Notice of Public Meeting  The Environmental Quality Board convened for a regular meeting at 9:30 a.m. November 14, 2006 in the B. S. Roberts Conference at the OSU-Tulsa Campus, 700 North Greenwood, Tulsa, Oklahoma. This meeting was held in accordance with 25 O.S. Sections 301-314, with notice of the meeting given to the Secretary of State on December 5, 2005 and amended on March 28, 2006 to add the location. The agenda was mailed to interested parties on November 2, 2006 and was posted on November 14, 2006 at this facility and at the Department of Environmental Quality. Mr. Steve Mason, Chair, called the meeting to order. Roll call was taken and a quorum was confirmed.

MEMBERS PRESENT  
Brita Cantrell  
Mike Cassidy  
Jack Coffman  
Bob Drake  
David Griesel  
Jerry Johnston  
Sandra Rose  
Terri Savage  
Kerry Sublette  
Richard Wuerflein  
Steve Mason  

MEMBERS ABSENT  
Tony Dark  
Jennifer Galvin  

DEQ STAFF PRESENT  
Steve Thompson, Executive Director  
Craig Kennamer, Deputy Executive Director  
Jimmy Givens, General Counsel  
Wendy Caperton, Executive Director’s Office  
David Dyke, Administrative Services Division  
Eddie Terrill, Air Quality Division  
Judy Duncan, Customer Service Division  
Gary Collins, Env. Complaints & Local Services  
Scott Thompson, Land Protection Division  
Jon Craig, Water Quality Division  
Ellen Bussert, Administrative Services  
Jamie Fannin, Administrative Services  
Myrna Bruce, Secretary, Board & Councils  

OTHERS PRESENT  
Ellen Phillips, Assistant Attorney General  
Christy Myers, Court Reporter  

The Attendance Sheet is attached as an official part of these Minutes.

Approval of Minutes  Mr. Mason called for motion to approve the Minutes of the August 22, 2006 Regular Meeting. Mr. Drake made the motion to approve as presented and Mr. Johnston made the second. Roll call as follows with motion passing.

Brita Cantrell  Yes  
Mike Cassidy  Yes  
Mr. Coffman  Yes  
Bob Drake  Yes  
David Griesel  Yes  
Jerry Johnston  Yes  
Sandra Rose  Yes  
Terri Savage  Yes  
Kerry Sublette  Yes  
Richard Wuerflein  Yes  
Steve Mason  Yes

Rulemaking – OAC 252:100 Air Quality Division  Mr. David Branecky, Vice-Chair Air Quality Division, advised that the proposed rulemaking would update Subchapters 5, 7, and 9 and add an Appendix P to list all the regulated air pollutants for air quality. The
Mr. Branecky asked for permanent adoption of the proposal which would incorporate by reference a new Part 11 into Subchapter 17. After questions, Mr. Mason called for a motion. Mr. Drake made the motion and Mr. Coffman made the second.

Mr. Branecky stated that Board’s approval is requested for a change made in Subchapter 5 relating to changing the deadline to April 1 for filing emission inventories. The second change was that unless specifically asked for by the DEQ, industry would no longer be required to submit a reason if there was a 30% change in emissions. Mr. Coffman moved for adoption of these changes and Mr. Griesel made the second.

Mr. Branecky noted that the final item would add a new Subchapter 2 and 40 and a new Appendix Q; then revoke Subchapter 4 and 41. He also pointed out that the phrase ‘Waste Management Division’ should be corrected to the term ‘Land Protection Division’. Mr. Johnston moved for approval of those changes and Mr. Griesel made the second.

Rulemaking -- OAC 252:4 Rules of Practice and Procedure
OAC 252:205 Hazardous Waste Management
Mr. Bob Kennedy, Hazardous Waste Management Advisory Council Vice-Chair, advised that proposed amendments to OAC 252:4-7-51, 4-7-52, and 4-7-53 relate to hazardous waste permitting requirements for the new RCRA Standardized Permit; and that proposed revisions to OAC 252:205-3-1 and 205-3-2 will update the incorporation by reference of the
federal hazardous waste regulations to July 1, 2006, and incorporate later federal amendments relating to management of cathode ray tubes. The proposal will also correct miscellaneous errors in the federal rules. Mr. Kennedy detailed those modifications and asked that they be considered for both permanent and emergency adoption. Staff fielded questions and comments regarding these changes.

Mr. Mason asked Ms. Ellen Phillips, Assistant Attorney General, to remind the Board of the process necessary to adopt rules as an emergency. She advised that there would need to be three votes; the first to find that an emergency exists, to adopt as an emergency, and then to adopt as a permanent rule. Mr. Jon Roberts, Supervisor of the Hazardous Waste Compliance Section, advised that emergency adoption in this case is based on compelling public interest with the standardized permit and it would reduce the burden of paperwork requirements for hazardous waste facilities.

Mr. Bob Drake made a motion for finding of emergency for proposed amendments to OAC 252:205 and Mr. Johnston made the second.

| Brita Cantrell | Yes | Sandra Rose | No |
| Mike Cassidy   | Yes | Terri Savage | Yes |
| Mr. Coffman    | Yes | Kerry Sublette | Yes |
| Bob Drake      | Yes | Richard Wuerflein | Yes |
| David Griesel  | Yes | Steve Mason | No |
| Jerry Johnston | Yes |               |    |

Mr. Mason called for motion for emergency adoption of Chapter 205. Mr. Coffman made the motion and Mr. Johnston made the second.

| Brita Cantrell | Yes | Sandra Rose | No |
| Mike Cassidy   | Yes | Terri Savage | Yes |
| Mr. Coffman    | Yes | Kerry Sublette | Yes |
| Bob Drake      | Yes | Richard Wuerflein | Yes |
| David Griesel  | Yes | Steve Mason | No |
| Jerry Johnston | Yes |               |    |

Mr. Mason called for motion for permanent adoption of Chapter 205. Mr. Coffman made the motion and Mr. Drake made the second.

| Brita Cantrell | Yes | Sandra Rose | Yes |
| Mike Cassidy   | Yes | Terri Savage | Yes |
| Mr. Coffman    | Yes | Kerry Sublette | Yes |
| Bob Drake      | Yes | Richard Wuerflein | Yes |
| David Griesel  | Yes | Steve Mason | Yes |
| Jerry Johnston | Yes |               |    |

Mr. Mason called for a motion for finding of emergency for Chapter 4 Rules of Practice and Procedure. Mr. Drake made the motion and Mr. Coffman made the second.

| Brita Cantrell | Yes | Sandra Rose | No |
| Mike Cassidy   | Yes | Terri Savage | Yes |
| Mr. Coffman    | Yes | Kerry Sublette | Yes |
| Bob Drake      | Yes | Richard Wuerflein | Yes |
| David Griesel  | Yes | Steve Mason | No |
| Jerry Johnston | Yes |               |    |
Mr. Mason called for motion for emergency adoption of Chapter 4. Mr. Johnston made the motion and Mr. Griesel made the second.

See transcript pages 45 - 46

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And the motion for permanent adoption of Chapter 4 was made by Mr. Griesel and Mr. Coffman made the second.

See transcript pages 47 – 48

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Rulemaking – OAC 252:210 Highway Spill Remediation

Mr. Bob Kennedy, Hazardous Waste Management Advisory Council Vice-Chair, advised that a new Chapter 210 was designed to implement the requirements of Senate Bill 1938, the Oklahoma Highway Remediation and Cleanup Services Act, passed by the Oklahoma Legislature during the 2006 regular session and effective November 1, 2006. The Act gives the DEQ the authority to license, supervise, govern, and regulate highway remediation and cleanup services and highway remediation and cleanup services operators in the State of Oklahoma, and authorizes the Board to adopt implementing rules. Mr. Kennedy noted that since there is an immediate necessity to have the rules in place, emergency adoption is recommended allowing the rule to be implemented immediately upon the Governor’s approval. He added that the rule would be ‘fine-tuned’ and come before the Board in February for permanent adoption. Following comments and questions fielded by Mr. Steve Thompson and staff, Mr. Mason called for a motion for finding of emergency. Ms. Brita Cantrell made that motion and Mr. Coffman made the second.

See transcript pages 48 - 68

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Mr. Mason then called for a motion for emergency adoption of the rule as proposed. Mr. Johnston made the motion and Ms. Cantrell made the second.

See transcript pages 69 - 70

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Rulemaking -- OAC 252:300 Laboratory Accreditation

Mr. Brian Duzan, Chair, Laboratory Services Advisory Council advised that proposed changes would implement the DEQ’s Drinking Water Program for accreditation of environmental laboratories and update references to methods used in the current citation. Proposed changes would add a method for the Daphnia Magna Life-Cycle Toxicity Test to the list of approved methodologies and Salmonella testing is added to the General Water Quality Laboratory Microbiology Category since these tests will be required for some OPDES permits. Mr. Mason called for a motion for permanent adoption. Mr. Griesel made the motion and Mr. Johnston made the second.

Rulemaking - OAC 252:410 Radiation Management

Mr. Scott Thompson, Director, Land Protection Division advised that most of the rules proposed update the incorporation by reference of federal rules from the Nuclear Regulatory Commission (NRC) regulations to January 1, 2005. He added that other changes of importance pertain to the recognition of specialty boards and the training of Radiation Safety Officers as related to the medical use of radioactive material and those pertaining to the requirements that will increase the security of portable gauges containing radioactive material. These changes are necessary to maintain compatibility with the NRC rules as Oklahoma is required to do under our agreement state status. Another amendment would add a provision that clarifies the regulations incorporated by reference in the NRC regulations adopted by DEQ and would be considered to be adopted by reference under our rules.

The Subchapter 10 changes would bring the list of the NRC regulations reserved for exclusive enforcement by the NRC into compliance with changes made by the NRC as of January 2005. They are reserving some of the enforcement capacity themselves for certain activities.

Also subsection C is revised and subsection D is deleted as they are no longer needed for changes that previously took effect when we became an agreement state. Also in Subchapter 10 and 20 changes in Parts 30, 31, 32, 34, 35, 39, 70, and 71 and in Section 1 of Subchapter 20 correct scriveners errors that were made in previous versions of the rules; and also make some minor formatting changes to comply with the way the NRC is formatting rules. Hearing no questions or comments, Mr. Mason called for a motion. Mr. Griesel made motion to approve and Mr. Coffman made the second.
**Rulemaking -- OAC 252:515 Solid Waste Management**

Mr. Jay Stout, Solid Waste Management Advisory Council Chair, advised that rulemaking adds a new Part 13 to Subchapter 19 to allow for landfill wheel washes according to Senate Bill 1557. Questions were fielded by Mr. Steve Thompson and staff. Mr. Mason called for a motion for permanent adoption. Mr. Johnston made the motion to approve and Mr. Griesel made the second.

*See transcript pages 78 - 84*

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**Consideration of and Action on the Environmental Quality Report**

Mr. Craig Kennamer, Deputy Executive Director, stated that the Oklahoma Environmental Quality Code requires the DEQ to prepare an “Oklahoma Environmental Quality Report” to outline the DEQ’s annual needs for providing environmental services within its jurisdiction, reflect any new federal mandates, and summarize DEQ-recommended statutory changes. This report must be approved by the Environmental Quality Board and submitted to the Governor, Speaker of the House, and Senate President Pro Tem by January 1st of each year. Mr. Kennamer briefly outlined legislative recommendations. Following comments, Mr. Mason called for a motion. The motion for approval was from Mr. Johnston and the second was from Mr. Griesel.

*See transcript pages 94 - 92*

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**Executive Director’s Report**  
Mr. Steve Thompson mentioned rulemaking that allows for electronic signatures would be brought forth at the next Board meeting – provided an update on the distribution of the new tablet PCs to ECLS -- talked about our new videoconferencing capabilities -- noted that he would be one of the keynote speakers the upcoming Brownfields Conference. He also voiced concerns about the struggles that Oklahoma communities continue to have with the public water supply and conveyed that the Oklahoma Water Resources Board is working on a plan to help these communities.

**New Business**  
None

**Adjournment**  
The meeting adjourned at 11:40 and the Public Forum followed.
DEPARTMENT OF ENVIRONMENTAL QUALITY
STATE OF OKLAHOMA

* * * * *
TRANSCRIPT OF PROCEEDINGS
OF THE ENVIRONMENTAL QUALITY BOARD
REGULAR MEETING
HELD ON NOVEMBER 14, 2006, AT 9:30 A.M.
IN TULSA, OKLAHOMA
* * * * *

MYERS REPORTING SERVICE
Christy Myers, CSR
P.O. BOX 721532
MEMBERS OF THE BOARD

BRITA CANTRELL - MEMBER
MIKE CASSIDY - MEMBER
JACK COFFMAN - MEMBER
TONY DARK - MEMBER
BOB DRAKE - MEMBER
JENNIFER GALVIN - MEMBER
DAVID GRIESEL - MEMBER
JERRY JOHNSTON - MEMBER
STEVE MASON - CHAIR
SANDRA ROSE - MEMBER
TERRI SAVAGE - MEMBER
LARRY SUBLETTE - MEMBER
RICHARD WUERFLEIN - MEMBER

STAFF MEMBERS
STEVE THOMPSON - EXECUTIVE DIRECTOR
JIMMY GIVENS - GENERAL COUNSEL
SCOTT THOMPSON - LAND PROTECTION
GARY COLLINS - ENVIRONMENTAL COMPLAINTS

JON CRAIG - WATER QUALITY DIVISION

ELLEN BUSSART - DEQ

JAMIE FANNIN - DEQ

MYRNA BRUCE - SECRETARY

ALSO PRESENT

ELLEN PHILLIPS - ASSISTANT AG

DAVID BRANECKY - AQC

MATT PAQUE - ATTORNEY

CRAIG KENNAME - ATTORNEY
MR. MASON: My name is Steve Mason, I m the Chairman of the

Environmental Quality Board.

The November 14, 2006 regular

meeting of the Environmental Quality Board

has been called according to the Oklahoma

Open Meeting Act, Section 311 Title 25 of
the Oklahoma Statutes.

Notice was filed with the Secretary of State on December 5, 2005 and amended on March 28, 2006 to add the location.

Agendas were mailed to interested parties on November 2, 2006. The Agenda for this meeting was posted November 13, 2006 at this facility and at the Department of Environmental Quality, 707 North Robinson in Oklahoma City, Oklahoma.

Only matters appearing on the first agenda may be considered. If this meeting is continued or reconvened we must today announce the date, time, and place of the continued meeting and the agenda for such continuation will remain the same as today's agenda.

Myrna, let's see if we've got a quorum.

MS. BRUCE: Good morning.
Ms. Cantrell.

MS. CANTRELL: Yes.

MS. BRUCE: Mr. Cassidy.

MR. CASSIDY: Here.

MS. BRUCE: Mr. Coffman.

MR. COFFMAN: Here.

MS. BRUCE: Mr. Drake.

MR. DRAKE: Yes.

MS. BRUCE: Mr. Griesel.

MR. GRIESEL: Yes.

MS. BRUCE: Mr. Johnston.

MR. JOHNSTON: Yes.

MS. BRUCE: Mr. Mason.

MR. MASON: Yes.

MS. BRUCE: Ms. Rose.

MS. ROSE: Yes.

MS. BRUCE: Ms. Savage.

MS. SAVAGE: Yes.

MS. BRUCE: Mr. Sublette.

MR. SUBLETTE: Here.

MS. BRUCE: Mr. Wuerflein.
MR. WUERFLEIN: Here.

MS. BRUCE: And absent are Ms. Galvin and Mr. Dark, for now.

MR. MASON: Thank you. I think we have a quorum, and thanks everybody for making the effort to be here.

The next Agenda Item is Approval of our Minutes from the August 22nd meeting.

MR. DRAKE: Move for approval.

MR. JOHNSTON: Second.

MR. MASON: Is there any discussion?

Can we have a vote, please, Myrna.

MS. BRUCE: Ms. Cantrell.

MS. CANTRELL: Yes.

MS. BRUCE: Mr. Cassidy.

MR. CASSIDY: Yes.

MS. BRUCE: Mr. Coffman.

MR. COFFMAN: Yes.

MS. BRUCE: Mr. Drake.

MR. DRAKE: Yes.

MS. BRUCE: Mr. Griesel.
23                  MR. GRIESEL: Yes.
24                  MS. BRUCE: Mr. Johnston.
25                  MR. JOHNSTON: Yes.

7

1                  MS. BRUCE: Mr. Mason.
2                  MR. MASON: Yes.
3                  MS. BRUCE: Ms. Rose.
4                  MS. ROSE: Yes.
5                  MS. BRUCE: Ms. Savage.
6                  MS. SAVAGE: Yes.
7                  MS. BRUCE: Mr. Sublette.
8                  MR. SUBLETTE: Yes.
9                  MS. BRUCE: Mr. Wuerflein.
10                 MR. WUERFLEIN: Yes.
11                 MS. BRUCE: Motion approved.
12                 MR. MASON: Thank you. The next
13                 Agenda Item is rulemaking regarding Air
14                 Pollution Control.
15                 David, if you'd introduce yourself,
16                 please.
17                 MR. BRANECKY: All right. My
name is David Branecky, I m Vice-Chair of
the Air Quality Advisory Council.

We have several items to ask for
your approval this morning. And I guess
what I d like to ask Mr. Chairman -- or
actually on the Agenda there is four
bulleted items. Do you want to address
each bullet and then vote on each bullet or

MR. MASON: Do you have a
suggestion for us?

MR. BRANECKY: I would suggest we
do each bullet as one at a time and then
vote.

MR. MASON: I think that s a
wonderful suggestion.

MR. BRANECKY: The first item
that I have asking for approval -- we are
asking to update or revise Subchapters 5, 7
and 9 of the OAC 252:100. We felt the need
to redefine regulated air pollutant and to help clarify the definition of regulated air pollutant, we proposed the adoption of Appendix P, which actually lists all the regulated air pollutants for air quality. In addition, in Subchapters 5, 7 and 9 we are going to clarify the terms, "actual emissions", "allowable emissions" and "regulated air pollutant (for fee calculation)", which is a little different than just straight "regulated air pollutant". And also we are proposing the definition of "gross particulate matter" to replace "total suspended particulates". So we had two hearings in April and July on these issues and we are asking the Board to pass this as a permanent rule. I'd be happy to answer any questions.
Board or discussion?

Questions from the public or discussion?

Is there any sort of motion?

MR. GRIESEL: I make a motion to approve.

MR. JOHNSTON: Second.

MR. MASON: Motion from David and a second from Jerry. Any discussion? Can we have a vote, please.

MS. BRUCE: Ms. Cantrell.

MS. CANTRELL: Yes.

MS. BRUCE: Mr. Cassidy.

MR. CASSIDY: Yes.

MS. BRUCE: Mr. Coffman.

MR. COFFMAN: Yes.

MS. BRUCE: Mr. Drake.

MR. DRAKE: Yes.
MS. BRUCE: Mr. Johnston.

MR. JOHNSTON: Yes.

MS. BRUCE: Mr. Mason.

MR. MASON: Yes.

MS. BRUCE: Ms. Rose.

MS. ROSE: Yes.

MS. BRUCE: Ms. Savage.

MS. SAVAGE: Yes.

MS. BRUCE: Mr. Sublette.

MR. SUBLETTE: Yes.

MS. BRUCE: Mr. Wuerflein.

MR. WUERFLEIN: Yes.

MS. BRUCE: Motion passed.

MR. BRANECKY: Next item, we are proposing to amend Subchapter 17, Incinerators, by addition of a new Part 11. Federal -- Other Solid Waste Incinerator requirements, which are contained in 40 CFR Part 60, Subparts EEEE and FFFF were incorporating that federal rule into the state rule and that is the addition of Part 11 of Subchapter 17.

So it's quite extensive, but like I
said again, it’s just an incorporation of the federal requirements into the state rule. It will affect only very small municipal waste incinerators, those that incinerate less than 35 tons a day, and also institutional waste incineration units.

I’d be happy to answer any questions on Subchapter 17 -- or Part 11, Subchapter 17. And we’re asking for permanent adoption.

MR. MASON: Any questions?

MR. COFFMAN: Yeah, question. On those, it said there is some grandfathered units. Do federal regulations grandfather units that were built before a certain time?

MR. BRANECKY: Are there regulations that apply to those units?

MR. COFFMAN: Uh-huh.
21 MR. BRANECKY: Yes, I believe so.
22 Yes. Yes.
23 MR. COFFMAN: Okay. Thanks.
24 MR. MASON: Any questions from the public, or comments from the Board?
25

12

1 MR. DRAKE: Move approval.
2 MR. COFFMAN: Second.
3 MR. MASON: We have a Motion from Bob and a second from Jack. Any discussion?
4 May we have a vote, please.
5
6 MS. BRUCE: Ms. Cantrell.
7 MS. CANTRELL: Yes.
8 MS. BRUCE: Mr. Cassidy.
9 MR. CASSIDY: Yes.
10 MS. BRUCE: Mr. Coffman.
11 MR. COFFMAN: Yes.
12 MS. BRUCE: Mr. Drake.
13 MR. DRAKE: Yes.
14 MS. BRUCE: Mr. Griesel.
MR. GRIESEL: Yes.

MS. BRUCE: Mr. Johnston.

MR. JOHNSTON: Yes.

MS. BRUCE: Mr. Mason.

MR. MASON: Yes.

MS. BRUCE: Ms. Rose.

MS. ROSE: Yes.

MS. BRUCE: Ms. Savage.

MS. SAVAGE: Yes.

MS. BRUCE: Mr. Sublette.

MR. SUBLETTE: Yes.

MS. BRUCE: Mr. Wuerflein.

MR. WUERFLEIN: Yes.

MS. BRUCE: Motion passed.

MR. BRANECKY: All right. Next item, we're asking for the Board's approval on some changes to Subchapter -- our next item we're asking the Board for approval for changes to Subchapter 5, which is the
registration and emission inventory and
annual operating fee subchapter.

The few changes that we’re asking
for, industry approached the Division and
asked that the deadline for filing emission
inventories, which industry does every
year, asked that we changed from March 1st
to April 1st. And the reason for that was
that a lot of times -- most of the time it
takes at least two or three months before
industry gets the previous years data
quality assured and gets it ready to go to
DEQ.

So the way it was originally written
-- most of time industry was asking for an
extension. March 1st came, they couldn’t
meet the deadline, they’d ask for an
extension, DEQ would grant the extension.
So to help alleviate some of that,
we just moved the deadline from March 1st
to April 1st. There is still an option for
an extension, if requested, but the April
1st deadline should afford industry
sufficient time to get the emission
inventories in without asking for an
extension.

The next -- the other change was
that any time there is a 30 percent change
in emission from one year to the next, the
industry was required to submit a reason
for that change, automatically. Well, we
changed it to they will have to submit a
reason for the change if DEQ asks for it
rather than just have it automatically
filed at 30 -- that's the reason for the 30
percent change.

So those are the two changes we're
asking for. We're asking for change -- or
adoption as a permanent rule.

I'd be happy to answer any
MR. MASON: In my packet, I'm looking at the fourth item which is Subchapter 5, not the third item, which is what this discussion is about.

MR. BRANECKY: I'm sorry. Did I get it out of line?

MR. MASON: No, you're perfect. Just as long as we know we're all on the same page.

MR. BRANECKY: Okay.

MR. MASON: Any questions from the Board?

MR. COFFMAN: Move for adoption.

MR. GRIESEL: Second.

MR. MASON: Jack moves for adoption, David seconds. Any discussion from the Board?

MS. BRUCE: Ms. Cantrell.
24                  MS. CANTRELL: Yes.
25                  MS. BRUCE: Mr. Cassidy.

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2                  MR. CASSIDY: Yes.
3                  MS. BRUCE: Mr. Coffman.
4                  MR. COFFMAN: Yes.
5                  MS. BRUCE: Mr. Drake.
6                  MR. DRAKE: Yes.
7                  MS. BRUCE: Mr. Griesel.
8                  MR. GRIESEL: Yes.
9                  MS. BRUCE: Mr. Johnston.
10                 MR. JOHNSTON: Yes.
11                 MS. BRUCE: Mr. Mason.
12                 MR. MASON: Yes.
13                 MS. BRUCE: Ms. Rose.
14                 MS. ROSE: Yes.
15                 MS. BRUCE: Ms. Savage.
16                 MS. SAVAGE: Yes.
17                 MS. BRUCE: Mr. Sublette.
18                 MR. SUBLETTE: Yes.
MS. BRUCE: Mr. Wuerflein.

MR. WUERFLEIN: Yes.

MS. BRUCE: Motion passed.

MR. BRANECKY: All right. The final item we're asking for approval for today are some changes to -- actually, a new Subchapter 2, a revocation of Subchapter 4, and some changes to 40 -- a new Subchapter 40 and a revocation of 41. I think that's it.

Basically, what we're asking for today, we felt a need to clarify incorporation by references. There's several incorporation by reference dates and in order to make sure that they all are in the rule and all are understandable, we created a new Subchapter 2 and an associated Appendix O. Appendix O lists all the incorporation by references. Not Appendix O, Appendix Q. I'm sorry.
In doing that we needed to revoke Subchapter 41 because of the redundancy, but there was one portion of 41, 41-16, that we moved over into a new Subchapter 40. And this was all done because of the new Subchapter 2, incorporation by reference.

One thing that I do need to point out, in your packet on Subchapter 40, 40-5, the last sentence -- it's 40-5(1) -- it's actually 40-5(4), it talks about the Oklahoma Department of Environmental Quality Waste Management Division, there is no such division. That was an error in the printing of the rule that went to you. What the Council passed was Oklahoma Department of Environmental Quality, Land Protection Division.

So we passed the right rule, just in the process of preparing the packet somehow
an old file got copied over and Waste
Management Division is in your packet.
So with that, I'd be happy to answer
any questions. We're asking, again, for
adoption under permanent rule.

MR. MASON: Any questions from
the Board?

MR. COFFMAN: Do we need to
correct that language in this packet?

MR. MASON: I would think that
probably part of the Motion would be to
make sure that it says Land Protection
Division. Yes, sir.

The asbestos rule, that's identical
to what we eliminated?

MR. BRANECKY: Yeah. The
asbestos was in 41, we moved it into a new
Subchapter 40 and did away with 41
altogether.

MR. MASON: More questions?
MR. MASON: Questions from the public?

Comments?

MR. JOHNSTON: Move to approve.

MR. MASON: Motion from Jerry.

MR. GRIESEL: I'll second.

MR. MASON: Second from David.

As Jack suggested I assume that includes Land Protection?

MR. BRANECKY: Yes.

MR. MASON: Any discussion from the Board?

Can we vote, please.

MS. BRUCE: Ms. Cantrell.

MS. CANTRELL: Yes.

MS. BRUCE: Mr. Cassidy.

MR. CASSIDY: Yes.

MS. BRUCE: Mr. Coffman.

MR. COFFMAN: Yes.

MS. BRUCE: Mr. Drake.

MR. DRAKE: Yes.

MS. BRUCE: Mr. Griesel.

MR. GRIESEL: Yes.
MS. BRUCE: Mr. Johnston.

MR. JOHNSTON: Yes.

MS. BRUCE: Mr. Mason.

MR. MASON: Yes.

MS. BRUCE: Ms. Rose.

MS. ROSE: Yes.

MS. BRUCE: Ms. Savage.

MS. SAVAGE: Yes.

MS. BRUCE: Mr. Sublette.

MR. SUBLETTE: Yes.

MS. BRUCE: Mr. Wuerflein.

MR. WUERFLEIN: Yes.

MS. BRUCE: Motion passed.

MR. MASON: David, thank you.

Thanks for all your effort.

The next item is rulemaking regarding Hazardous Waste Management. I think we have a presentation.

MR. KENNEDY: Good morning. My name is Bob Kennedy, I am now the Chair of the Hazardous Waste Management Advisory
With respect to our two bullet items, just as you wanted to go bullet by bullet, we're just going to reverse the order, if you will, because if the second bullet item is not approved then the first bullet item won't apply.

Today we're asking the Board to consider two rules: Modifications for DEQ's hazardous waste program; in addition we're asking the Board to adopt these revisions as both emergency and permanent.

As you know, DEQ is authorized by EPA to manage the federal hazardous waste program in Oklahoma. An integral part of that authorization is (inaudible). Oklahoma's program is equivalent to the federal program and DEQ insures this equivalency by incorporating by reference the federal hazardous waste regulations.
The revisions to Chapter 4 and 205, that are before you today, are designed to accomplish three things. First, they incorporate by reference the federal hazardous waste regulations found in 40 CFR Part 124 and 260 through 279 as they existed on July 1, 2006, which includes provisions for RCRA standardized permit and reductions in the paperwork burden required of the regulated community.

Secondly, they incorporate an amendment of 40 CFR published after July 1, 2006, which makes several clerical corrections to the federal regulations but do not impose any new regulatory requirements.

And finally, to incorporate a second amendment to 40 CFR published after July 1, 2006. That will be beneficial to the
regulated community because it reduces the
regulatory requirements for the management
of cathode ray tubes (inaudible) rather
than disposable. In order to incorporate
the federal rule by reference DEQ must
identify exactly which federal rules are
being adopted and this is done through
revisions to OAC 252:203 -- 205, excuse me,
-3-1 and 3-2.

The 3-1, the reference -- 40 CFR
data is being revised from July 1, 2005 to
July 1, 2006, the most recently published
set of regulations. In addition, two new
paragraphs are being added to insure the
final rules for the clerical corrections in
the cathode ray tube requirements are also
adopted at this time. This is necessary
because those two revisions were published
in the federal register after the July 1,
2006 date. So in order to be included --
they re separate items here.

OAC 252:205-3-2 is the section where all federal rules being adopted are identified. I d like to briefly discuss each of the important 40 CFR revisions that are being incorporated by reference.

One important 40 CFR revision contained in July 1, 2006 addition will affect all facilities in Oklahoma that generate, transport, treat, store, or dispose of hazardous waste under the Resource Conservation Recovery Act and Burden Reduction Initiative. I m not even sure how I would pronounce that acronym.

EPA promulgated changes to federal hazardous waste regulations to reduce the paperwork burden required of the regulatory community. These primarily include reducing the time records must be kept at TSD facilities, operational methods for
complying with safety and training and
contingency plans, reduce inspection
requirements for certain types of hazardous
waste management units and reduce
recording.

While reducing the paperwork
requirements these revised regulations have
no practical impact on the many protections
that have been established for the
protection of human health and the
environment.

The next one is the standardized
permit. The most significant federal rule
implements a new standardized permit.

Fully implementing its provisions requires
modifications to both DEQ’s hazardous waste
rules in Chapter 205 and the DEQ’s
permitting rules in Chapter 4.

The standardized permit is designed
to streamline --

MR. MASON: Excuse me.

MR. KENNEDY: Yes?

MR. MASON: Have we left 205 and
are we going into 4 now? Or are we still

in 205?

MR. KENNEDY: Well, we're going
to vote on it separately, but if I could do
the presentation for both of them because
they kind of go in and out of each other.

MR. MASON: Okay. Perfect.

MR. KENNEDY: The standardized
permit is designed as a streamline type of
permit for facilities that wish to do very
narrow types of waste management. They are
storing or non thermally treating hazardous
waste, generated on-site or storing or non
thermally treating hazardous waste
generated from off-site but the generating
facility is under the same ownership of the
facility for the standardized permit. The
standardized permit is not available for
commercial hazardous waste disposal
facilities but appear to be directed
towards generator facilities that wish to
store hazardous waste beyond 90 days or
wish to perform non-thermal treatment such
as neutralization, precipitation, chrome
reduction filtering, stabilization and so
on.

Because DEQ staff believes some of the language in the federal register notice was contradictory as to what facilities were eligible for the standardized permit, staff felt that Paragraphs 1, 2, and 3 should be included with Part 267. And as you’ll see on there with addition of the new Part 267 we’re just clarifying in there as to who is being regulated.

In 205-3-2, is to help clarify which facilities are eligible for the permit. In addition to the federal permitting process requirements, anyone seeking a standardized permit will also be required to follow the
requirement of the Oklahoma Uniform Environmental Permitting Act. Therefore, certain portions of DEQ's permitting rules in Chapter 4 must also be revised to include provisions for the standardized permits. And those revisions are in this first agenda bullet item in 252:4-7-51, 52, and 53.

In order to obtain a standardized permit, the permittee must hold a public meeting prior to submitting the permit application to the DEQ. The application itself must include a RCRA Part A information as well as various other types of documents. As part of the application package, the permittee must also certify that the facility records contain much of the same information as included in the Part B application, but none of that information is submitted to the DEQ for
review.

With respect to permit fees, while the standardized permit is more limited in scope than a full RCRA permit, it is still subject to Oklahoma Statutory Permit Fees. Therefore, any facility seeking a standardized permit will be required to remit permit fees that include a $5,000 minimum application fee plus additional fees based on the type of regulated units contained in their permit and a minimum $20,000 per year monitoring fee. And that may be the reason to date that DEQ has not had any inquiries from facilities interested in utilizing the standardized permit.

So it's a fairly -- has the same statutory permit fees even though it's a much more narrow in scope type of permit. A third 40 CFR revision promulgated
by EPA after July 1, 2006, merely corrected
errors in its hazardous waste and used oil
regulations resulting with printing
omissions, typographical errors,
misspellings, citations to paragraphs and
other references that have been deleted or
moved to new locations without correcting
the citations and similar mistakes. This
does not create any new regulatory
requirements.

Regarding the Cathode Ray Tubes, is
the fourth significant 40 CFR revision, DEQ
proposing to adopt was promulgated by EPA
after July 1, 2006. The revision removes
Cathode Ray Tubes from the definition of
solid waste, but they are destine for
recycling and are otherwise managed in
accordance with the new rules.
The purpose of the reduced
regulatory requirements is to encourage
recycling of CRTs while maintaining
environmental protection. The EPA effective date on the final rule is January 29th of 2007.

So because the incorporation by reference is necessary to ensure DEQ’s Hazardous Waste Program remains equivalent to the federal program and to ensure Oklahoma, facilities can receive immediate benefit from the reduced regulatory requirements implemented with the burden reduction rule, the standardized permit, and the CRT management rule, the Council voted unanimously to approve the Chapter 4 and Chapter 205 revisions both as emergency and permanent and recommends that the Board does likewise.

Any questions?

MR. MASON: Questions from the Board?

MR. DRAKE: I don’t know really which one I’m questioning, but I’m going to do this one because that’s the one I can
understand the best -- I can understand
this one by far the best. The increase --
MR. KENNEDY: You have to hit that again until the light comes on there.
There you go.
MR. DRAKE: This is very complicated up here.
MR. KENNEDY: It was for us too in October when they introduced these new microphones.
MR. DRAKE: I noticed -- the $10,000 will put quite a burden on a lot of the smaller --
MR. KENNEDY: It s $20,000.
We re not on the one that you re probably wanting to be talking about.
MR. DRAKE: That s the one I want to talk about. I can understand -- the increase in fees, I can understand that one a lot better than this one. So, I ll pass.
Sorry about that.

Which one are we on?

MR. KENNEDY: We’re on 205.

MR. DRAKE: Thank you all.

MR. MASON: Other questions from the Board?

I’ve got a question. So this new standardized permit -- then if I go into our process rules, does it tell me if it’s Tier I, Tier II, or Tier III?

MR. ROBERTS: Yes. It’s a --

MR. KENNEDY: Come on down here.

MR. MASON: Jon, if you’ll introduce yourself, please.

MR. ROBERTS: My name is Jon Roberts, I’m the supervisor for the Hazardous Waste Compliance Section of DEQ.

The standardized permit is subject to DEQ’s Tier rules. It will be a Tier II permit. It’s not a Tier III because one of
the provisions that EPA put with the
standardized permit is that there is no --
or there is no public input until the
permit is actually ready to be issued. So
that drops it down to a Tier II under our
Tier III permitting rules. There is a
public meeting before -- I'm not just 100
percent familiar with the Tier rules but
there is a public meeting that has to occur
before the permit is actually issued.
Under the standardized permitting rules
there is a public meeting that the
facility, wanting to have the permit, has

with the public that DEQ is not involved
in. That's just an informational-type
public meeting.

MR. MASON: So does this need to
be added in your list of Tier II permits or
is it clear in your rules?

MR. ROBERTS: That's what the
amendments to Chapter 4 is doing.

MR. MASON: Okay.

MR. THOMPSON: So, as I understand it, is this the same thing, Jon, as a general permit in which the standardized permit goes through the Tier II process and then application under that general or standardized permit is something less than that, or does each individual facility have to go through Tier II permitting process?

MR. ROBERTS: Each individual facility that wants to have the permit would have to go through their own permitting process.

MR. THOMPSON: Thank you.

MR. MASON: Then my second question is, where does it say that a commercial facility can’t apply for this type of permit?
MR. ROBERTS: That is -- it doesn't say it in the rules, specifically, but it's clear -- or relatively clear when you read the preamble to the final rule that it is not open to commercial TSD facilities.

MR. MASON: And for those of us that don't read the preamble, is it clear enough in our rules?

MR. ROBERTS: That was part of the reason we wanted to add the clarifications to the Part 267, incorporation in 205-3-2. I believe there were four paragraphs under there that describe what types of facilities are eligible to receive the standardized permit. And that was our attempt to try to clarify for sure what facilities would be eligible.

MR. MASON: Okay. Thanks.

Any questions from the Board? Questions from the public?

Before we make a motion, I think
Ellen is going to explain to us how we do this correctly. There is a process with the emergencies.

MS. PHILLIPS: Because these are emergency rules, the Board will need to take a vote on the emergency need for the rules. You'll need to make a finding as to the emergency, and vote. And you need to make a vote approving the emergency rule, itself. They've also submitted permanent rules, so there will be a third vote on the rules for permanent rulemaking.

So we're going to have three votes. One finding that an emergency exists under the Administrative Procedures Act, and that's either an imminent peril exists to the preservation of public health, safety, or welfare, or there is a compelling public interest necessitating these rules. Then you're going to vote on an emergency
rulemaking, and then you will vote on permanent rulemaking.

MR. JOHNSTON: This will be on 205 and 204 or 204 --

MS. PHILLIPS: I believe both of them are submitted as emergencies and permanents.

MR. JOHNSTON: We're going to vote for them together? I thought we started out --

MS. PHILLIPS: You need to vote separately. It appears to me that they were submitted as separate rulemaking.

MR. JOHNSTON: And we'll do one and we need three votes and then we do two and we need three votes?

MS. PHILLIPS: Yes.

Any questions?

MS. SAVAGE: Has the emergency need been explained to us? Has the need
for the emergency been explained? In other words, if we do not pass this, what will happen?

MR. MASON: I bet we need to have that explained to us, please, Bob.

MR. ROBERTS: The reason we're asking for the emergency is based on the compelling public interest with the standardized permit that the facilities can obtain if they want to. Also, the burden reduction requirements would reduce the paperwork requirements for hazardous waste facilities. And then also the CRT management regulations, which are reduced regulations regarding CRTs if they are managed in accordance with the rules. We feel that by adopting those by emergency then facilities in Oklahoma can immediately take advantage of those reduced requirements. Without the emergency
provision then they would not be able to take advantage of those requirements until the rules become final sometime in mid-June.

So we're just asking for the emergency so that --

MS. SAVAGE: To comply with federal?

MR. ROBERTS: -- as soon as the Governor signs off on the rules, then they'll be in effect and the facilities can immediately start taking advantage of those reduced regulatory burdens.

MS. SAVAGE: And this is to comply with federal -- with federal rules?

MR. ROBERTS: Yes. All three of those are incorporated.

MS. SAVAGE: That would bring us in line with federal rules?
MR. ROBERTS: Yes.

MR. JOHNSTON: Mr. Chairman?

MR. MASON: Yes?

MR. JOHNSTON: We're voting on 205 and you're going to go back and get to Bob's question in 204 about the additional increase in the fees?

MR. MASON: The additional increase in fees, that's the next agenda item. We're not talking about fees right now.

MR. JOHNSTON: Okay.

MR. MASON: I think we have two items in front of us, what I'm going to call Chapter 205 and Chapter 4. And the fees, I believe, are in the next discussion item about highway spill remediation.

MR. KENNEDY: I also spoke of fees and that was the statutory requirements under the standardized permit
being $5,000 and a $20,000 monitoring fee.

So they will apply to a standardized permit

but I think when the word fee came out,

people are projecting our next agenda item

which will be the 210 rules for the

highway.

MR. JOHNSTON: I’m confused like

Bob. I thought that was a part (inaudible)

of the $25,000.

MR. MASON: I would like to

pursue Terri’s question for a moment a

little further with you.

MR. ROBERTS: Sure.

MR. MASON: Every rule we’ve

passed, if we made it an emergency we could

argue it, helps people, whether it’s in

air, water, land protection. So, I’m

struggling why this rule particularly needs

to be an emergency versus all of the rules

we pass.

MR. ROBERTS: Again, it just has

to do with the -- there’s three benefits to

the regulated community that they can take
advantage of immediately having to do with
standardize permit. If anybody wanted to
the burden in reduction of paperwork
requirements would be, in some cases,
drastically lessened by -- once they are
adopted. And also the CRT rules, like I
say, is an ongoing problem with a lot of
facilities what to do with their CRT s and
we feel if they can take advantage of these
reduced regulatory requirements immediately
that would provide a substantial benefit to
them.

MR. MASON: If these are only
passed as permanent does it effect your
ability to do your jobs as the DEQ?

MR. ROBERTS: No.

MR. MASON: Okay.

Other questions from the Board?

Public? Questions, comments?

So, what do you guys want to do?
MR. DRAKE: Mr. Chairman, I'm going to make the Motion to approve this because I have great trust in our Council system and our staff. The public might be a little bit confused since some of us admitted we were, but I do have great confidence in the manner in which we come to these rule changes.

So, with that, I will make a motion to approve the rules and apply the emergency.

MR. MASON: Okay. So the first motion you're going to make is finding an emergency? Then I guess we're doing 205?

MR. DRAKE: Then I will make the first motion to find an emergency.

MR. MASON: On 205?

MR. ROBERTS: On 205.

MR. JOHNSTON: Second. Same reason.
MR. DRAKE: Thanks, Jerry.

MR. MASON: We will find an emergency on 205. Is there any discussion from the Board?

Can we have a vote, please.

MS. BRUCE: Ms. Cantrell.

MS. CANTRELL: Yes.

MS. BRUCE: Mr. Cassidy.

MR. CASSIDY: Yes.

MS. BRUCE: Mr. Coffman.

MR. COFFMAN: Yes.

MS. BRUCE: Mr. Drake.

MR. DRAKE: Yes.

MS. BRUCE: Mr. Griesel.

MR. GRIESEL: Yes.

MS. BRUCE: Mr. Johnston.

MR. JOHNSTON: Yes.

MS. BRUCE: Mr. Mason.

MR. MASON: No.

MS. BRUCE: Ms. Rose.
MS. ROSE: No.

MS. BRUCE: Ms. Savage.

MS. SAVAGE: Yes.

MS. BRUCE: Mr. Sublette.

MR. SUBLETTE: Yes.

MS. BRUCE: Mr. Wuerflein.

MR. WUERFLEIN: Yes.

MS. BRUCE: Motion passed.

MR. MASON: All right. So help us now, Ellen, with our next motion on 205, because that passed.

MS. PHILLIPS: Since you found an emergency, your next motion would be to adopt these as emergency rules.

MR. MASON: Is there a motion?

MR. COFFMAN: So moved.

MR. MASON: Motion from Jack.

MR. JOHNSTON: Second.

MR. MASON: Second from Jerry.

Any discussion?
Okay. We're voting on 205 as emergency. Myrna.

MS. BRUCE: Ms. Cantrell.

MS. CANTRELL: Yes.

MS. BRUCE: Mr. Cassidy.

MR. CASSIDY: Yes.

MS. BRUCE: Mr. Coffman.

MR. COFFMAN: Yes.

MS. BRUCE: Mr. Drake.

MR. DRAKE: Yes.

MS. BRUCE: Mr. Griesel.

MR. GRIESEL: Yes.

MS. BRUCE: Mr. Johnston.

MR. JOHNSTON: Yes.

MS. BRUCE: Mr. Mason.

MR. MASON: No.

MS. BRUCE: Ms. Rose.

MS. ROSE: No.

MS. BRUCE: Ms. Savage.

MS. SAVAGE: Yes.

MS. BRUCE: Mr. Sublette.

MR. SUBLETTE: Yes.
MS. BRUCE: Mr. Wuerflein.

MR. WUERFLEIN: Yes.

MS. BRUCE: Motion passed.

MR. MASON: So now we need a permanent motion on the 205 rules.

MR. COFFMAN: So moved.

MR. MASON: So moved by Jack.

MR. DRAKE: Second.

MR. MASON: Second by Bob. Any discussion from the Board?

May we vote, please.

MS. BRUCE: Ms. Cantrell.

MS. CANTRELL: Yes.

MS. BRUCE: Mr. Cassidy.

MR. CASSIDY: Yes.

MS. BRUCE: Mr. Coffman.

MR. COFFMAN: Yes.

MS. BRUCE: Mr. Drake.

MR. DRAKE: Yes.

MS. BRUCE: Mr. Griesel.

MR. GRIESEL: Yes.
MS. BRUCE: Mr. Johnston.

MR. JOHNSTON: Yes.

MS. BRUCE: Mr. Mason.

MR. MASON: Yes.

MS. BRUCE: Ms. Rose.

MS. ROSE: Yes.

MS. BRUCE: Ms. Savage.

MS. SAVAGE: Yes.

MS. BRUCE: Mr. Sublette.

MR. SUBLETTE: Yes.

MS. BRUCE: Mr. Wuerflein.

MR. WUERFLEIN: Yes.

MS. BRUCE: Motion passed.

MR. MASON: All right. So now we're back to Subchapter 4 and we need a finding for an emergency.

MR. DRAKE: So moved.

MR. COFFMAN: Second.

MR. MASON: Motion from Bob, second by Jack. Any discussion from the
Board?

If you're keeping up with us, Myrna,

we'll vote again.

MS. BRUCE: I may not be able to

read it tomorrow.

Ms. Cantrell.

MS. CANTRELL: Yes.

MS. BRUCE: Mr. Cassidy.

MR. CASSIDY: Yes.

MS. BRUCE: Mr. Coffman.

MR. COFFMAN: Yes.

MS. BRUCE: Mr. Drake.

MR. DRAKE: Yes.

MS. BRUCE: Mr. Griesel.

MR. GRIESEL: Yes.

MS. BRUCE: Mr. Johnston.

MR. JOHNSTON: Yes.

MS. BRUCE: Mr. Mason.

MR. MASON: No.

MS. BRUCE: Ms. Rose.
MS. ROSE: No.

MS. BRUCE: Ms. Savage.

MS. SAVAGE: Yes.

MS. BRUCE: Mr. Sublette.

MR. SUBLETTE: Yes.

MS. BRUCE: Mr. Wuerflein.

MR. WUERFLEIN: Yes.

MS. BRUCE: Motion passed.

MR. MASON: So now we need a second motion for an emergency rule, please, on Subchapter 4.

MR. JOHNSTON: So moved.

MR. GRIESEL: I'll second.

MR. MASON: Jerry moves, David seconds. Any discussion from the Board?

We'll take a vote when you're ready.

MS. BRUCE: Ms. Cantrell.

MS. CANTRELL: Yes.

MS. BRUCE: Mr. Cassidy.

MR. CASSIDY: Yes.
MS. BRUCE: Mr. Coffman.

MR. COFFMAN: Yes.

MS. BRUCE: Mr. Drake.

MR. DRAKE: Yes.

MS. BRUCE: Mr. Griesel.

MR. GRIESEL: Yes.

MS. BRUCE: Mr. Johnston.

MR. JOHNSTON: Yes.

MS. BRUCE: Mr. Mason.

MR. MASON: No.

MS. BRUCE: Ms. Rose.

MS. ROSE: No.

MS. BRUCE: Ms. Savage.

MS. SAVAGE: Yes.

MS. BRUCE: Mr. Sublette.

MR. SUBLETTE: Yes.

MS. BRUCE: Mr. Wuerflein.

MR. WUERFLEIN: Yes.

MS. BRUCE: Motion passed.

MR. MASON: Thank you.
I guess we're to a permanent motion on Subchapter 4.

MR. GRIESEL: So moved.

MR. MASON: So moved by David.

MR. COFFMAN: Second.

MR. MASON: Second by Jack. Any discussion from the Board?

MS. BRUCE: Ms. Cantrell.

MS. CANTRELL: Yes.

MS. BRUCE: Mr. Cassidy.

MR. CASSIDY: Yes.

MS. BRUCE: Mr. Coffman.

MR. COFFMAN: Yes.

MS. BRUCE: Mr. Drake.

MR. DRAKE: Yes.

MS. BRUCE: Mr. Griesel.

MR. GRIESEL: Yes.

MS. BRUCE: Mr. Johnston.

MR. JOHNSTON: Yes.

MS. BRUCE: Mr. Mason.

MR. MASON: Yes.

MS. BRUCE: Ms. Rose.

MS. ROSE: Yes.
MR. KENNEDY: The next rulemaking action we are asking the Board to consider is the emergency adoption of DEQ’s New Chapter 210, Highway Spill Remediation. The proposed Chapter 210 is to implement the requirements of Senate Bill 1938 passed by the legislature during the 2006 session. The Bill created the Oklahoma Highway Remediation and Cleanup Services Act giving DEQ the authority to
license, supervise, govern and regulate
highway remediation and cleanup services,
and highway remediation and cleanup service
operators in the State of Oklahoma. The
Act further grants the Environmental
Quality Board authority to pass rules

implementing its requirement.
While the statutory effect date was
November 1, 2006, just a couple of weeks
ago, the act can’t be enforced until DEQ
has rules to implement its requirements.
DEQ staff from both environmental
complaints and local services and customer
services division held a series of meetings
with the affected entities to obtain their
input in the development of Chapter 210.
What you have before you is the product of
those meetings.
Prior to the October 5th Council
meeting, DEQ received several comments
which are summarized in your executive
summary. All suggestions that DEQ felt had
the authority to include have been
incorporated into the final version of
Chapter 210 that you have before you. The
Council realizes that the proposed Chapter
210 will require additional fine tuning.
Emphasize, additional fine tuning.
However, the Council, DEQ staff, and
I think most of the affected entities
believe the Chapter 210 rules before you
present the best product that could be
produced given the very short time in which
to do so. And they did have a very short
time. I don’t remember when this
particular Senate Bill was approved but I
think it was passed the 11th hour.
The Council asked the Board to adopt
Chapter 210 with the emergency provision so
that the requirements of Senate Bill 1938
can be implemented immediately upon the
Governor's approval of these rules. Now DEQ staff are available to help
answer any questions the Board or members
of the public may have. And I will
definitely need their help on this one.

MR. MASON: All right, Bob.
MR. DRAKE: Now I can go. I've had some people that have contacted me on
this and there is a lot of concern out
there, which we all know. And the reason
for the comments is that it's plainly,
plainly not DEQ that made this particular
increase and which, in my opinion, is very
onerous, it came from the legislature. So
what we're doing is simply providing the
rules to do what the Legislature has told
us to do.

MR. KENNEDY: Absolutely.
MR. DRAKE: And the reason for my
comments is that I want to make it clear in
the Minutes that we are doing that very
thing, that DEQ did not raise these rates,
that DEQ is simply making the rules to put
them in effect. That was the reason for my
comment, it s plainly stated in your
presentation here that that s what we re
doing in a short time frame. So that was
the reason. I couldn t remember which
question it was. But that was the reason
because I wanted DEQ to have some cover in
Southern Oklahoma terms for what we re
about to do.

MR. KENNEDY: Well, we have our
protective vests on.

MR. THOMPSON: I guess, for those
of you who don t know me, I m Steve
Thompson, I m the Executive Director of the
DEQ. To put some context around the
comments about a short time frame, this
Bill actually passed on the very last day
of the legislative session of this year, on
May the 28th, as I recall. Then, of
course, there was some time before they
were signed into law by the Governor. So
it was about the middle of June before we
could really move forward with the Council
to adopt the rules in support of the
statute which went into effect, actually
November the 1st. But I think that we all
believed that it was in the best interest
to have the Board -- the Council and the
Board take a shot at rules and so we have
delayed implementation of this until this
meeting.
But it was, in fact, a very short
time frame in which the Council had to work
in order to get something prepared for the
Board Meeting today. And those are
statutory fees. I mean they are repeated
in the rule but as Bob mentioned the new
fee and the renewal fee are both set by
statute.
MR. MASON: Board, questions?

MR. CASSIDY: Is there something similar to this in surrounding states? Do they have, kind of comparable laws?

MR. THOMPSON: Gary, do you know?

MR. COLLINS: I know there are some states -- Gary Collins, Director of Complaints and Local Services. I know there are some states that have similar rules but I don't -- because we did a little internet research just to try to come up with some rules.

MR. CASSIDY: How does our fee structure compare to theirs? Similar?

MR. COLLINS: There is some similarity, yeah. Some of them are -- some of the rules, obviously, are a lot more detailed than ours because of the short time frame we had to write these but there is some similarities also.
MR. THOMPSON: We have -- the Oklahoma Hazardous Emergency Response Commission has for some time struggled with the idea of what a qualified -- there is a statute that says that some one must be qualified. They've always looked at the DEQ to define what qualified meant. And we have struggled -- quite frankly the Department has struggled with that issue.

The two issues that the bill addressed in my view that helped us do that were the issues of both training and insurance. Those were the two issues -- I think the two overriding issues that one would look at when one was talking about someone qualified to do that. So the action of the Council and the decision of the Board is that we have in the rules set both the level of insurance we think is -- that the Council believed was appropriate
for people in this business and the level
of training necessary to be involved in
this. As to the fee, again, I can only say
that that was set by statute. Is that fair
to say, Gary?

MR. COLLINS: Exactly.

DR. SUBLETTE: I have a few
questions I’d like to ask if I may. There
is a definition in here of the law
enforcement officers being the lead
official as defined by the Oklahoma
Emergency Response Act. What is that
definition?

MR. COLLINS: Basically, what it
says is that if it’s on a highway, it’s the
Highway Patrol, if it’s in the city limits
of a town, it’s the fire marshal.

DR. SUBLETTE: Okay. What
authority does that person have?

MR. COLLINS: Under these rules?
DR. SUBLETTE: Yes.

MR. COLLINS: Under these rules they're the person that makes the call when something needs to be cleaned up, if there is a small spill they can say we don't need a licensed person to come in and clean that up, this small, five gallon spill, then they can just put some absorbent down, clean it up, and remove it. If it's a large spill they can call in a remediation company -- a licensed remediation company. They also have the power to -- well, an extreme example would be, say there was a truck spill in Idabel and the person that owned the load said, "I want to call somebody from Guymon to come down and clean this up", and this was on a major highway. Well, the highway patrol on scene could say, "no, that's not quick enough, you've got to call somebody closer". So they have
the authority to call someone other than
the person that the trucking company wants
to use in an emergency. They can declare
an emergency.

They can also declare an emergency
if in their opinion -- you know it's going
to take two hours for a remediation company
to get there they can declare an emergency
and call in someone who is unlicensed to
help resolve that emergency.

DR. SUBLETTE: Or, if need be,
someone from out of state?

MR. COLLINS: If need be someone
from out of state.

DR. SUBLETTE: If it's an
emergency?

MR. COLLINS: If it's an
emergency.

DR. SUBLETTE: So this person
then, it sounds to me like, has basically
the same authority and responsibility
equivalent to an EPA on-scene coordinator;
is that correct?
MR. COLLINS: I'm not familiar with their authority.

DR. SUBLETTE: Well, one of the things I'm interested in is how do they decide which contractor to call, how do they evaluate the means that are going to be utilized by the contractor -- proposed by the contractor to address the emergency or to address the situation. How do they decided whether removal and disposal is the appropriate response or remediation is the appropriate response? It seems to me that a lot of decisions are being made by someone who is not really trained to make those decisions.

MR. COLLINS: Yeah. We have a 24 hour number. Our complaints hotline is also used for spills and Highway Patrol can call us 24 hours a day, and do. When they have something major they'll call us and
we'll get one of our experts to talk to them and give our opinion. So the Highway Patrol isn't solely left up -- they are not up there on their own, they have the DEQ's support and decision making and they call us.

BOARD MEMBER: Did you have --

MR. THOMPSON: I think, and Gary pretty well covered it. They are in essence and I don't have the statutory language in front of me, but they are in essence the on-scene decision maker. And there was a time when the state tried to be in the emergency response business and we had something called a HERO van and that proved to be something less than heroic because by the time we got there it was past the time for decision-making. And so the state, through the Emergency Response Act, has simply said that these folks, by
statute are the decision makers. And then
there are a whole ray of agencies that are
tasked with support. DEQ, the Health
Department -- Judy, or somebody, help me
out. There are an awry in that Act.
I'm sorry, what?
MS. DUNCAN: Corporation
Commission.
MR. THOMPSON: The Corporation
Commission -- of agencies, which by statute
are designated as support for that person
so that they are not necessarily out there
alone without some technical or health
assistance in making those decisions. But
I think time has shown that you have to
have somebody on-site willing to make those
decisions with that support and the
statutes have designated these folks to do
that.
MR. COLLINS: Yeah, the person
that answers that 24 hour number, that DEQ complaints hotline, has a book with them that has phone numbers and they've got all the directors, they could wake me up in the middle of the night and I can call and wake Jon Craig up in the middle of the night and we can call EPA. We've got all those phone numbers that goes with that phone. Whoever is manning that phone that week has those numbers. So when the highway patrol calls us to report a spill and says, "I need some help here, what do I need to do", then we can wake up whoever we need to in the middle of the night.

DR. SUBLETTE: Is there going to be any effort to have something akin to the EPA on-scene coordinators approved list of products that can be utilized for containment and remediation?

MR. COLLINS: We don't have
DR. SUBLETTE: Could it be incorporated by reference?

MR. COLLINS: It probably could be. Like I say, I expect that probably during the next session the statute will probably change and we will be bringing these rules back to you. As a matter of fact, we're going to bring them back to you at the February/March meeting, whatever it is, for permanent adoption, but we'll also, after the session is over, I suspect we'll be bringing them back to the Board for further changes because I expect they will change during the legislative session.

MR. THOMPSON: I think there is also a question -- there's a legal jurisdictional question as to whether something like that would fall under the jurisdiction of the Environmental Quality
Board or under the jurisdiction of the Hazardous Emergency Response Commission that we would have to look into and advise the Board on in the future.

MR. MASON: Other questions?

DR. SUBLETTE: One last question and I think it was referenced earlier, but just to be clear in my mind, as far as the licensing is concerned what kind of training has to be documented or does -- or I guess the appropriate question is does the appropriate training have to be documented prior to a license being issued?

MR. COLLINS: I think the rules say you have to have -- it references the OSHA rules, the 40 CFR, 29 CFR 19.10.120. And that's the training they have to have and on the license application we ask that they certify that all of their employees are trained and it also requires that they carry a card, and they are issued a card when they get that training. So whoever is on-scene -- the highway patrol is on-scene
they can ask for the card to prove they have the training. Rather than asking for

the names of all those people, which will probably change throughout the year, we just decided to ask the owner or whoever is filling out the application to certify they're trained and then asked that they carry the card when they're on the scene.

DR. SUBLETTE: Thank you.

MR. MASON: I have a question.

In my experience, like I've seen, the Fire Department Hazmat teams spreading absorbent on the street and sweeping it up. Does this affect them?

MR. COLLINS: No. They're not going to remediate a large spill. If there is a small spill, a wrecker service can pull out there and put some absorbent down and clean that up. Under these rules we don't -- the rules -- there is a section
here that defines hazardous material under the definitions. "Harmful to the environment and such that it is appropriate to impose special requirements".

So the on-scene commander, which would be the fire department that's in the city limits, can make the decision that I don't believe this requires special handling. "This is a diesel spill, it's five gallons, I can put some absorbent down and clean that up and go on". That doesn't require special handling. It doesn't require someone who's licensed and trained to do. However, if it was a large spill, if there was chlorine tanker turned over, the Hazmat crew is not going to clean that up. They may come in and evacuate people and try to close a valve or something, but they're going to call a remediation company
to clean that up.

DR. SUBLETTE: I do have one more question. Who is going to ultimately follow up on the spill response and is there a closure process or -- who's going to basically say that this remediation or clean up is finished?

MR. COLLINS: That would be DEQ. If there is a large spill, we're involved in that and they would have to -- whatever they pick up and dispose of obviously has to be tested before it's taken to a landfill and there has to be samples taken out of the pit that they've dug and where they've cleaned it up to certify that it's clean.

DR. SUBLETTE: Does anyone from DEQ for a large site -- did anyone from DEQ inspect the site or do you utilize contractor records?
MR. COLLINS: Yeah, that would be
-- if it's a large site our local
environmental specialist will be there and
if they need help then they'll be
contacting Jon Roberts from Hazardous
Waste.

MR. THOMPSON: Just to follow up
on that, I think there is a requirement
that they report the activities relative to
this spill and the disposal issues. So
where there's a requirement that they
report to us what they did, then we would
probably follow up on that also.

MR. COLLINS: Correct.

MR. GIVENS: Mr. Chairman, if I
could just follow up. Gary, I think one
thing may need to be clarified, while in

the vast majority of cases, DEQ would be
responsible for determining that the spill
had been adequately cleaned up. There
maybe circumstances in which another agency
would actually have the responsibility to
make that determination. Is that correct?

MR. COLLINS: That’s correct.

Yeah. The products that are licensed are
regulated by the Corporation Commission.
For example, like if there was a saltwater
spill that wouldn’t be something that would
fall under these rules, because that’s not
considered a hazardous material.

DR. SUBLETTE: Would that be OCC
then?

MR. COLLINS: That would be OCC,
right.

MR. MASON: All right. Let’s see
if we have any public comments for a
moment. I bet there are a few.

MR. COLLINS: I think we’ve had
about four public meetings so we’ve had
lots of opportunities.

MR. MASON: It looks like some
interested parties are out in the audience.
Do you guys have any input for us?

MR. COFFMAN: Mr. Chairman, I have a question. Do we -- on this one, do we need a finding of an emergency as well?

MR. MASON: Yes, sir. And then they weren t passed as permanent so we won t pass them as permanent, just as emergency.

MR. COFFMAN: Okay. So we need a finding of emergency and then pass it as an emergency; correct?

MR. MASON: Uh-huh.

MR. COFFMAN: And the emergency is?

MR. COLLINS: The emergency is that the statute said that the law took effect November 1st and we didn t feel like we could implement the statutory requirement until we got rules.

MR. WUERFLEIN: Question. If we pass it as emergency only, is there a time
frame that the emergency is only good for
or is the emergency good until something
else changes?

MS. PHILLIPS: The emergency rule

would be effective through July 14th
following the next session.

MR. WUERFLEIN: Just through --
okay, the legislative session.

MS. PHILLIPS: So it's through
this next session and then July 14th.

MR. WUERFLEIN: Okay.

MS. PHILLIPS: So we'll need to
adopt permanent rules before that time --

MR. WUERFLEIN: Before July.

MS. PHILLIPS: -- to continue.

MR. WUERFLEIN: Okay.

MR. MASON: More questions from
the Board or is there a decision or
pleasure?

MS. CANTRELL: Move approval --
MR. MASON: As finding of emergency.

MS. CANTRELL: -- as finding of emergency.

MR. MASON: Okay.

MR. COFFMAN: Second.

MR. MASON: Motion from Brita and a second from Jack. Any Board discussion?

May we have a vote, please.

MS. BRUCE: Ms. Cantrell.

MS. CANTRELL: Yes.

MS. BRUCE: Mr. Cassidy.

MR. CASSIDY: Yes.

MS. BRUCE: Mr. Coffman.

MR. COFFMAN: Yes.

MS. BRUCE: Mr. Drake.

MR. DRAKE: Yes.

MS. BRUCE: Mr. Griesel.

MR. GRIESEL: Yes.

MS. BRUCE: Mr. Johnston.
MR. JOHNSTON: Yes.

MS. BRUCE: Mr. Mason.

MR. MASON: Yes.

MS. BRUCE: Ms. Rose.

MS. ROSE: Yes.

MS. BRUCE: Ms. Savage.

MS. SAVAGE: Yes.

MS. BRUCE: Mr. Sublette.

MR. SUBLETTE: Yes.

MS. BRUCE: Mr. Wuerflein.

MR. WUERFLEIN: Yes.

MS. BRUCE: Motion passed.

MR. MASON: Many thanks to your Council, this is hard work. We look forward to seeing you, I guess, at our next meeting.

MR. KENNEDY: I'm sure. I'm sure this is not the end of this.

MR. MASON: Okay. And then we also need a motion to adopt this as an
emergency.

MR. JOHNSTON: I move to adopt as emergency.

MS. CANTRELL: Second.

MR. MASON: Motion from Jerry, second from Brita.

MS. BRUCE: Ms. Cantrell.

MS. CANTRELL: Yes.

MS. BRUCE: Mr. Cassidy.

MR. CASSIDY: Yes.

MS. BRUCE: Mr. Coffman.

MR. COFFMAN: Yes.

MS. BRUCE: Mr. Drake.

MR. DRAKE: Yes.

MS. BRUCE: Mr. Griesel.

MR. GRIESEL: Yes.

MS. BRUCE: Mr. Johnston.

MR. JOHNSTON: Yes.

MS. BRUCE: Mr. Mason.

MR. MASON: Yes.
MS. BRUCE: Ms. Rose.

MS. ROSE: Yes.

MS. BRUCE: Ms. Savage.

MS. SAVAGE: Yes.

MS. BRUCE: Mr. Sublette.

MR. SUBLETTE: Yes.

MS. BRUCE: Mr. Wuerflein.

MR. WUERFLEIN: Yes.

MS. BRUCE: Motion passed.

MR. MASON: Our next rule I think discusses Laboratory s.

MR. DUZAN: Thank you. My name is Brian Duzan, I m the Chairman of the Laboratory Services Advisory Council.

Amendments are proposed to OAC 252:300 Laboratory Accreditation Rules.

The purpose of these rules is to implement the DEQ s program for accreditation of environmental laboratories. Laboratory accreditation is a means to insure that environmental data is of known and documented quality and thus is suitable for use in environmental decision making.
The proposed changes include correcting inconsistencies in Subchapter 17 by updating a reference to the EPA’s drinking water certification manual. OAC 252:300-7-3 referenced the Fifth Edition and OAC 252:300-17-3 referenced the Fourth Edition. We need to correct the reference in 17-3 to reflect the current EPA manual. Laboratories accredited by the DEQ are required to use EPA approved methodologies or methods specifically approved by the DEQ. As the EPA or the Board promulgates new rules, methodologies, or quality assurance, quality controlled requirements, accredited labs have to incorporate these procedures for all accredited analysis. Today we propose two changes to rule 252:300-19-3, which sets forth accepted methods.
Daphnia magna life-cycle toxicity measures the toxicity level of effluent from a municipal water treatment plant as an indicator of other acute toxic compounds entering into water bodies. The DEQ Water Quality Division is requiring several municipalities to perform daphnia magna life-cycle toxicity tests as a condition of their OPDES permit. Laboratory analysis must be performed by certified laboratories. Therefore, we propose that the daphnia magna life-cycle toxicity testing be added to OAC 252:300-19-3.

One type of sludge is the solid matter from wastewater treatment plants which is often land applied under an OPDES permit issued by the DEQ. We propose that the federal sampling and analytical requirements for sludge be incorporated by reference at OAC 252:300-19-3.
As you may know salmonella bacteria cause people to develop abdominal cramps and other symptoms with severe symptoms occurring in the elderly, infants and those with impaired immune systems. The DEQ is requiring several municipalities to perform salmonella testing as a condition of their OPDES permit. Since laboratory analysis must be performed by a certified laboratory we propose to add salmonella testing to Appendix B, analyze for general water quality laboratories categories, category VII, Microbiology.

Judy Duncan is here with me today and we will try to answer any questions that you may have regarding these proposed changes.

MR. MASON: Questions from the Board?

Brian, what s a daphnia magnum look
like?

MR. DUZAN: Minnow.

MR. MASON: Minnow? Okay.

Other Board questions?

Questions from the public?

MR. GRIESEL: I'll move for

approval.

MR. MASON: We have a motion from

David for permanent adoption.

MR. JOHNSTON: Second.

MR. MASON: Second from Jerry.

Any discussion from the Board?

If we could have a vote, please,

Myrna.

MS. BRUCE: Ms. Cantrell.

MS. CANTRELL: Yes.

MS. BRUCE: Mr. Cassidy. Oops.

Mr. Coffman.

MR. COFFMAN: Yes.

MS. BRUCE: Mr. Drake.
MR. DRAKE: Yes.

MS. BRUCE: Mr. Griesel.

MR. GRIESEL: Yes.

MS. BRUCE: Mr. Johnston.

MR. JOHNSTON: Yes.

MS. BRUCE: Mr. Mason.

MR. MASON: Yes.

MS. BRUCE: Ms. Rose.

MS. ROSE: Yes.

MS. BRUCE: Ms. Savage.

MS. SAVAGE: Yes.

MS. BRUCE: Mr. Sublette.

MR. SUBLETTE: Yes.

MS. BRUCE: Mr. Wuerflein.

MR. WUERFLEIN: Yes.

MS. BRUCE: I will note that Mr. Cassidy did step out of the room.

Motion passed.

MR. MASON: Thank you.

Scott Thompson, who is the Director of Land Protection is going to make this
next presentation on radiation.

MR. THOMPSON: Dr. Gooden couldn't be here today so I'm pinch-hitting. Take it easy on me, though.

Basically, most of the rules we have here today are incorporation by reference of federal rules from the Nuclear Regulatory Commission that went into effect on January 1, 2005. Other changes of importance are those pertaining to the recognition of specialty boards and the training of Radiation Safety Officers as related to the medical use of radioactive material and those pertaining to the requirements that will increase the security of portable gauges containing radioactive material. These changes are necessary to maintain compatibility with the NRC rules as Oklahoma is required to under our agreement state status.

Another amendment would add a provision that clarifies the regulations
incorporated by reference in the NRC regulations adopted by DEQ and would be considered to be adopted by reference under our rules.

The Subchapter 10 changes would bring the list of the NRC regulations reserved for exclusive enforcement by the NRC into compliance with changes made by the NRC as of January 2005. They are reserving some of the enforcement capacity themselves for certain activities. And also subsection (c) is revised and subsection (d) is deleted as they are no longer needed for changes that previously took effect when we became an agreement state. And also in Subchapter 10 and in 20, changes in parts 30, 31, 32, 34, 35, 39, 70, and 71 and in Section 1 of Subchapter 20 correct scriveners errors that were made in previous versions of the
rules. And they also make some minor formatting changes to comply with the way the NRC is formatting rules.

In the text, above changes (inaudible) and additions have been provided in full to the members of the Board in the materials you have. We need to do this just to stay consistent with the federal rules. None of these rules were controversial with the Council. They all passed.

MR. MASON: Questions from the Board? Questions from the public? What would we like to do with these?

MR. GRIESEL: Move approval.

MR. MASON: David moves approval.

MR. COFFMAN: Second.

MR. MASON: Second from Jack. Is there a discussion from the Board?
May we have a vote, please, Myrna.

MS. BRUCE: Ms. Cantrell.

MS. CANTRELL: Yes.

MS. BRUCE: Mr. Cassidy.

MR. CASSIDY: Yes.

MS. BRUCE: Mr. Coffman.

MR. COFFMAN: Yes.

MS. BRUCE: Mr. Drake.

MR. DRAKE: Yes.

MS. BRUCE: Mr. Griesel.

MR. GRIESEL: Yes.

MS. BRUCE: Mr. Johnston.

MR. JOHNSTON: Yes.

MS. BRUCE: Mr. Mason.

MR. MASON: Yes.

MS. BRUCE: Ms. Rose.

MS. ROSE: Yes.

MS. BRUCE: Ms. Savage.

MS. SAVAGE: Yes.

MS. BRUCE: Mr. Sublette.
MR. SUBLETTE: Yes.

MS. BRUCE: Mr. Wuerflein.

MR. WUERFLEIN: Yes.

MS. BRUCE: Motion passed.

MR. MASON: Let's take about a 10 minute break.

(Break)

(Back from break)

MR. MASON: Item 9 is rulemaking regarding solid waste management, I think, with a presentation by Jay Stout.

MR. STOUT: I'm Jay Stout, Chair of the Solid Waste Management Advisory Council. This particular rulemaking came to you by the Senate Bill 1557, which was signed by the Governor on July the 1st. It is not an emergency though. Then it came to the DEQ to write the rules and the ways as (inaudible) from the legislature works that way. After the DEQ wrote the regs,
then it came to our Advisory Council. To
tell it like it is, we nit picked over one
word for half a day and finally agreed to
change the one word, so I don t think it
really affected it any, so you don t have
to worry about that.

The importance of the bill is for
the -- is to develop or allow landfills to
do a wheel wash system for these trucks
that come in. Now we don t anticipate a
small landfill being interested in this
because of the cost, only the larger ones
may apply. You have to apply if you want
to do this before June of 07 and it has to
be instructed and approved and in place by
June 08.

The reimbursement for the cost of
the construction up to a total of $300,000
for everyone, not just one landfill, comes
from a ten cent per ton fee. After the
$300,000, if it goes that high, is
expensed, then the DEQ -- the fee -- the
ten cent fee still stays in place but it
goes to the DEQ. It's that simple.

If you have anything that you particularly want to ask, I'll refer you to Oklahoma City. You can call.

MR. MASON: Board questions?

Can you help educate this Board and explain this a little bit, how large the solid waste fee is and how it's distributed when it's collected?

MR. STOUT: The solid -- are you talking about this particular item?

MR. MASON: No. The total solid waste fee is a dollar and a quarter? We discussed briefly of the dollar and a quarter how much -- where the money goes and where the money goes in relation to this change.

MR. STOUT: Well, usually the legislature swipes it.

Steve, do you want to add to that?
MR. THOMPSON: I don't know the
number right now -- David? Okay. Well, I
think the income from the solid waste fee
runs right around $400,000. I mean Four
Million Dollars. I'm sorry. About Four

Million Dollars. The last figures I saw
indicated that the operation of the solid
waste program took up about 2.75 million
dollars. Then by statute, we're allowed to
use solid waste fees for local services,
particularly with -- some on the Board may
recall that we were given the
responsibility for the Oklahoma City and
Tulsa City County Environmental Activities
by the legislature with no funds. But at
the same time we -- this was in '97 or '98,
as I recall.

UNIDENTIFIED MALE: 97.

MR. THOMPSON: I'm sorry?

UNIDENTIFIED MALE: 97.
MR. THOMPSON: 97? Okay. Not bad for an old man. So we have over time used a portion of that money to fund our local services. Now as Gary and his folks have raised fees and done things to support the activities of local services, we have tried to send that money back but there is always something that seems to interfere with that. So my recollection of that is now about six or seven hundred thousand dollars that's used for local services. We're obligated -- I mean we are allowed up -- to use that funding for that purpose up to One Million Dollars. There was a time when we were using the full million, we're down to about $700,000. I think we had it down at one time to $500,000 and we had to up that because of some expenses that they had. The remainder of it are used for
solid waste planning issues. We use money for chippers, we use it for other solid waste activities throughout the state.

This past year the legislature -- there was a bill that allowed $300,000 to be used for wheel washes for solid waste facilities and so that will take, if it's fully implemented, up to a cap of $300,000.

So I suppose, in general, there's about four categories: That's the operation of the program itself; the department used for local services; the department used for county solid waste planning; and now the $300,000 that will be used assuming full implementation of -- assuming it reaches the cap of the wheel washes for landfills.

MR. MASON: Thank you. Questions from the Board? Questions from the public?

MR. JOHNSTON: Move to approve.

MR. GRIESEL: Second.
MR. MASON: Motion from Jerry and
second from David. Is there any
discussion?

Myrna, may we vote.

MS. BRUCE: Ms. Cantrell.

MS. CANTRELL: Yes.

MS. BRUCE: Mr. Cassidy.

MR. CASSIDY: Yes.

MS. BRUCE: Mr. Coffman.

MR. COFFMAN: Yes.

MS. BRUCE: Mr. Drake.

MR. DRAKE: Yes.

MS. BRUCE: Mr. Griesel.

MR. GRIESEL: Yes.

MS. BRUCE: Mr. Johnston.

MR. JOHNSTON: Yes.

MS. BRUCE: Mr. Mason.

MR. MASON: Yes.

MS. BRUCE: Ms. Rose.

MS. ROSE: Yes.
MS. BRUCE: Ms. Savage.

MS. SAVAGE: Yes.

MS. BRUCE: Mr. Sublette.

MR. SUBLETTE: Yes.

MS. BRUCE: Mr. Wuerflein.

MR. WUERFLEIN: Yes.

MS. BRUCE: Motion passed.

MR. MASON: Thank you. Thanks, Jay.

MR. STOUT: Thank you.

MR. MASON: Item 10 is our

Environmental Quality Report.

MR. KENNAMER: Good morning. I m Craig Kennamer and I m the Deputy Executive Director for the DEQ. And the state law requires submittal and approval by the

Environmental Quality Report every year to

the Governor, the Speaker of the House, and

the Senate Pro Tem, by January 1st. So

we re here today to get approval of the

Environmental Quality Report by the Board.

And the report has three components. One

is the budget, which you ve already seen

and approved; the second is the federal
mandate; and then the third is the legislative recommendations.

So, I'm going to skip briefly to the legislative recommendations and go through the three items that we have today. One is for legislation for Blue Skys -- Blue Skyways, which is part of the budget request that you saw earlier. The Oklahoma Constitution has provisions that make it somewhat problematic for us to provide funds from the public sector to a non-governmental entity. And so in order for us to do that, the Oklahoma Supreme Court has laid out three basic tests to have in place before you can provide those funds to a non-governmental entity. And those are to have safe guard controls and to have an economic -- or demonstrate an economic benefit to either the public or to the state.
And so what we are proposing with this legislation that will provide those safe guards and controls through a contractual arrangement with a non-governmental and governmental entities in order for us to provide these contracts and pass through the money for the Blue Skyways project. And if you recall, the Blue Skyways project was that very worthwhile project to help reduce fleet vehicles emissions either at truck stops or other methods of emissions reduction.

The second thing we’re going to do is -- or we’re requesting is hazardous waste legislation and it really is dealing with the solid waste funds on the wheel wash. And if you recall, there was legislation that was passed a year ago for ten cents of every $1.25 per ton to be held back and not submitted to the state for
spending on wheel washes. And you could spend -- we could spend up -- I mean they could retain up to $300,000 each year. If we get to a year where we don't retain or use that $300,000, we plan to spend that $300,000 for closure of solid waste facilities where we have facilities that don't have the proper funding and the owners are judgment (inaudible). And we have a lot of those around the state, not a great number, but we do have a lot of those that we could use that money for. And so we're going to request that the legislature give us the language to do that.

The other thing is in the Clean Water Act there is some clean-up language. We have bill references under the OPDES portion of that water act that should be statutory references and not references to bills because they're confusing when you
have to go back and look at the actual bill that passed and try to find out what the statute reference is. So we’re going to use that statute or that recommended legislation to clean that up, but it will also serve as a place holder if something should come up for the water program later in the year.

On the federal mandate portion it is not quite a mandate yet because it hasn’t come down from EPA, but it is imminent, and that is that they are going to, actually, not even pass a rule, they’re going to -- because it’s coming through the budgetary process, they can do this through guidance and it’s going to require that states have an NPDS permitting fee program in place that funds at a minimum 50 percent and more likely 100 percent of their NPDS program before they’re eligible for the federal
And so it's kind of a forced fee program to help fund the short falls in the federal Clean Water Act dollars. And what the problem with that is, is it's going to place the burden squarely on the municipalities in the state because they are already having difficulty paying the fees and it's going to require us to raise our fees to those municipalities in order for the state to receive these federal grant dollars.

To give you an example, there is 672 municipalities in the state of Oklahoma and 30 percent of them have less than 500 people. So you can imagine what that's going to do to them if we have to raise the fees. We are fighting this at the national level and -- but it is really steam rolling forward, as Steve can tell you. It's a scary prospect.
will tell you that Eddie is going to speak further in his presentation later on Blue Skyways, but we need to seek approval so we can be compliant with the statute of the January 1st date. Thank you.

MR. MASON: Questions for Craig?

MS. SAVAGE: Craig, I was just wondering, do you anticipate a change since we -- in the last election we had such a drastic change? Does it -- so does EPA just continue on with that?

MR. KENNAMER: Well, since the administration is still the same and this is coming from the administrative side of the Agency that I -- I imagine it will continue to steam roll as long as they can.

MS. SAVAGE: And it doesn't have anything to do with the Congress?

MR. KENNAMER: Well, there is probably some point that the Congress will be able to step up and speak and make some
changes, but right now as long as the
administration stays the same, this process
is going to stay the same.

MR. THOMPSON: We merged the

Environment of Public Works Committee under
Senator Inhofe and both the DEQ and ECOS,
which is the Environmental Commissioners
Group, will continue to ask that same
derivative to do oversight hearings on this
proposed guidance. Whether we'll be
successful in that, I don't know. It is a
strange issue that in order for -- EPA has
proposed -- the last proposal I saw was
that they were going to take federal grant
money away from states who had imposed fees
and give it to states to encourage them to
impose fees. Which is the strangest
thinking I've run across in my time in
government.

So if we are -- if we have a -- I
think inevitably what will happen is that if you are forced to do 100 percent fee making, that means you will lose your federal money. There is no need for the federal money. So the burden for the operation of the NPDES program in Oklahoma -- the water pollution control program will fall to communities and to industries. And it's my philosophical belief that if you re going to operate federal programs, the federal government ought to be involved in that in both (inaudible). They are more than happy to give you guidance on how to operate those programs, and they should be involved significantly in the funding also.

MR. JOHNSTON: Amen.

MR. THOMPSON: But we'll see what happens.

MR. MASON: Is there any public
questions for Craig or any other Board
questions?

MR. JOHNSTON: I move for
approval.

MR. GRIESEL: Second.

MR. MASON: Motion from Jerry,
second from David. Any Board discussion?

MS. BRUCE: Ms. Cantrell.

MS. CANTRELL: Yes.

MS. BRUCE: Mr. Cassidy.

MR. CASSIDY: Yes.

MS. BRUCE: Mr. Coffman.

MR. COFFMAN: Yes.

MS. BRUCE: Mr. Drake.

MR. DRAKE: Yes.

MS. BRUCE: Mr. Griesel.

MR. GRIESEL: Yes.

MS. BRUCE: Mr. Johnston.

MR. JOHNSTON: Yes.

MS. BRUCE: Mr. Mason.
MR. MASON: Yes.

MS. BRUCE: Ms. Rose.

MS. ROSE: Yes.

MS. BRUCE: Ms. Savage.

MS. SAVAGE: Yes.

MS. BRUCE: Mr. Sublette.

MR. SUBLETTE: Yes.

MS. BRUCE: Mr. Wuerflein.

MR. WUERFLEIN: Yes.

MS. BRUCE: Motion passed.

MR. THOMPSON: Thank you.

(End of proceedings)
C E R T I F I C A T E

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 proceeding is the truth, the whole truth, and nothing but the truth; that the foregoing proceeding was taken by me in shorthand and thereafter transcribed under my direction; that said proceeding was taken on the 14th day of November, 2006, at Tulsa, 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 5th day of December, 2006.

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