the entire rule, back to EPA -- vacated and remanded. I thought they would lose part of it. I didn't think they would lose the whole rule. And this creates a huge problem for states who were a part of CAIR and states who weren't part of CAIR.

Obviously, if you were a CAIR state you had activities going on, a trading program that was dependent upon controls being added by dates that are rapidly approaching in the next couple years. So you've got billions of dollars out there that is either in the process of being spent or have been spent for a trading program that doesn't exist anymore.

So you throw this in and the fact that they've lost CAMR, they've lost all their MACT -- they've really lost every major air rule they have proposed; it's been litigated and EPA has lost.
So over the last couple weeks, or actually over the last week, there's been some renewed activity and renewed interest on the Hill to take a look at the Clean Air Act and see what changes need to be made. And also maybe even look at a multi-pollutant bill, whether or not that might include carbon, I don't know. I think it's going to be awful difficult for EPA to re-propose a rule, I think, that includes NOx, SOx, mercury, PM, without some changes to the Act in order to incorporate that. So if you want to take a look at the -- it's a 57-page -- it's kind of interesting reading. But the bottom line is, if you have got facilities that are in CAIR states, it throws you back to square one.

What it does for Oklahoma is that the modeling runs that were done -- the IPM runs to project utility emission increases and cost increases and that sort of thing, the IPM runs were done, both for CAIR and for the Regional Haze Rule. And so we relied on the information that came out of
that for the modeling that we did for our recommendations to go into our SIP. So this really effects the non-CAIR states as well, if you had Regional Haze SIPS that you were working on. So the steering committee for the POG -- our Policy Oversight Groups, CENRAP, that's been working on the technical information that would go into the states' SIPS within CenSARA is meeting in Oklahoma City today and tomorrow, I believe. And I know that on their agenda is, what are the ramifications of CAIR relative to the Regional Haze SIPS that are past due. And so we've carved out an hour at the NAAQA Board Meeting, that's the Air Directors Association that we belong to. Our fall Board Meeting or summer Board Meeting comes up in a couple weeks and we've carved out an hour. And for weekend meetings to spend an hour on a topic, that's a long time. So everybody believes this is a huge, huge issue that we're going to be trying to figure out what the ramifications are.

But I truly don't see anything
happening with this until after the elections and after and a new Administrator is appointed. So it will be very unlikely that they address the mess that's been created by this and other setbacks EPA has suffered, relative to rulemaking until they have a new Congress. So we'll just have to see what happens relative to that.

I was going to talk a little bit about climate change. I've gotten a -- if you're a utility, you can expect to get something from me and from the climate registry over the next couple of weeks. They're really trying to push to raise the number of members that belong to the climate registry.

I think most of you all are kind of aware of what the registry does and what it doesn't do. EPA, the only thing they've done relative to climate change, they've issued the notice of proposed advanced rulemaking. And basically they are declining to deal with carbon at this time. They still have not come out with their rule for emissions inventory, how they're
supposed to be calculated and what sources would be covered. So there's still a lot of things that can happen relative to carbon and emissions inventory over the next couple months.

I think EPA is under a deadline to have that out as a proposed rule sometime at the end of this month or the first part of September. So you'll be getting something -- like I said utilities will be the first on the list. But we'll probably be expanding that out to other large carbon sources in the future just to give you some idea of what the carbon registry does, if you're not familiar with that to give you some information and you can make a decision whether or not you want to think about joining it.

So hopefully all this information relative to the emissions inventory, and how that is going to be calculated portion of (inaudible) will kind of become clear sometime this fall in anticipation of Congress or EPA, one, dealing with the CO2 and other greenhouse gas issues, sometime
in the next administration.

The only other thing I've got is
we're not prepared to talk about it today,
but Kendall and I, and the enforcement
managers have been taking a look at our
alternate enforcement policy. We've had
some suggestions that we think are good
suggestions relative to clarifying this. I
think this will be the third, or fourth, or
fifth clarification we've done on this
particular -- it's not a rule, but it's a
policy, I guess. So this is our last
attempt to try to clarify it for our folks
and for the regulated community.

So we should come out with something
on our website in the next month relative
to how -- we're looking at expanding the
time frame for response and making it clear
as to exactly what you can expect, if you
have issues with the inspection report and
what you cannot expect relative to our
interpretation of the rules.

So we think the comments that we
heard were some good ones and we are in the
process of incorporating that into the
letter you get, and also into our policy. We've got some internal hoops to jump through, but we should have that done here in two or three weeks and have something up on our website probably at the end of August, I would think at the latest. So you might keep an eye out and we'll try to put something in the consultants newsletter -- the newsletter for the consultants and also our Air Quality newsletter.

Questions?

MR. BRANECKY: Where are we on the audit?

MR. TERRILL: Oh, I'm glad you asked me about that because I knew there was something that I hadn't jotted down. Now that the session is over with, and the budgets are in, David Dyke, my counterpart up in Customer Service -- they are in contact with the State Auditor, to try to get language from them to narrow down what we are going to ask the contractor for when we go out for bid on this. And we are trying to structure this so that we can keep the cost down but get
the Council and EFO what we agreed to do.
So I think what we are going to do is over
the next two or three weeks, we are going
to put together a request for proposal.
And then we'll probably take that to the
Finance Committee of the Council for their
blessing, if you will, as this is going to
gather the information that they are
interested in. And then hopefully we'll go
out for bids on that within the next month
or so.

We are not going to include a needs
or a -- the portion of it we are going to
look at relative to what needs we have
within the Agency relative to being able to
do our job. We think that's going to be
taken care of through an IPA that EPA has
given to CenSARA to take a look at doing an
analysis of small, medium, and large
programs with the idea that we'll have a
report ready to go to the new Administrator
of EPA next year. So we can make an effort
to lobby for more federal money to run
these programs and for reallocation of
resources from the headquarters area to the
regions to help do the analysis of permits
and that sort of thing.

And we've also been notified that
EPA is going to be doing a Title V audit of
our program sometime in the fall or maybe
March of next year. I don't anticipate
that is going to be anything of a real
note, we've had one done before and there
wasn't a whole lot to it. But they have
put some information together since then,
relative to the Arkansas program and what's
Title V and what's not. Then we will take
a look at it as part of the audit of our
program. And it's possible that maybe
there will be a little bit more substance
to the one they do.

So that's kind of a long-winded
answer to tell you that we are now devoting
our attention to that and that we hope to
get that done "ASAP", as soon as possible.

MR. PURKAPLE: Eddie, with
respect to the heater boiler MACT, I
haven't looked at the DEQ's website --
there is an FAQ; is there anything that has
changed about the state's position on that
particular MACT?

MR. TERRILL: Not yet. Dawson,
do you have anything to add on that? I
think we're going to -- we've got some
decisions to make on a lot of the MACTs.
And Dawson -- we don't. We just haven't
sat down yet and figured out how we're
going to handle a number of them. And I
know all of you have got concerns about who
you report to and how you do it and making
sure that you don't have an issue -- a
compliance issue down the road and we are
aware of all of that. And obviously we are
taking that into account, and whether or
not we end up putting some kind of a
workgroup together, I don't know. There
would be such a complicated issue to do it
that way. What we may do is put some ideas
together and put them up on the web and
send them out through EFO for comment. And
what we might think about doing is doing an
overview for the Council at either the next
meeting or maybe the one after that.
Probably, the sooner the better, to kind of
give you all an idea of where we think we
are going with this. But we do realize
that we've got to make some decisions on
how we're going to address that issue. And
we are not going to leave you guys hanging
and put you in a position where you are
going to have compliance issues, certainly
not with us, but not with EPA either. We
are not going to let that happen.

The only thing I will mention about
ozone, we are having just a fantastic
weather year. We've got a couple of sites
that are in violation in Oklahoma City; but
Tulsa so far, we still have not violated
the standard.

There's been lawsuits filed on both
ds of the issue. Mississippi is leading
the charge of states and industry groups
that say the standard is too tight. There
is a number of states that are suing EPA,
along with environmental groups, saying the
standards are too lax. So it probably
means they are pretty close to being right.

But Mississippi does have some
interesting -- and then there are some
other states that I think are going to join
in with that that are not necessarily challenging the science of the standard but want to have a seat at the table, relative to implementation of the new standard. And that's where -- that's the attack we're taking, I don't think we will be a party to the lawsuit. But we are getting our ducks in a row to try to lobby through CenSARA or possibly even through NAAQA with the new Administrator to take a look at the Act, to take a look at the way they implement the ozone standard, specifically in areas that have been in compliance with the eight-hour standard -- the old one. We just think they need to take a whole fresh look at the nonattainment scheme and mechanism. They are going to have to do that because they lost the suit when they implemented the eight-hour standard and the Subpart 1, Subpart 2; that scheme got kicked back to EPA, saying they weren't allowed in the Act to pigeonhole the eight-hour standard into the one-hour requirement. So they are going to need to take a look at that anyway. And we think it's time they took a
look at the whole process they use for
designations and what the states go
through, relative to that and then kind of
shift the emphasis a little bit. So we're
going to follow the lawsuits closely. I
still anticipate a stay of that. But as it
stands right now, we have to make a
recommendation to the Governor so that he
can make a recommendation to EPA, by March
of next year.

So what we are anticipating doing is
having some waiting into the ozone season,
and seeing what areas of the state have
monitors to violate the standard. And if
there has not been a stay of the rule that
puts off the time when the Governor has to
make his recommendation, we'll probably
hold some public hearings in those areas
that have monitors that are showing
violations so that we can have some
discussions with the public and obviously
the Council, as well, about boundary
recommendations. Right now if we were to
hold them today, it would be in the
Oklahoma City area and possibly the Red
River area. Even though we don't really have monitors -- we are moving our monitors down in that area often enough so we don't have an attainment issue. We will probably hold something down there just if anybody has an interest in what the values mean and what it really means to them, relative to the advisory that we do and sort of thing, since we do have high ozones down in that part of the state, to give them an opportunity that we would answer questions, not that there would be any chance of -- at this point, that that would be an area of nonattainment. But the Oklahoma City area would be the area that we would be talking to them about boundary issues.

But we do have at least -- I think we have got two monitors now that show a violation standard in Oklahoma City. So we'll probably do that in October, maybe November.

MR. BRANECKY: Okay.

(Director's Report Concluded)
CERTIFICATE

STATE OF OKLAHOMA )
COUNTY OF OKLAHOMA ) ss:

I, CHRISTY A. MYERS, Certified Shorthand Reporter in and for the State of Oklahoma, do hereby certify that the above proceedings is the truth, the whole truth, and nothing but the truth; that the foregoing proceedings were taken by me in shorthand and thereafter transcribed under my direction; that said proceedings were taken on the 16th day of July, 2008, at Ponca City, Oklahoma; and that I am neither attorney for nor relative of any of said parties, nor otherwise interested in said action.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal on this, the 18th day of July, 2008.

CHRISTY A. MYERS, C.S.R.
Certificate No. 00310
DEPARTMENT OF ENVIRONMENTAL QUALITY
STATE OF OKLAHOMA

* * * * *

TRANSCRIPT OF PROCEEDINGS
OF THE REGULARLY SCHEDULED MEETING
OF THE AIR QUALITY
ADVISORY COUNCIL
NEW BUSINESS
HELD ON JULY 16, 2008
AT 9:00 A.M.
IN PONCA CITY, OKLAHOMA

* * * * *

MYERS REPORTING SERVICE
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COUNCIL MEMBERS

DAVID BRANECKY, CHAIRMAN
RICK TREEMAN, VICE-CHAIRMAN
JIM HAUGHT, MEMBER
DR. ROBERT LYNCH, MEMBER
SHARON MYERS, MEMBER
JERRY PURKAPLE, MEMBER
LAURA LODES, MEMBER
MONTELL CLARK, MEMBER

DEQ STAFF

EDDIE TERRILL - DIRECTOR
BEVERLY BOTCHLET-SMITH - ASSISTANT DIRECTOR
MYRNA BRUCE - SECRETARY
CHERYL BRADLEY - ENVIRONMENTAL PROGRAMS MANAGER
DR. JOYCE SHEEDY - ENGINEER
MAX PRICE - ENVIRONMENTAL PROGRAM SPECIALIST
MR. BRANECKY: I have a couple of issues I would like to discuss under "New Business" before we adjourn.

Our next meeting in October was scheduled in Broken Bow. There has been some discussion as to whether we would maybe like to move that back to Oklahoma City for not only saving money on gas, but to make it more accessible to the public, because we plan on passing Subchapter 9 in October; is that the plan?

MR. TERRILL: We hope to do that. I'd like to get 9 out of the way and we would also -- if we're ready to move on at least parts of 33, if not all, then I would like to do 33, as well in October. Also, we are going to be doing the fish flesh study report in October. I don't think that I will ask the Council for any -- it's possible we could ask the Council for some directions based on that as well. So, October is going to be a fairly action-packed agenda.
MR. BRANECKY: So it's up to the wishes of the Council; what would you guys like to do?

MR. CLARK: Question? Why was Broken Bow -- what was that historical reason for meeting in Broken Bow; was it to access the southeast part of the state and an option to go down there and participate?

MR. BRANECKY: Yeah, and we've had it in Tulsa, Oklahoma City, Ponca City and just kind of moved it around. There is no historical reason.

MR. CLARK: Does it matter at all; -- is there a permit being considered for any plant down in that area? Do folks down there seem to be very interested in that?

MR. TERRILL: We wouldn't discuss permits anyway. That's one thing that we don't do at any of these Council meetings is discuss any individual permits. So if we were to have a meeting down there and they wanted to discuss that, I guess it would be up to Council as to what comments they took. But as a staff and as an Agency and Division, we will not comment on
anybody's permit, whether it be a new permit, an old permit, a construction permit, a modification or whatever, that is just not the purpose of the Council to debate permit issues.

So obviously as part of our meeting, if someone wanted to talk or raise an issue, the Council could take that, but it wouldn't be on the record as part of our rulemaking or that sort of thing.

MR. CLARK: Suppose that was referring to any rules that might effect that permit. Any rules that might be discussed that would affect that permit?

MR. TERRILL: Obviously, yes, we can discuss any rules that the Council would take up but just not a permit that is pending with us. That is just not part of the purview of the Council.

MR. BRANECKY: We can leave it at Broken Bow unless -- speak up. Now is your chance.

MR. PURKAPLE: I enjoy going to Broken Bow, but I think maybe given the content of what we are going to talk about
and in order to enhance the public
participation, I would defer to DEQ to
decide where the best location might be.
And look for an opportunity to be in Broken
Bow for the 2009 meeting.

MR. BRANECKY: Do we have to take
a vote; is this something we officially
have to vote on to make this change?

MR. TERRILL: I don't think so, I
think you just give us direction because we
need to know today because we need to make
sure we've got a room and all that in
Broken Bow. Obviously for us it's easier
for us to do it in Oklahoma City. We don't
have to take staff on the road. If it
weren't for the fact that we really do want
to try to pass these rules, and we will be
bringing this mercury issue up again, I
don't know that it would make any
difference -- but we will have to take a
lot of staff down there, if we're going to
go to Broken Bow. It will be a fairly
expensive proposition. It's all coming out
of Title V for the most part, so it's up to
you all.
DR. LYNCH: I think that the mercury issue, some of the last meetings, and the one that was here last year, that is a big deal and I think we ought to try - any information we have on that ought to be put forward to the place where it is the easiest for people to get to; whether that's Tulsa or Oklahoma City. Broken Bow is a long way off and that is a high-interest topic.

MR. BRANECKY: Since we voted initially on meeting locations; do we not have to vote to change it?

MS. BOTCHLET-SMITH: I think you would have to vote, but they are having trouble hearing you, Bob.

DR. LYNCH: My comment was that the mercury issues raised a lot of interest. We're going to talk about data that is going to drive that issue, which I think it will, one way or another, that ought to be delivered at a place where it's easiest for people to get to.

MR. BRANECKY: Okay. So I think we need to take a vote so I would suggest a
motion and a second, and then we'll vote.

Since we voted initially on meeting locations, I think we need to vote to change it.

DR. LYNCH: I move that we change the location of the October '08 meeting to Oklahoma City.

MR. BRANECKY: I have a motion to move it to Oklahoma City.

MR. HAUGHT: I'll second it.

MR. BRANECKY: All right. Myrna.

MS. BRUCE: Jerry Purkaple.

MR. PURKAPLE: Yes.

MS. BRUCE: Laura Lodes.

MS. LODES: Yes.

MS. BRUCE: Sharon Myers.

MS. MYERS: No.

MS. BRUCE: Rick Treeman.

MR. TREEMAN: I'm going to abstain.

MR. BRANECKY: I move that we change the location of the October '08 meeting to Oklahoma City.

MR. BRANECKY: All right. Myrna.

MS. BRUCE: Jerry Purkaple.

MR. PURKAPLE: Yes.

MS. BRUCE: Laura Lodes.

MS. LODES: Yes.

MS. BRUCE: Sharon Myers.

MS. MYERS: No.

MS. BRUCE: Rick Treeman.

MR. TREEMAN: I'm going to abstain.

MS. BRUCE: Jim Haught.

MR. HAUGHT: Yes.

MS. BRUCE: Bob Lynch.

DR. LYNCH: Yes.

MS. BRUCE: Montelle Clark
MR. CLARK: No.

MS. BRUCE: David Branecky.

MR. BRANECKY: Yes.

MS. BRUCE: Motion did pass.

MR. BRANECKY: All right. It will be in Oklahoma City in October.

The other item I would like to discuss is Rick Treeman, this is his last meeting. He is Vice-Chair, and I think we would need to elect another Vice-Chair for October, for the next meeting. So that is what I would like to do at this point.

MS. MYERS: I would like to propose Laura Lodes as Vice-Chair to serve out the rest of the year.

MR. PURKAPLE: I'll second that.

MR. BRANECKY: Any discussion?

It's a done deal. We'll take a vote.

MS. BRUCE: Jerry Purkaple.

MR. PURKAPLE: Yes.

MS. BRUCE: Laura Lodes.

MS. LODES: Yes.

MS. BRUCE: Sharon Myers.

MS. MYERS: Yes.

MS. BRUCE: Rick Treeman.
MR. TREEMAN: Yes.

MS. BRUCE: Jim Haught.

MR. HAUGHT: Yes.

MS. BRUCE: Bob Lynch.

DR. LYNCH: Yes.

MS. BRUCE: Montelle Clark

MR. CLARK: Yes.

MS. BRUCE: David Branecky.

MR. BRANECKY: Yes.

MS. BOTCHLET-SMITH: Congratulations Laura.

MR. TERRILL: I thank everybody for coming. And thanks to Conoco and the city of Ponca City for very good accommodations last night and today; we really appreciate it.

MR. BRANECKY: We are done.

(New Business Concluded)

(Meeting Concluded)
CERTIFICATE

STATE OF OKLAHOMA )
COUNTY OF OKLAHOMA ) ss:

I, CHRISTY A. MYERS, Certified Shorthand Reporter in and for the State of Oklahoma, do hereby certify that the above proceedings is the truth, the whole truth, and nothing but the truth; that the foregoing proceedings were taken by me in shorthand and thereafter transcribed under my direction; that said proceedings were taken on the 16th day of July, 2008, at Ponca City, Oklahoma; and that I am neither attorney for nor relative of any of said parties, nor otherwise interested in said action.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal on this, the 18th day of July, 2008.

__________________________
MYERS, C.S.R. Certificate No. 00310