MINUTES
AIR QUALITY COUNCIL
October 17, 2007
DEQ Multipurpose Room
707 North Robinson
Oklahoma City, Oklahoma

For EQB November 15, 2007
AQC Approved
January 18, 2008

Notice of Public Meeting  The Air Quality Council convened for its regular meeting at 9:00 a.m. October 17, 2007 in the Multipurpose Room at the DEQ. 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 30, 2006. 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
Sharon Myers
David Branecky
Laura Worthen Lodes
Bob Lynch
Jerry Purkaple
Rick Treeman

MEMBERS ABSENT
Jim Haught
Gary Martin
Don Smith

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

DEQ STAFF PRESENT
Nancy Marshment
Matt Paque
Dawson Lasseter
Myrna Bruce

OTHERS PRESENT
Christy Myers, Court Reporter
Steve Mason, EQBoard

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

Approval of Minutes  Mr. Branecky called for approval of the July 18, 2007 Minutes. Mr. Purkaple made motion for approval and Ms. Lodes made the second. Roll call as follows with motion passing.

Bob Lynch  Yes  Sharon Myers  Yes
Laura Worthen  Yes  Jerry Purkaple  Yes
Rick Treeman  Yes  David Branecky  Yes

Meeting Schedule for Calendar Year 2008  Staff proposed 2008 meetings dates of January 16; April 16; July 16; and October 15. Council suggested that the January meeting be in Oklahoma City, April in Tulsa, and October in Broken Bow.

Bob Lynch  Yes  Sharon Myers  Yes
Laura Worthen  Yes  Jerry Purkaple  Yes
Rick Treeman  Yes  David Branecky  Yes
OAC 252:100 Appendix Q, Incorporation by Reference [REVOKED]
OAC 252:100 Appendix Q, Incorporation by Reference [NEW]
Mr. Max Price pointed out the 40 CFR rules which would incorporate by reference the latest changes to federal regulations in the proposed Appendix Q. He explained that staff had realized that the term NA which means Non-Applicable could be misconstrued to be a subpart number; therefore, instead of using NA, it will be written out as Non-Applicable. Ms. Myers made motion that these rules be incorporated by reference as proposed. Mr. Treeman made the second.

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OAC 252:100-9 Excess Emission Reporting Requirements [AMENDED]
Mr. Max Price stated that staff requested continuation of this hearing to modify excess emission reporting requirements to Council’s January meeting. Mr. Myers made the motion and Ms. Lodes made the second.

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OAC 252:100-17 Incinerators [AMENDED]
Ms. Cheryl Bradley explained that staff requested that Council table the rule proposal until the Environmental Protection Agency has reached a decision on its reconsideration of the amended federal regulations. Mr. Purkaple made motion to table and Dr. Lynch made the second.

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OAC 252:100-5 Registration, Emission Inventory and Annual Operating Fees [AMENDED]
Ms. Nancy Marshment explained that staff requested continuation of this rulemaking proposal to increase fees for minor facilities and for part 70 sources. Mr. Terrill and Ms. Botchlet-Smith fielded questions. Mr. Purkaple made motion to continue and Ms. Myers made the second.

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Subchapter 19 Control of Emission of Particulate Matter
Mr. Dawson Lassetter, Engineer Manager, continued with his presentation from the July meeting providing additional information which included options for Council consideration. No action by Council was necessary.

Division Director’s Report – Mr. Eddie Terrill suggested some possible informational sessions on the afternoons of Council’s regularly scheduled meetings. He provided an update on the ozone season; Regional Planning Organizations; Climate Registry; and the Environmental Federation of Oklahoma meeting.

New Business -- None
Adjournment -- Meeting adjourned at 11:00 a.m.

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

DAVID BRANECKY - CHAIRMAN
RICK TREEMAN - VICE-CHAIRMAN
JERRY PURKAPLE - MEMBER
JIM HAUGHT - MEMBER - ABSENT
SHARON MYERS - MEMBER
GARY MARTIN - MEMBER - ABSENT
DR. ROBERT LYNCH - MEMBER
LAURA LODES - MEMBER
DON SMITH - MEMBER - ABSENT

STAFF PRESENT
MYRNA BRUCE - SECRETARY
EDDIE TERRILL - DIVISION DIRECTOR
BEVERLY BOTCHELET-SMITH - AQD
MR. BRANECKY: Good morning, everyone. Let's go ahead and get started. Just a reminder before we begin the meeting, if you have a cell phone, would you please put that on mute or turn it off, that would be helpful. And with that as soon as Myrna gets back to her seat she will call roll.

MS. BRUCE: Good morning.

Robert Lynch.

DR. LYNCH: Here.

MS. BRUCE: Laura Lodes.

MS. LODES: Here.

MS. BRUCE: Rick Treeman.

MR. TREEMAN: Here.

MS. BRUCE: Sharon Myers.

MS. MYERS: Here.

MS. BRUCE: Jerry Purkaple.

MR. PURKAPLE: Here.

MS. BRUCE: David Branecky.

MR. BRANECKY: Here.

MS. BRUCE: Absent is Jim Haught,
Gary Martin, Don Smith. We do have a quorum.

MR. BRANECKY: Thank you, Myrna. Next item on the agenda is the Minutes from our July 18th meeting. Do we have any discussion on the Minutes? If not, I will entertain a motion for approval.

MR. PURKAPLE: So moved.

MS. LODES: Second.

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

MS. BRUCE: Robert Lynch.

DR. LYNCH: Yes.

MS. BRUCE: Laura Lodes.

MS. LODES: Yes.

MS. BRUCE: Rick Treeman.

MR. TREEMAN: Yes.

MS. BRUCE: Sharon Myers.

MS. MYERS: Yes.

MS. BRUCE: Jerry Purkaple.

MR. PURKAPLE: Yes.

MS. BRUCE: David Branecky.

MR. BRANECKY: Yes.

MS. BRUCE: Motion passed.
MR. BRANECKY: All right. The next item is the meeting schedule for next year. Staff has suggested -- given us four suggestions for dates and locations. I'd like to open that up to discussion.

MS. MYERS: I'd like to see the meetings in Broken Bow again.

MR. BRANECKY: Repeat that.

MS. MYERS: I would like to see the October meeting in Broken Bow.

MR. BRANECKY: Okay. Any other discussion? That it?

MR. TREEMAN: Second that.

MR. BRANECKY: Okay. We don't have a motion yet.

The ones we have are January 16th in Oklahoma City, April 16th in Tulsa, July 16th in Oklahoma City and then October 15, which was suggested in Broken Bow. I kind of liked Ponca City this year. Do we want to consider going back to Ponca City? I guess I should ask were we invited back?

MR. PURKAPLE: Any time, I'm sure.

MR. BRANECKY: That was just a
thought.

MS. MYERS: I like that as well.

MR. BRANECKY: Okay. So I guess someone could make a motion. I'll entertain a motion.

MS. MYERS: I make a motion that we have meetings in Oklahoma City, Tulsa, Ponca City and Broken Bow.

MR. BRANECKY: Which meetings where? I mean what time -- what date?

MS. MYERS: Oklahoma City, January 16th; Tulsa, April 16th; Ponca City, July 16th; Broken Bow, October 15th.

MR. BRANECKY: Okay. That's a possibility.

MR. PURKAPLE: Guess I think it is.

MR. BRANECKY: Okay. All right. I have a motion.

MR. TREEMAN: I'll second it.

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

MS. BRUCE: Robert Lynch.

DR. LYNCH: Yes.

MS. BRUCE: Laura Lodes.
MS. LODES: Yes.

MS. BRUCE: Rick Treeman.

MR. TREEMAN: Yes.

MS. BRUCE: Sharon Myers.

MS. MYERS: Yes.

MS. BRUCE: Jerry Purkaple.

MR. PURKAPLE: Yes.

MS. BRUCE: David Branecky.

MR. BRANECKY: Yes.

MS. BRUCE: Motion passed.

(End of Items 1-4)
C E R T I F I C A T E

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 proceeding was recorded by shorthand by me and thereafter transcribed under my direction to the best of my ability; that said proceedings were taken on the 17th day of October, 2007, at Oklahoma 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 20th day of October, 2007.

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

* * * * *

TRANSCRIPT OF PROCEEDINGS
OF THE AIR QUALITY COUNCIL
REGULAR MEETING
ITEM NUMBER 5A
HELD ON OCTOBER 17, 2007, AT 9:00 A.M.
IN OKLAHOMA CITY, OKLAHOMA

* * * * *

MYERS REPORTING SERVICE
(405) 721-2882
MEMBERS OF THE COUNCIL

DAVID BRANECKY - CHAIRMAN
RICK TREEMAN - VICE-CHAIRMAN
JERRY PURKAPLE - MEMBER
JIM HAUGHT - MEMBER - ABSENT
SHARON MYERS - MEMBER
GARY MARTIN - MEMBER - ABSENT
DR. ROBERT LYNCH - MEMBER
LAURA LODES - MEMBER
DON SMITH - MEMBER - ABSENT

STAFF PRESENT
MYRNA BRUCE - SECRETARY
EDDIE TERRILL - DIVISION DIRECTOR
BEVERLY BOTCHELET-SMITH - AQD
MR. BRANECKY: All right. With that we'll go into our public hearing portion of the meeting. Beverly.

MS. BOTCHLET-SMITH: Good morning. I am Beverly Botchlet-Smith, Assistant Director of the Air Quality Division. As such, I will serve as the protocol officer for today's hearings.

These 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, Section 2-2-201, Sections 2-5-101 through 2-5-118.

Notice of the October 17, 2007, hearings were advertised in the 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 Meeting was filed with the Secretary of State on November 30, 2006. The Agenda was duly posted 24 hours prior to the meeting at this facility here at DEQ.

If you wish to make a statement, it is very important that you complete the form at the registration table, and you will be called upon at the appropriate time.

Audience members please come to the podium for your comments. Please remember to state your name prior to those comments.

At this time, we will proceed with what's marked as Agenda Item Number 5A on the Hearing Agenda, OAC 252:100.

This is Appendix Q, Incorporation by reference, which is proposed to be revoked; and OAC 252:100, Appendix Q, Incorporation by reference, the new version.

Mr. Max Price of the staff will be giving the presentation.

MR. PRICE: Thank you, Beverly.

Mr. Chairman, Members of the
Council, ladies and gentlemen. The Department is proposing to revoke the current Chapter 100, Appendix Q, Incorporation by reference, and adopt a new Chapter 100, Appendix Q. These proposals are part of the annual review of Title 40, Code of Federal Regulations Incorporations by Reference.

The following 40 CFR rules are being incorporated by reference in the proposed Appendix Q; 40 CFR 63, subpart DDDDDD,
National Emission Standards for Hazardous Air Pollutants for Polyvinyl Chloride and Copolymers Productions Area Sources;

40 CFR 63, subpart EEEEEE, National Emissions Standards for Hazardous Air Pollutants for Primary Copper Smelting Area Sources;

40 CFR 63, subpart FFFFFFF, National Emission Standards for Hazardous Air Pollutants for Secondary Copper Smelting Area Sources;

40 CFR 63, subpart GGGGGG, National Emission Standards for Hazardous Air Pollutants for Primary Nonferrous Metals
Area Sources - Zinc, Cadmium, and Beryllium, the last one being incorporated by new rule;

And 40 CFR 63, subpart LLLLLL, National Emission Standards for Hazardous Air Pollutants for Acrylic and Modacrylic Fibers Production Area Sources, I have no idea about that word.

In addition, the following 40 CFR rules are being unincorporated by reference in the proposed Appendix Q because the federal courts have vacated all or part of the rules:

CFR 63, subpart JJJJJ, National Emission Standards for Hazardous Air Pollutants for Brick and Structural Clay Products Manufacturing;

40 CFR 63, subpart KKKKK, National emission Standards for Hazardous Air Pollutants for Clay Ceramics Manufacturing;


Notice of the proposed rule changes
were published in the Oklahoma Register on September 17th. The notice requested comments from the public and other interested parties. In response, we received two comments from Trinity Consultants. These comments arrived too late to be placed into your Council packets, but they have been made available to the Council and the public, and they will be made a part of the permanent record.

At this time, we are proposing no changes to the proposed Appendix Q in response to these comments. However, I want to make one change on the rule, if I may.

Under the heading of subpart in the rule, there was some discussion yesterday that NA, which means Non-Applicable, might be misconstrued to be a subpart number. So instead of using NA, we will just write that out, Non-Applicable.

Since these proposals are routine housekeeping measures, we ask 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: Do we have
questions from the Council? Unfortunately
we did not have any forms on the desk for
you to sign in if you had questions or
comments. So if anyone from the public has
a question for Mr. Price or wants to make a
comment on this proposed rule, would you
please raise your hand so I can recognize
you.

Seeing no comments from the public,
and if there is not anything from the
Council, David.

MR. BRANECKY: All right. We'll entertain a motion.

MS. MYERS: I move that the rules be incorporated by reference as proposed.

MR. BRANECKY: With the additional change suggested to that?

MS. MYERS: Yes.

MR. BRANECKY: Okay. I have a motion. I need a second.
MR. TREEMAN: Second.

MR. BRANECKY: Motion and a second. Any other discussions? Myrna, call roll please.

MS. BRUCE: Robert Lynch.

DR. LYNCH: Yes.

MS. BRUCE: Laura Lodes.

MS. LODES: Yes.

MS. BRUCE: Rick Treeman.

MR. TREEMAN: Yes.

MS. BRUCE: Sharon Myers.

MS. MYERS: Yes.

MS. BRUCE: Jerry Purkaple.

MR. PURKAPLE: Yes.

MS. BRUCE: David Branecky.

MR. BRANECKY: Yes.

MS. BRUCE: Motion passed.

(End of Item Number 5A)
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 proceeding was recorded by shorthand by me and thereafter transcribed under my direction to the best of my ability; that said proceedings were taken on the 17th day of October, 2007, at Oklahoma 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

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TRANSCRIPT OF PROCEEDINGS
OF THE AIR QUALITY COUNCIL
REGULAR MEETING
ITEM NUMBERS 5B
HELD ON OCTOBER 17, 2007, AT 9:00 A.M.
IN OKLAHOMA CITY, OKLAHOMA

* * * * *

REPORTED BY: Christy A. Myers, CSR

MYERS REPORTING SERVICE
(405) 721-2882
MEMBERS OF THE COUNCIL

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RICK TREEMAN - VICE-CHAIRMAN

JERRY PURKAPLE - MEMBER

JIM HAUGHT - MEMBER - ABSENT

SHARON MYERS - MEMBER

GARY MARTIN - MEMBER - ABSENT

DR. BOB LYNCH - MEMBER

LAURA LODES - MEMBER

DON SMITH - MEMBER - ABSENT

STAFF PRESENT

MYRNA BRUCE - SECRETARY

EDDIE TERRILL - DIVISION DIRECTOR

BEVERLY BOTCHLET-SMITH - AQD
MS. BOTCHLET-SMITH: The next item on the Agenda is Item Number 5B. This is OAC 252:100-9, Excess Emissions Reporting Requirements. And the presentation, again, will be made by Mr. Max Price.

MR. PRICE: Thank you.

Mr. Chairman, Members of the Council, ladies and gentlemen. Earlier this year, the Department asked the public for suggestions to improve the current excess emission rule. After careful consideration of all the suggestions, the Department is proposing changes to OAC 252:100-9, Excess Emission Reporting Requirements. Notice of these proposals were published in the Oklahoma Register on September 17th.

In this Notice, we requested public comments concerning this rulemaking. On October 15th, we received comments from EPA Region VI. I have to add that we also received some comments from another consultant firm, that I can’t remember off
the top of my head, that just arrived yesterday.

These comments arrived too late to be placed into your Council packet, but they have been made available to the Council and the public, and they will be made a part of the permanent record. We are currently in the process of reviewing these comments.

In addition, we have identified some form and structural inconsistencies with the current draft of the proposed rule. For these reasons, we ask that the Council vote to hold the proposal over until the next Council meeting.

Thank you.

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

MR. TREEMAN: I have a comment. It's on the opacity limit. Basically there's an industry in the state that has some language in their rule that says it has an opacity limit at anytime and it doesn't specify a reference method. So at an instantaneous reading, they could be in
violation of this and have to report excess
emissions and I just -- I think that needs
to be -- I don't know how to address that,
but I think that the intent would be to use
a reference method, Method 9 or Method 22
on determining these opacities and not on
an instantaneous one-time reading. And so
I just -- somehow or another that's a
concern that I have, in the fact that
excess emission also means a violation of
any opacity limits specified.

MR. PURKAPLE: I have a question.

In the affirmative defenses sections for
both malfunctionals, and startup and
shutdowns, it -- it is Item Number 10 on
both of those -- that it s up to the
facility to --

MR. BRANECKY: Jerry, what page
are you on?

MR. PURKAPLE: I'm sorry. I'm on
Page 6 and 7. It's up to the facility to
prove by "preponderance of evidence"; and
then dropping down to section 10 it's "that
during the period of excess emissions,
there were no exceedances of relevant
ambient air quality standards that could be attributed to the emitting source." I think that language is the same under the affirmative defense for startup and shutdown, as well.

I'm wondering what is it that a facility would have to provide that would be considered under the phrase that we have provided "preponderance of evidence" that we haven't exceeded that?

That seems pretty ambiguous to me as I look at trying to implement that particular preponderance.

MR. PRICE: Well, I would imagine that the -- (in) take it out there and people deal with this a lot more. This is out of our guidelines that we follow that we wrote this. And basically the amount of -- I imagine what we were looking at would be the massive emissions that you actually emitted since you got the NAAQS and the PSD standards here. If you are a small source where the emissions were like 25 or 30 pounds, it wouldn't come anywhere close, so that wouldn't be a problem to show that.
If, on the other hand, you emitted like 250 tons or something like this then you might have a potential to actually see the PSD increment or NAAQS, then I would imagine we might require you to do some modeling, to show that you were not in violation of those two standards.

MR. PURKAPLE: So the obligation would be for the facility to conduct a modeling exercise to demonstrate that we perhaps have not exceeded.

MR. PRICE: Yes, sir. The burden of proof is on the facility.

MR. BRANECKY: Well, to me the only way you are going to prove that there are no violations of standards is through modeling. So this statement here, you would potentially have to do the modeling every time to show that you didn't violate the standard.

MR. PURKAPLE: That's kind of where I was heading with that. It seems like you have no choice, but have to do the modeling every time. If that is the criteria by which the facility can
ultimately demonstrate that it had.

MR. PRICE: This is one of the problems that we've had with this rule in the past, it's rather subjective in some of the things in the guidelines. Basically, it could stand some rework on that. And we probably need to put in some level -- something that we could look at that would be serious, but that hasn't been done yet. But that's still being debated. I don't want to put in a trigger limit for this kind of stuff, but that is still being debated with the EPA, too, because they may not like that.

MR. TERRILL: For those of you who were at the EFO meeting last week, you saw a presentation by Don Shandy and by Matt Paque of our staff. This rule is based on the Colorado rule, in fact, it's probably pretty close to verbatim of the Colorado rule, and so this thing has been through quite a bit of scrutiny already. However, there were five different areas that they were not able to resolve, and the discussions that went on for several months
in Colorado when they were trying to modify
their rules. So one thing we could do, is
we could set up a smaller work group and
when I say small, I mean small, because
otherwise -- I think one of the problems
they had in Colorado was there were too
many cooks and the product took a long time
to bake. So I would prefer that we figure
out some way or maybe go back through EFO
and have a representative from the major
industrial groups but limit it to somewhere
between five to eight people to work on
this and maybe try to answer some of these
questions that they didn't answer, as part
of the Colorado rule, and address the other
minor things that we think need to be
tweaked on this rule and then come back
with a recommendation to the Council.

MR. BRANECKY: You're going to
have to do something between now and the
next Council meeting or else we'll just be
here in the same spot as we are today. So
we'll have to have some progress between
now and January. So I suggest that we do
form some type of work group with Council,
but maybe with a couple of Council Members
on that work group, also.

MR. TERRILL: One thing we could
do is have our initial meeting with
everybody -- with anybody that wants to
come and then just see what the interest
is. And it could be that maybe other
obligations would keep this room being
filled up, but if it does get filled up
then we'll have to figure out someway
within that, to elect or somebody to
represent the group to come back and fine
tune. That way, we don't put anybody on
the spot about saying you can come, and you
can't, and that sort of thing. Just kind
of open it up initially and then pare it
down if we have just too many people. But
we will have to pare it down if we have a
lot off folks because everybody's got an
opinion about this and we'll never make any
progress to get this done.

MS. MYERS: One of the things
that has always baffled me about our rule,
is what possible good does it do to the
regulated community or for DEQ to have
immediate reporting requirements for an
opacity event that's 21 percent -- it's
only six minutes. Or if you have a ten
second release from some facility.

Max's comment about some kind of
trigger point for reporting, and I'm not
saying don't report, I'm saying move to a
quarterly reporting instead of immediate
notice for some of these events that are
really non-impact. I think we need to take
a look at that.

MR. TERRILL: I think anything is
pretty much on the table. You've got to
remember that whatever we come out of here
with will get -- and I'm going to run it by
the folks at Region VI and OWECA because
this is probably the number one issue, or
it's in the top two or three issues of
OWECA nationally, and look at what states
are doing with these particular rule.

They really like the Colorado rule,
but there are some things, because of the
process that they went through and the time
it took, and they finally just said this is
the best we can do. We've got a place to
start from, that they didn't have, so we
may be able to make some progress on some
of these other issues.

        MS. LODES: Okay. There are
other states that have reportable
quantities and if you're above the
reportable quantity, then it's an immediate
reporting notification or within 24 hours
reporting notification. If you're less
than the reportable quantity, then it's
just a reportable and you have to report it
on emissions inventory and track it on
site, but not necessarily turn around and
report it within 24 hours to DEQ, and
that's kind of a threshold determination.
So not everything is getting reported.

        MR. PURKAPLE: A follow up
question to that. You're not referring to
EPRA CERCLA, you're talking about a state,
aren't you?

        MS. LODES: Well, they have
actually used some of the EPRA CERCLA once
for a --

        MR. PURKAPLE: Not to confuse the
fact that those have immediate reporting
obligations to the federal agencies.

MS. LODES: Correct. But the Texas emission rules have reportable quantities in there. And so if you have an excess emissions event, you can look at those thresholds and they've got -- it's 100 pounds of this or -- and you go through and look and see -- you have to do a 24-hour reporting notification or you can just report it on site.

MS. MYERS: Opacity is another whole animal that doesn't have a correlation between percent opacity and pounds of dust that may have potentially been emitted. I mean I don't see any environmental benefit for having immediate reporting requirements for it.

MR. PURKAPLE: I wasn't at the EFO meeting last week, so if this was already addressed at that meeting, I apologize for that. But, Max, what is the deficiency in the existing excess emissions rule that precipitated a need to revise this?

MR. PRICE: Well, there's
several. One of them, the way the wording was certain parts of it actually excused the facility from any enforcement action whatsoever, and of course, that's a no-no. The only thing this does, the affirmative defenses provide a shielded (inaudible) far to general and clearly excuse them from any enforcement action, which, of course, is not what it's meant to do. And also we have some trouble with the technical limitation thing that was completely contrary to EPA guidelines and that had to be corrected immediately. So those are the two major things that were of serious concern.

MR. TERRILL: We had also committed, when we revised this rule, seven, eight years ago, however long it's been, that we would take a look at the rule again to see if there was some things that we wanted to tweak relative to reporting time and stuff like that. So that's part of our normal time to look at the rule again, anyway. But there are some other things that we wanted to correct. They're
looking at this on a national level.

MR. BRANECKY: I think whatever you do, you got to do it pretty quick.

We've got another meeting scheduled in January and you may have to have more than one meeting with this work group. So probably scheduling it fairly quick would be best.

MR. PURKAPLE: Is there a time line by which you want to have it?

MR. TERRILL: No. Actually, we've been talking about bringing this rule for two or three years and I really don't want to drag it out for more than a couple of more meetings, if we can keep from it. But we've got mercury coming up, we're going to have to figure -- deal with regional haze, the final part of that SIP. We've got a lot of things going on. And with the holidays coming, it could be that we're not going to be able to come up with a final product by January. But I think we can go ahead and advertise in the next day or two, a proposed date to have the initial meeting to just see what the interest is
and then kind of go from there.

MR. BRANECKY: You're going to post that on the website?

MR. TERRILL: Yeah. I think that would be easier than us trying to -- we'll need to get together and find out what the availability of our staff is. I can pretty well promise you though, that we're going to have to do the initial one before Thanksgiving, because if we wait any past that, it's going to be in the holidays and we'll never get it done.

MS. BOTCHLET-SMITH: We do now have comment forms on the table and I believe they were passed around to anyone who might have wanted to comment. I haven't received any for this rule. Has anyone changed their mind? Okay. Seeing no comments from the public, David, I think it's back to you for action.

MR. BRANECKY: Okay. Thank you, Beverly. I'll entertain a motion. It looks like to me, that the best thing to do would be to continue it until January. I need a motion to do that.
MS. MYERS: So moved.

MS. LODES: Second.

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

MS. BRUCE: Robert Lynch.

DR. LYNCH: Yes.

MS. BRUCE: Laura Lodes.

MS. LODES: Yes.

MS. BRUCE: Rick Treeman.

MR. TREEMAN: Yes.

MS. BRUCE: Sharon Myers.

MS. MYERS: Yes.

MS. BRUCE: Jerry Purkaple.

MR. PURKAPLE: Yes.

MS. BRUCE: David Branecky.

MR. BRANECKY: Yes.

MS. BRUCE: Motion passed.

(End of Item 5B)
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 proceeding was recorded by shorthand by me and thereafter transcribed under my direction; that said proceedings were taken on the 26th day of October, 2007, at Oklahoma 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 26th day of October, 2007.

CHRISTY A. MYERS, C.S.R.
Certificate No. 00310

y A. Myers
Certif
DEPARTMENT OF ENVIRONMENTAL QUALITY
STATE OF OKLAHOMA

* * * * *
TRANSCRIPT OF PROCEEDINGS
OF THE AIR QUALITY COUNCIL
REGULAR MEETING
ITEM NUMBER 5C
HELD ON OCTOBER 17, 2007, AT 9:00 A.M.
IN OKLAHOMA CITY, OKLAHOMA

* * * * *

MYERS REPORTING SERVICE
(405) 721-2882
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RICK TREEMAN - VICE-CHAIRMAN
JERRY PURKAPLE - MEMBER
JIM HAUGHT - MEMBER - ABSENT
SHARON MYERS - MEMBER
GARY MARTIN - MEMBER - ABSENT
DR. ROBERT LYNCH - MEMBER
LAURA LODES - MEMBER
DON SMITH - MEMBER - ABSENT

STAFF PRESENT
MYRNA BRUCE - SECRETARY
EDDIE TERRILL - DIVISION DIRECTOR
BEVERLY BOTCHELET-SMITH - AQD
MS. BOTCHLET-SMITH: The next item on the agenda is Item Number C. This is OAC 252:100-17, Incinerators. And Cheryl Bradley will present that information.

MS. BRADLEY: Mr. Chairman, Members of the Council, ladies and gentlemen. Good morning. My name is Cheryl Bradley and I am Manager of the Air Quality Division's Rules and Planning Section.

Today, the Department will request that the Council consider tabling the proposed amendments to OAC 252:100-17, Incinerators, until the U.S. EPA has published its decision on the reconsideration of amendments to the federal regulations.

On May 10, 2006, the EPA published revised standards for existing and new large Municipal Waste Combustors in the Federal Register. EPA then published notice on March 20, 2007 that the agency
would consider certain provisions of the final amended regulations. EPA has not yet published its final decision in the matter.

Notice of the proposed changes to the rule and its accompanying 111(d) plan were published in the December 15, 2006 and the March 15, June 15, and September 17, 2007 issues of the Oklahoma Register. This is the third time the proposed change has been submitted for consideration by the Air Quality Advisory Council.

This rule was continued from the April and July meetings due to EPA's reconsideration of the federal regulation.

Council action on the proposed rule is dependent on EPA's decision in this matter. It appears prudent for the Department to request that the Council table the proposed amendments to Subchapter 17 until the matter of the federal regulations is resolved.

MS. BOTCHLET-SMITH: Comments or questions from the Council?

MR. BRANECKY: And then staff will bring a request to untable at the
appropriate time to the Council?

MS. BRADLEY: That is correct.

We will continue to monitor developments on
this regulation.

MR. BRANECKY: Okay.

MS. BOTCHELET-SMITH: Again, I've
not received any notice that anyone from
the public wished to comment on this rule.

MR. BRANECKY: Okay. I'll entertain a motion. Staff has recommended
that we table until further notice.

MR. PURKAPLE: I move we table
until further notice.

MR. BRANECKY: I need a second.

DR. LYNCH: Second.

MR. BRANECKY: Myrna.

MS. BRUCE: Robert Lynch.

DR. LYNCH: Yes.

MS. BRUCE: Laura Lodes.

MS. LODES: Yes.

MS. BRUCE: Rick Treeman.

MR. TREEMAN: Yes.

MS. BRUCE: Sharon Myers.

MS. MYERS: Yes.

MS. BRUCE: Jerry Purkaple.
MR. PURKAPLE: Yes.

MS. BRUCE: David Branecky.

MR. BRANECKY: Yes.

MS. BRUCE: Motion passed.

(End of Item 5C)
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 proceeding was recorded and taken down in shorthand by me and thereafter transcribed under my direction; that said proceedings were taken on the 17th day of October, 2007, at Oklahoma 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 30th day of October, 2007.

_______________________
CHRISTY A. MYERS, C.S.R.
Certificate No. 00310

Christy A. Myers

Certif
DEPARTMENT OF ENVIRONMENTAL QUALITY
STATE OF OKLAHOMA

* * * * *

TRANSCRIPT OF PROCEEDINGS
OF THE AIR QUALITY COUNCIL
REGULAR MEETING
ITEM NUMBER 5D
HELD ON OCTOBER 17, 2007, AT 9:00 A.M.
IN OKLAHOMA CITY, OKLAHOMA

* * * * *

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SHARON MYERS - MEMBER

GARY MARTIN - MEMBER - ABSENT

DR. BOB LYNCH - MEMBER

LAURA LODES - MEMBER

DON SMITH - MEMBER - ABSENT

STAFF PRESENT

MYRNA BRUCE - SECRETARY

EDDIE TERRILL - DIVISION DIRECTOR

BEVERLY BOTCHELET-SMITH - AQD
PROCEEDINGS

MS. BOTCHLET-SMITH: The next item on the agenda is Item Number 5D. This is OAC 252:100-5, Registration, Emission Inventory and Annual Operating Fees.

Ms. Nancy Marshment will give the staff presentation. Following Nancy's portion of the presentation, Eddie and I will present some additional budgetary information.

MS. MARSHMENT: Mr. Chairman, Members of the Council, ladies and gentlemen. I am Nancy Marshment and I am representing the Rules and Planning section of the Air Quality Division.

The Department is proposing to amend the Oklahoma Administrative Code Title 252, Chapter 100, Subchapter 5, paragraph 2.2, to increase annual operating fees for both minor facilities and Part 70 sources. Additional income resulting from a fee increase is needed to cover current and anticipated staffing requirements in administering the Department's Air Quality programs.
Annual operating fees for both minor facilities and Part 70 sources would be adjusted automatically each year using the Consumer Price Index. At the present time, only Part 70 sources fees are calculated in this manner.

This is the second time this proposal has been brought before the Council, and the proposed fees were reduced from those proposed at the July meeting. For minor sources the fees were reduced in today's proposal from $32.28 to $25.12 per ton of regulated air pollutant.

The proposal for major sources was reduced from $32.28 to $31.96 per ton. The proposed fee rate is an estimate of what our shortfall was at the time the rule was finalized for this Council meeting and does not reflect what we now believe our current deficit to be. This information will be reflected in the proposed rule for the January Council meeting.

Staff is requesting that Council Members carry over this proposal to the January Council meeting. The subsequent
Environmental Quality Board meeting will be on February 29, 2008.

Staff has received no comments on the proposed change at this time. A copy of a list of questions received from OIPA is in your packet. Several of these questions were answered at the July meeting. The remainder will be addressed in today's presentation.

Further comment on this proposal will be provided by Director, Eddie Terrill and Assistant Director, Beverly Botchlet-Smith.

MR. TERRILL: I think those of you who were at the last Council meeting and certainly the Council Members, that we were supposed to come back to you all with a Finance Committee Report. And we don't have one because the Finance Committee did not meet. And the reason they didn't meet -- when we brought this rule, or brought this proposal to you all initially, we were not really sure how -- what kind of information we needed to present and I think when we approached our finance folks,
they made the assumption, because I didn't
tell them any differently, that they would
be pulling together the snapshot
(inaudible) in Title V report similar to
what the Finance Committee had seen in the
past. And I didn't really feel like that
was what we needed to present to the
Committee and then subsequently to the full
Council because it really didn't reflect
anything but where we were relative to that
particular point in time with their Title V
fees.

One of the things we found out as
part of this process is that when we
collect our fees, and when they come in
during the year, whether it's in one fiscal
year or another, it creates a huge problem
for the finance folks and for us in
figuring out where we are at any one time.
So what we ended up asking them to do was
to true-up our '07 amount of money that we
collected and amount of money that we
actually spent -- in other words do a
closeout on our particular budget to see
exactly where we were at the end of the
year. Do we have more money than we need
to run the program for that year; are we
able to save enough or did we actually run
a little bit of a deficit?

The other thing I wanted them to do
was put together a budget for '09 because
that's really what we're looking at here,
is what we're going to need for '09.
Taking the best available information we
had and projecting out what we thought our
deficit was going to be from cuts in the
federal program and fee collections and
that sort of thing, so we could give the
Finance Committee some idea of what we look
at when we actually do our budget. And
that created a lot more problems that we
had anticipated because of the time we
collect the money and the tracking system
that we had. If you looked at it over a
long period of time, which is one of the
things we did, we asked them to take a look
at Title V and non-Title V collections over
the past 10 years, you could see these
cycles going up and down and it was pretty
close to a wash relative to the amount of
money that we collected and the amount of
we expended. But pinning that down as to
what money came in during a period of time
was a real problem that I don't think
either myself or the finance folks had
anticipated.

So when we got within about a week
of the meeting, it became pretty clear it
was going to be difficult for them to put
together numbers that I felt like that we
could legitimately tell our Finance
Committee we believe these to be correct.
And we started thinking about cancelling it
then, but the closer it got we just decided
that was the best thing to do, knowing full
well that it's going to be hard for folks
to understand why it is we couldn't pull
our numbers together during a three-month
period of time to have this meeting.

There's really -- the only way I
could explain exactly what I've done -- I
think the only we're going to be able to
fix this -- we've got a way that I think
we're going to, it's really just a matter
of billing and collecting in the same year.
In other words, like for next year, for example, we might send our bills out in July, late June, early July, with a collection date of September 1st. We're probably not going to be able to do the quarterly billing in the future because that does create havoc. We're not going to be worried about collecting money during the legislative session because of the threat of fee money being moved around has gone away -- they have been doing really well with the budgets lately and haven't had that issue. So we think we need to get back where we're billing and collecting during the same year.

Bit we've got to get to a situation where at some point after the fiscal year is over with, we've got to close it out for our books to see where we are. The reason we've got this big deficit is I think we may not have had as much money for this year than the way it looks. So we're going to go back and take a look at that and see where we are.

That's in a nutshell why we didn't
have a Finance Committee meeting and I
think we've committed to the folks that
we're going to be there, that we will have
one -- actually we could do one now, but
probably give them some time to arrange
their schedule and have one early November
and then if necessary have one before the
Council meeting.

But one thing I do want you all to
be aware of that we may have to have a
special Council meeting between the one
that's scheduled for the 16th and the end
of that month because we have got to take
something to the Board in February,
otherwise we won't get anything for the
following year and we do have a deficit.
The question is just exactly how much it is
and how can we pare that down so we don't
ask for anything more than we actually
need.

We elected to only bring to the
Council and tried to do it through Power
Points. So everyone should have a copy of
the what we're calling the Air Quality
Division FY'09 Fee Increase Proposal. And
what we've got on there is the '07 actual.

This is the trued-up actual expenses versus
the actual money we collected during that
period and as you can see, it showed that
we ended up with an overall net income of
about $195,000, which is pretty good
considering the fact that our budget is
about 7 million dollars, give or take. So
we were pretty happy that we at least
didn't have a bit carryover, which we
didn't think we would.

Then what we asked them to do, the
finance folks, is to put together the
projections for '09. Then we lumped some
things together, that gives you a general
idea of where the increases and decreases
are going to come from. As you can see,
most of the bulk of it is in the salary.
So we just kind of wanted to give you -- we
didn't have the Finance Committee meeting,
we didn't feel like it would make a lot of
sense to throw out a lot of numbers at this
point, but we kind of did want to see
roughly where we think we are relative to
'07 was and what we think '09 will be. And
we're still refining these a little bit.

One of the things we're not sure about, we don't have any idea what's going to happen with fed budget. It could be that we'll get -- I know they're going to do a continuing resolution. It doesn't look like we're going to get cut as much in '08 as we had thought, but we're hopeful that would continue in '09. If that's the case, we may be able to reduce this deficit three or four hundred thousand dollars but we're not going to know that probably until sometime next year.

So that way we can make some accommodations in what we come out of here with in January so that if we don't lose our federal money then we won't collect that in fees, or something. I don't know.

MR. BRANECKY: So how are you projecting to come out in fiscal year '08? Are you going to come up short?

MR. TERRILL: Well, the budget that we submitted to OSF showed a balanced budget. So we're hopeful that's still the case, but there's some questions I've got
about what we may have done and what we
projected to collect that we're going to go
back and take a look at just to verify
that. We've got some positions that we
haven't been able to fill and we may have
to just not fill those, if we do have a
problem because we can't spend more than
what we've got. We can't -- we don't run
on a credit card budget. So we've got to
be comfortable as we go into the year,
we've got to have enough to make it
through.

MR. BRANECKY: And for next year
-- and then this is important I think for
industry to know when we have to pay. We
budget when we have to pay the fees.
Are you saying that you will bill in
July, next year, and we will pay by
September?

MR. TERRILL: Yeah, or something
like that because we have got to implement
this increase next year, otherwise we will
not be able to -- we will have a huge
deficit, there's just no way around that.
So, yeah, what we had planned on doing is
because we can't do anything relative to increases until the legislature meets and they could possibly say we're not going to approve that. So we can't do anything until they go out of session. The Governor has to sign too -- doesn't he? So it will probably be late June before all of this becomes final and then we would hold the bills until sometime after that and then we would try to collect everything during that fiscal year, which would be by September.

MR. BRANECKY: And if you don't get an increase, you're still going to bill in July?

MR. TERRILL: Yeah, because we won't -- well, if --

MS. BOTCHLET-SMITH: I think we need to do that, David, because it's this billing earlier in the year that makes it more difficult for finance to do the closeout of the books. We run on a fiscal year that begins July 1 and closes on June 30th. And we're collecting these fees on a calendar year. And all of our other income is on our state fiscal year, including the money we get from the federal government, even though their fiscal year is different
from ours. And we really need to true that
up where the income comes in during that
fiscal year that it's going to be spent.

MR. BRANECKY: And that's fine.

I think industry just needs to know because
some industry has significant fees, almost
a million dollars. And we need to know
when that million is going to be spent,
whether it's going to be spent in April or
September or December. And we have to
budget when it's going to be spent.

MS. BOTCHELT-SMITH: While we're
thinking that we might not do quarterly
billing, we are sensitive to that and we
realize that we might need to do billing
that comes in June, that's due in August,
and then another payment due later in the
year.

MR. BRANECKY: I think that for
the larger industry it probably doesn't
make any difference just as long as they
know when the expense is coming. All
right.

MS. BOTCHELT-SMITH: Eddie's been
pretty thorough in covering the information
here.

On the sheet -- if you recall from our July presentation, we laid out several areas where we were going to have shortfalls. And when we worked with finance to do our projection for '09, you'll see one incident of that under the federal, in income, and we're projecting about $400,000 less in our income. And I just want to go over why.

In FY '07 we received some one-time special project money. And that money is not given each year, it's never a guarantee. It's competitively obtained. All states in the region will submit proposals and if their particular project is deemed worthy, then money is given.

We do not have any special project grants in FY '08. If you were to take the special project grant money out of the '07 amount, we're really more in the neighborhood of 1.2, plus, a little --

So we anticipate the possibility, based on the President's budget, which what
came in was a 16 percent cut that our federal grant could be about -- a little over $200,000 less than what our base grant in '07 was. About $200,000 less than what we currently are operating under.

So that's the reason for the drop on the federal. So in reality it's not a $400,000 drop that -- in '07 there was a $200,000 gift, if you will, in that competitive special project grant.

When we -- we based our shortfall not -- I mean, those are projects that were completed, we don't do them every year, I guess is what I'm saying.

In the expenses, part of the increases are due to our loss of our 2.5 grant. For the last 10 years, EPA has been providing money to all states to run their PM 2.5 program, monitoring program. It's been decided that this is the last year that we will receive special money to fund that. That has been given to the states without any requirement for a match.

Basically, whatever it took to run the program, that's what they gave us.
Over the last few years, those monies have been shrinking and we had to find some efficiencies. We've changed the type of equipment we use. We have less trips to the field. But it's still about a $350,000 cut that we're going to experience. We're going to have to make up for that. We don't want to cut that PM 2.5 monitoring. Our responsibility is public health. And if we don't have the monitors out there to determine what -- how the air is really effecting our folks, we just can't cut the PM 2.5 program.

So the expenses for that are included under the non-Title V category in some of the increases that you see.

One of the other things that we talked about that we had to account for were increases in our retirement, increases in our insurance costs. Insurance continues to go up, not just for us but for everyone. Those numbers are factored in on both Title V and non-Title V, under the fringe category.

One other thing I'd like to mention,
if you look under Title V in the projection for FY '09 income, for Title V income, that includes a commitment of $400,000 of the UST money being added to help support our Title V program. So we're actually projecting that the permit fees and the operating fees for '09 will be slightly less than they were in '07. But we've added in the UST money to help offset that.

There's minor increases in travel in the non-Title V category. Of course, we've had to absorb the PM 2.5 travel, but in addition to that we have built in a 25 percent increase in travel. We received 25 percent increase from our motor pool and with the cost of gas and whatnot, that has -- we assume 25 percent because that's where we are from '07 projecting to '09.

The other category -- that includes our supplies, our data, our computers, supporting, any contractual, our toxics monitoring and analysis, general equipment -- monitoring equipment is pretty expensive. Occasionally it breaks down, and we've got to replace it.
Can we answer any questions?

MR. TERRILL: While you're thinking about that, let me add this. One of the -- we've got a Region VI Air Director's meeting next Monday and Tuesday and one of the topics that we're going to discuss is federal funding and grants and that sort of thing. And part of that is going to be what are we going to disinvest, what are we going to quit doing if we do not get the full funding from the feds? In other words, what have we been doing as far as our federal grant that we're not going to do? And that's a difficult thing to come up with because the requirements that the feds have on us have not changed. If anything, they are going the other way. Yet they want us to tell them what are we going to quit doing, in response to their cut of our grant. And that's kind of where we are here. I mean I could run through a laundry list of things that we would look at if we're not able to meet our budget, whatever we end up coming out of here with. I don't think that's productive because it
comes off sounding like a threat and that's really not what it is.

We'll do the best we can with the money we got and we'll make a decision on what we've got to operate on and what I think is the most important things that we do and what we need to continue and what we're going to have to cut back on.

Two of the things that we're looking at trying to do more of are sustainability and climate change. But those are not things that we have to do yet. We're not going to get any money for either one of those. It makes some sense that we start trying to encourage folks to do some of these voluntary things and try to help them do that, but we don't have to do those kind of things.

So it's really going to be difficult if you're looking for what we're going to cut back on. It's going to be kind of hard for us to say that because I don't really know. It's going to kind of depend on where we end up and so many factors come in that I really don't want to cut anything
because I think a lot of what we do -- all of what we do is important and we're always looking for ways to do things better and do things smarter.

If you all remember, we brought the 40 ton permanent exempt rule to you because we felt like that we were not doing anything for those small sources other than collecting the fee and writing the permit and it really was costing us a lot of time and effort that didn't have a lot of public health benefits and it was a burden on those small sources.

But you need to know that EPA is proposing what they're calling the new source -- the minor source NSR rule. And that's part of the tribal rule and if they pass all of that then somebody is going to be regulating sources down to five tons. And so there's a lot -- EPA on the one hand says what are you not going to do, and then on the other hand they keep pushing all of these things that don't, to us, have a lot of public health benefit for someone to have to do.
Part of that discussion also includes public participation on minor sources and what's going to be involved with that. If we end up having to do that, that's just something else we've got to figure out how we're going to get it done and what is really the benefits to the public of doing that? I can't see a lot of benefit in a lot of those things.

But anyway, we are continually looking for ways to be more efficient, but there are some things that we can't control the cost of. The bulk of what you're looking at here, increases in salary and fringe and that's just the way it is, everybody's got those. And we'll continue to try to do more with less, but we'll just have to balance all of that out with what we end up with at the end of February.

MR. PURKAPLE: Eddie, to what extent have you all looked at other sources of fees? And I guess mobile fees attach to mobile sources somehow. Is that something that's been considered in the past and I know that's probably a long-term thing to
look at, but what --

MR. TERRILL: Actually we looked at a fee -- putting a dollar, I think it was, per rental on rental cars, to fund our toxics program because we felt like we needed to upgrade what we were doing and we had only really two choices; we could come to the Council and ask for an increase in Title V, non-Title V fees, or we could go to the legislature or we could try to look for another -- a related emissions source to tack on a fee like you're talking about. And we felt like that automobiles were a good one to look at because they do provide the bulk of when we're looking at -- especially metropolitan areas, the bulk of our toxics do come from mobile sources. And that didn't get much traction over at the legislature.

In fact, I don't even think it got out of committee, if I remember right. And we thought we had a pretty good case for doing it because we were looking at -- most of the people that use rental cars are out-of-state and it would be a pass through
cost. But I didn't realize we had so many rental car companies operating in the state, but they all showed up at one of our Council meetings and -- or one of the Board meetings, actually. We're always looking for things like that, but it's one of those things that are projected out and you never know for sure whether you're going to get it or not.

Now what we would do is if we come up with some things that we're able to push through the legislature at some point, we could scale back on what we bill through our Title V program, but just because we have a ceiling, that doesn't mean we have to bill that much.

If I've got other sources of income, it's a lot easier on us to do that and cut back on -- because we get a lot of goodwill when we don't bill the same amount and we would be more than happy to do that, because we're going to get to the point where I hope we know exactly where we are at some point soon after the end of the calendar year. We can't be running big
carry-overs. I mean it's not good for us and it's not good for you all, the fee payers either. So we want to try to keep that as low as possible, keeping in mind that we do need to have some in reserve for disasters that come up that we don't foresee during the budget process.

But we would continue to look at that and if anyone has any ideas that might get some political traction because that's always -- if you all aren't paying it then somebody else is. But we will definitely continue to do that.

MR. BRANECKY: Have you looked at the amount you charge for a permit, or a permit revision? I think, at least for a major source permit the cost that you charge really doesn't reflect the cost to the Department.

MS. BOTCHLET-SMITH: We did start looking at that over the last couple of months. Thankfully, our TEAM database is a real good source of information for that kind of information, not to mention then we were able to compare the information with
finance. We think we've got some pretty good numbers there. But when you look at our deficit and you look at the income that we receive, if we doubled those permit fees, it would not be adequate to address this.

MR. BRANECKY: But it would cover a portion of it.

MS. BOTCHELT-SMITH: It would cover a portion.

MR. BRANECKY: It looks like to me maybe the solution is a combination of different incomes, not just relying totally on fees but maybe a portion coming from mobile sources, and a portion from your permit charges from the operating fees.

MS. BOTCHELT-SMITH: The permit fees fluctuate year-to-year. It's a little bit harder to --

MR. BRANECKY: Would your operating fees fluctuate much, because it's based on emissions?

MS. BOTCHELT-SMITH: It hasn't changed much. We have begun to see a bit of a downtrend. But they've -- I guess the
biggest change has probably been we've lost some major sources that have gone to minors and then with the permit exempt there are probably some minors that have dropped out. Do you agree, Eddie?

MR. TERRILL: Yeah. That's true.

David, you bring up a good point. And this is something that I've had discussions with other of you all. As the industry is regulated more and more, the emissions are cut more and more, especially from utilities. I mean you can see this coming nationally through CARE and through other things that the emissions from coal-fired plants is going to be cut dramatically over the next five to ten years; and probably more so depending on what happens with the next administration.

But you know, you add a lot of cost to the consumer relative to -- the pass through cost on cutting those emissions, yet the fees that those emissions generate run the state programs, and local programs. At some point, and it's coming really soon I think, EPA is going to have to take
another look at Title V and what it was
designed to pay for because in their view
and in Congress's view, they see Title V as
their out from having to contribute what
they should be putting into the state
budgets to do the federal requirements
because they can pass it off to the fee
payers. That really puts a lot of pressure
on us and it's not fair to you all to make
up the cost that they should be paying for.
But we can't do this. It's kind of like
Steve says when he goes to the legislature,
they don't listen to him, but they'll
listen to you. And it's going to be -- I
think you need to talk to your Congressman,
your Senator, through your trade
associations and force EPA to really take a
look at how they're going to fund Air
Quality in this country in the next five to
ten years because this is going to become a
major crunch, I think, in the next two to
three years that we're going to have to
deal with. And they're going to expect us
to pass those costs right along to you all
and at some point you're going to say we
can't do that. I mean we're not getting anything for it. But it's a tough sell because anytime we bring it up, they say we'll just raise your Title V fees. Well, they don't have to come in and sit and explain to you all why we need that and what we're not going to do or what we are going to do depends on what we get. So it would be helpful.

And that's one thing we're committed to do through our associations, through CENSARA and through NAAQA, is to raise this issue to the next administrator. In fact there's a lot of issues that we intend to raise to the next administrator, that EPA has failed to address that's going to be a real problem for us, and you all in the future if they don't. And maybe this is the time to start thinking about that.

MR. BRANECKY: And I think -- at least what I'm hearing on a state level is there's going to be some additional monies available next year that they didn't anticipate, possibly up to another 30 million. Is there any thought of trying to
go after some additional appropriations from a state level?

MR. MERRILL: Well, there's always thought. But again, when Steve goes over there and asks for that, he's one of however many state agencies there are that realize that there's money there. You've got to deal with DHS, prisons. I mean everybody's competing for this same pot. But again if you all are able to, like you've done in the past, in getting the $800,000 for a toxics program and then the UST -- we were able to use some of that UST fund, if you all are able to do that, I don't care. I mean as long as we're able to get what we need to run the program I think that we need to have.

One of the things that I have not been able to get from EPA is -- theoretically, any conversations you have with them, they expect the Title V program to pay for the Title V functions. If you look at the numbers here, the Title V program is not paying for itself. And if we get additional appropriations or some
other way to do that, to fund it, it's
going to continue -- that imbalance is
going to continue to grow. I personally
don't care one way or the other because it
doesn't really make any difference to us,
it's all part of our budget. But EPA still
seems to think that that's an issue and
I've asked them -- and we'll probably do
this formally in a letter to ask them to
tell us what consequences there are to
running this imbalance because I can't see
any. I don't see any in the Act. I've
never gotten any. They've come and audited
our program and they've never said anything
but you're not charging enough to cover
what you're coding or what you're billing
to the Title V as part of your internal
tracking system.

As you know there is a report that
the -- one of the environmental groups did
where they talked about the amount of money
that's being collected with Title V versus
what they could collect with the federal --
if you were collecting the federal

presumption, but again they didn't have
anything, what are the consequences of
that. I mean, are there -- and I don't
know that there are any. But that's one of
the things that I'm going to try to get
some final clarification on because
otherwise I'm going to assume that EPA
really doesn't care one way or the other as
long as you're able to get the work done
that you commit to do as part of your grant
and as part of your work plan that you
commit to every year.

So, yeah, we would welcome anything,
but we have got to have the fee payers with
us and with Steve actually, because
otherwise, they're not going to listen to
us.

MS. BOTCHLET-SMITH: David, also
in answer to your question about looking
for other areas to raise money. At the
July meeting, one of the questions we
received regarded changing the 4,000 ton
cap. And we also looked at that. There
are only three companies in the entire
state that would be affected if we raise
that cap. And I'm not sure -- for one, it
would require us to change the statute.

This 4,000 ton cap is utilized in nearly
every state that we talked to. There are a
few exceptions to that. I'm just not sure
of the equity there, about raising it and
the affect it would have on three companies
versus all the other 900-plus facilities or
sources that we inventory.

MR. BRANECKY: Yeah. And I don't

think that would be fair because I think

that I probably know the three companies

that you're talking about. And the amount

of work that is expended by the Department

for those companies is not quite equal to a

Tinker Air Force Base or somebody that has

a complex amount of sources. The companies

you're talking about probably have one

stack and it all goes out one stack and I

think it would be unfair to make those

companies support the rest of the programs,

disproportionate.

MR. PURKAPLE: Well, the

question's worth asking anyway.

MR. TERRILL: And that's part of

the reason we've been reluctant to raise
our other fees, our permitting fees because we don't want to be a disincentive for someone to relocate. So we don't want to have an exorbitant -- especially small sources, we don't want that to be something that is a deal-breaker that we charge $20,000 or what some of the other states charge to come in and permit a source. So we've just elected to keep our fees where they are and collect them through our operating permits. And so there's trade-offs to all of this because at the end of the day, the industry is paying for it one way or the other. And so we've just got to figure out what the right mix is. And that's really the only reason we haven't looked at raising our other fees is because we don't want to be an impediment to economic growth in some of the other smaller ones.

Once we got you here, then we put the hooks in. But we'll take a look at that, too, and see what it means. See what we can do about --

MR. PURKAPLE: Beverly, in your
July presentation I recall a -- I think I recall a grant where you have comparisons between the different states and what the charges were.

MS. BOTCHLET-SMITH: Yes.

MR. PURKAPLE: Do you all know enough about how they run their program to know whether or not they're experiencing the same kind of imbalance that we are or are they running in the black or do you know?

MR. TERRILL: That's an interesting question. Most of them don't even look at it because they don't track what they do to the same degree that we do. One state backs into their Title V fees. They figure out what they need for their budget, they take out what they get in grants and appropriated dollars and then whatever they need to make budget, that's what their Title V fee is and that's the reason they're in $48 or $49. They're a smaller -- it's Nebraska is who it is. They back into their fee.

The rest of them, I'm not -- are you
aware of anyone that tracks it like we do, Beverly?

MS. BOTCHLET-SMITH: I don't think anyone has the same scrutiny that we give to ours. I do know Missouri just recently voted in an increase of their Title V fee that took them right at $40 a ton, maybe slightly over. There's several states that are looking at it. I mean when it comes -- when they realize they're short, they look at it the same way we do in that we're short and we're going to figure out how to accommodate that. But in our discussions through our CENSARA meetings, I haven't heard any of the other states express the same issues that we're having.

MR. TERRILL: And I've raised up this imbalance. Are they hearing from their finance folks or their project office at EPA that this is a problem and I get this blank stare that they don't even know where they're at. And the few I have talked with, they don't know where they're at because it's not an issue with them.
They just know they've got a budget and they look at all of their different money sources; they make their budget and code their time and go on, but they don't track it like we do. So that's the pluses and minuses of doing it the way we do it. But I still think the way we do it is a good way because it helps us figure out where we're spending our time. It's a good management tool for us.

MS. BOTCHLET-SMITH: We probably heard the most concern from the other states of the lack of CENSARA meeting, over the lack of the PM 2.5 funding and then the potential cut to our 105 grants because for us that's over $50,000. In all states, even states like Nebraska that receive less money from EPA than we do in a regular grant, it's still a sizeable cut when you say we're cutting all funding that you're using to run your PM 2.5 monitoring program. And I think there were several of the states -- Iowa had some concerns about how they were going to fund their 2.5 program. And I believe it was Iowa that
mentioned -- maybe I shouldn't mention state names, I'm not really sure. But I believe it was them that mentioned that they felt like the 2.5 program should be funded by Title V. And some of these Region VII states were looking at the cost of the 2.5 program should be solely a Title V issue.

MR. TERRILL: There have been some studies done that -- by our national organization and by the organization that Steve belongs to, ECOS, that if EPA was paying what they should be paying to the states, I wouldn't have to be asking for a fee increase. They're severely under funding in relation to what they require us to do, they are severely under funding their portion of our budget. And again, I'll go back -- they're going to continue to do that until they're called on it and the states aren't the one that will be able to do that, and that's going to have to be you all. I really think that we need to talk -- think about a coordinated effort to make it. And I'm not bashing EPA because
they're doing what they think they need to do and they're only as good as the folks that are running at the very top and that's where I think the problem is, it doesn't lie with the folks that we deal with on a day to day basis. Just like the problem that you all have, some of the folks that you all deal with on a day to day basis -- Beverly and me, we're the ones that create the problems for you. And that's the way it is with us. It's the management and the lack of wanting to take a look at the way they've always done things and do things differently and do things more efficiently and cut out some of the things that don't make a whole lot of difference at the end of the day and their reluctance to do that is a reason -- and they've been cut too, so it's a combination of things. But the long-term, we really need to start dealing with this because if we don't we're going to keep coming back year after year -- well, every three to four years and doing the same exercise and we just can't continue to do that.
MR. BRANECKY: All right. So what's our plan? Finance Committee meeting sometime in November, is that what you're saying?

MR. TERRILL: Early November.

MR. BRANECKY: And come back in January and see what we've got?

MR. TERRILL: And it may be necessary to have more than one Finance Committee meeting. I know we need to have at least one and we'll just see where we are. And we will try to get some information out on our web prior to the Council if we think it might be helpful for you all to look at. But I really got to have a decision going into February. And if it's a decision not to do anything, that is a decision. But I can't -- we need to make a resolution of some sort before that February Board meeting so that I know what we've got to do in the next session for our budget because it will take a while to kind of sort through everything.

MS. BOTCHLET-SMITH: Okay.

David, one thing we haven't done is open it
up to the public. I still haven't received any comment forms from anyone, but if anyone has any questions, we'd really like to go ahead and hear those questions so that we can address them.

David, I just don't think anyone is real interested in asking questions today. I don't see any hands.

MR. BRANECKY: Wait until January, right?

MS. BOTCHLET-SMITH: Yeah.

January we'll have lots of them, I guess.

MR. BRANECKY: Okay. So I guess with that no questions from the public, I'll entertain a motion for this rule.

Staff has asked that we continue it until January.

MR. PURKAPLE: I move we continue it until January.

MR. BRANECKY: Okay.

MS. MYERS: Second.

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

MS. BRUCE: Robert Lynch.

DR. LYNCH: Yes.
MS. BRUCE: Laura Lodes.

MS. LODES: Yes.

MS. BRUCE: Rick Treeman.

MR. TREEMAN: Yes.

MS. BRUCE: Sharon Myers.

MS. MYERS: Yes.

MS. BRUCE: Jerry Purkaple.

MR. PURKAPLE: Yes.

MS. BRUCE: David Branecky.

MR. BRANECKY: Yes.

MS. BRUCE: Motion passed

(End of Item 5D)
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 proceeding was recorded and taken down in shorthand by me and thereafter transcribed under my direction; that said proceedings were taken on the 17th day of October, 2007, at Oklahoma 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 30th day of October, 2007.

_________________________
CHRISTY A. MYERS, C.S.R.
Certificate No. 00310