Notice of Public Meeting  The Environmental Quality Board convened for a regular meeting at 9:30 a.m. in the DEQ Multipurpose Room 707 North Robinson, Oklahoma City, 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 November 2, 2007. The agenda was mailed to interested parties on February 15, 2008 and was posted at the Department of Environmental Quality on February 29, 2008. Dr. Jennifer Galvin, Chair, called the meeting to order. Roll call was taken and a quorum was confirmed.

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<thead>
<tr>
<th>MEMBERS PRESENT</th>
<th>DEQ STAFF PRESENT</th>
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<tr>
<td>Brita Cantrell</td>
<td>Steve Thompson, Executive Director</td>
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<td>Jack Coffman</td>
<td>Jimmy Givens, General Counsel</td>
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<td>Bob Drake</td>
<td>Wendy Caperton, Executive Director’s Office</td>
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<td>Jennifer Galvin</td>
<td>Shellie Chard-McClary, Administrative Services</td>
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<td>David Griesel</td>
<td>Eddie Terrill, Air Quality Division</td>
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<td>Jerry Johnston</td>
<td>Judy Duncan, Customer Service Division</td>
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<td>Steve Mason</td>
<td>Gary Collins, Env. Complaints &amp; Local Services</td>
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<td>Sandra Rose</td>
<td>Scott Thompson, Land Protection Division</td>
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<td>Terri Savage</td>
<td>Jon Craig, Water Quality Division</td>
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<td>Richard Wuerfein</td>
<td>Ellen Bussert, Administrative Services</td>
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<th>MEMBERS ABSENT</th>
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<td>Mike Cassidy</td>
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Approval of Minutes  Ms. Cantrell called for a motion to approve the minutes of the November 15, 2007 Regular Meeting, Mr. Coffman made the motion to approve as presented and Mr. Johnston made the second. Roll call as follows with motion passing.

*transcript pages 6 - 7*

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<td>Jerry Johnston</td>
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<td>Jennifer Galvin</td>
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Election of Officers  Mr. Drake nominated Jennifer Galvin to remain as Chair for this calendar year. Mr. Griesel made the second.

*transcript pages 7 - 8*

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Vice-Chair  Mr. Drake nominated Brita Cantrell to remain as vice-chair for this calendar year. Mr. Griesel made the second. Mr. Drake moved that all nominations cease re-electing Ms. Cantrell by acclamation.

*transcript pages 9 - 10*

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Executive Director’s Report  Mr. Steve Thompson, Executive Director, introduced the staff members who had worked days, nights, and weekends on the recent issue in the City of Lone Grove where a pesticide had been accidentally released into the public water supply system. Mr. Thompson thanked the staff for their diligence in getting the water returned to the City as timely as possible.

Mr. Thompson also outlined for the Board the rulemaking before them relative to the projected budget shortfall for the upcoming years and the fee increases being proposed.

transcript pages10 - 18

Rulemaking – OAC 252:100  Air Pollution Control  Mr. Branecky stated that the proposed changes to Subchapter 5 would increase fees for minor facilities and for Part 70 sources. He discussed a Resolution from the Air Quality Council asking that DEQ pursue some type of funding through the Legislature for mobile source fees. The Council felt that mobile sources are a significant part of the air pollution in Oklahoma, if not the major portion. Mr. Branecky noted that the Council did eventually pass the rulemaking unanimously; but Council felt that some controls were necessary to make sure that the regulated community would not be over-burdened and at the same time the Division is getting the monies needed. After discussion, Dr. Galvin called for a motion for permanent adoption of the proposed rule. Mr. Johnston made the motion and Mr. Mason made the second.

transcript pages 18 - 32

Mr. Branecky continued with Subchapter 24 dealing with particulate matter emissions from grain, feed, or seed operations. He identified three proposed amendments that would correct references and clarify language. Hearing no public comments, Dr. Galvin called for a motion for permanent adoption. Mr. Coffman made the motion and Mr. Drake made the second.
Rulemaking – OAC 252:300 and 252:301  Laboratory Accreditation  Mr. Kenneth Crawford, Chair of the Laboratory Services Advisory Council, advised that amendments proposed would revoke Chapter 300 and replace it with a new Chapter 301. He mentioned that the Laboratory Accreditation Rule provides standards for accreditation of privately and publicly owned environmental laboratories for the performance of analysis of water and wastewater. He added that besides the reformatting, changes included updated proficiency testing rules, supplemental studies, a fee increase provision for an automatic fee adjustment for inflation. He advised that Council voted overwhelmingly to recommend the rule change and to bring it to the Board for adoption.  Mr. Crawford and Ms. Judy Duncan fielded questions from the Board.  Mr. Steve Mason moved approval including the suggested changes.  Mr. Coffman made the second.

transcript pages 34 - 41

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<td>Jerry Johnston</td>
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Mr. Givens noted that the motion may have only referred to Chapter 301 clarifying that the sense of the Board in adopting that was that they were not only adopting new Chapter 301, but also revoking old Chapter 300.

Rulemaking – OAC 252:305  Laboratory Services  Mr. Kenneth Crawford, Chair of the Laboratory Services Advisory Council, advised that amendments proposed would establish fees for the Department of Environmental Quality State Environmental Laboratory.  Mr. Crawford explained that the SEL provides laboratory services to public water supplies in the state, subdivisions of the DEQ, other state and federal agencies, Indian tribes and private citizens.  He mentioned that these fees were
last reviewed in 2005 and adjusted in 2006. Since that time cost of laboratory supplies, equipment, maintenance and personnel have all risen. He added that the proposal would increase fees by 6 percent based upon increases of the Consumer Price Index for 2006 and 2007. An annual adjustment of the fees will then be made based upon the CPI on July 1st of every year, although the DEQ could wave collection of the automatic fees if other revenues have increased sufficiently to make the funds generated by the automatic adjustment unnecessary for that year. He conveyed that the Laboratory Services Advisory considered these rule changes at their regular meeting on January 31st, at which time they voted overwhelmingly to recommend the changes to the EQ Board for adoption. Hearing no comments from the public, Dr. Galvin called for a motion to adopt 305 Laboratory Services, as proposed. Ms. Cantrell moved to adopt and Mr. Coffman made the second.

**transcript pages 41 - 44**

Brita Cantrell  Yes  Steve Mason  Yes  
Jack Coffman  Yes  Sandra Rose  Yes  
Bob Drake  Yes  Terri Savage  Yes  
David Griesel  Yes  Richard Wuerflein  Yes  
Jerry Johnston  Yes  Jennifer Galvin  Yes  

**Rulemaking – OAC 252:410 Radiation Management** Mr. Steve Woods, Chair of the Radiation Management Advisory Council, stated that the proposed changes did not modify any fees, but clarified the rules by using standardized language. The change also clarified some language on calculating fees for radiation producing machines that has proven confusing to some users and an example is given at the bottom of Appendix A. He conveyed that these proposed changes had not caused any adverse comments and it is not believed there is any negative effect on any person or entity in the state. On behalf of the Radiation Management Advisory Council, he asked for approval of the proposed changes as permanent rulemaking. Mr. Drake made the motion for approval and Mr. Johnston made the second.

**transcript pages 44 - 48**

Brita Cantrell  Yes  Steve Mason  Yes  
Jack Coffman  Yes  Sandra Rose  Yes  
Bob Drake  Yes  Terri Savage  Yes  
David Griesel  Yes  Richard Wuerflein  Yes  
Jerry Johnston  Yes  Jennifer Galvin  Yes
Rulemaking – OAC 252:515  Management of Solid Waste  Mr. Jay Stout, Chair of the Solid Waste Management Advisory Council, advised that revisions resulted from statutory Senate Bill 747 effective July ’07 requiring that waste tire facilities, tire derived fuel facilities, and entities involved in erosion control, submit a request for reimbursement to the DEQ. To concur with the statute, the rule changes require qualified applicants to demonstrate that at least 2% (as opposed to the previous 5 percent) of the waste tires are collected from illegal dumps, or landfills, or priority cleanup lists of community-wide cleanup events. He added that these rule changes would also clarify the authority with respect to the manifest requirement, tire dealer inspections and motor license agent inspections with DEQ approval required upon completion of the collection efforts. Mr. Stout also described a correction of a typo in 71(b), inserting the word "applicant" after the word "qualified" be inserted to bring continuity to the rule.

Dr. Galvin clarified for the Board that three votes were needed since this request was for an emergency need: to find that there is an emergency need; a vote on the emergency rule; and then to adopt a permanent rule.

Following questions and comments fielded by Mr. Steve Thompson and staff, Dr. Galvin called for a motion for the finding of emergency need. Mr. Johnston made the motion and Mr. Drake made the second.

transcript pages 49 - 55

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<th>Yes</th>
<th>Steve Mason</th>
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<td>David Griesel</td>
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Dr. Galvin called for a motion to adopt as an emergency rule. Mr. Johnston moved adoption and Mr. Coffman made the second.

transcript pages 55 - 56

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<th>Yes</th>
<th>Steve Mason</th>
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<td>Brita Cantrell</td>
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Dr. Galvin then called for a motion to adopt as a permanent rule. Mr. Coffman made the motion and Mr. Drake made the second.

transcript pages 56 - 58

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Rulemaking – OAC 252:606 Oklahoma Pollutant Discharge Elimination System (OPDES) Standards

Mr. Lowell Hobbs, Chair of the Water Quality Management Advisory Council, advised that proposal would change the date of the incorporation by reference of certain federal regulations by changing the publication date of the federal rules from July 1, 2006 to July 1, 2007 in OAC 252:606-1-4 and would revoke Appendix B, Appendix C, Appendix D, Appendix E, and Appendix F, and replace each appendix with a new appendix. He added that the proposal for each appendix increases OPDES permit and annual fees by the rate of inflation since the effective date of the last fee modification, which was on or about July 1, 1999 and the projected inflation rate over the next five years. The fees would automatically increase every five years thereafter pursuant to any increase in the Consumer Price Index over the previous five years. Mr. Hobbs noted that the Water Quality Management Advisory Council had vigorous debate concerning the proposed fee increases and that the Department had received written comments concerning the fee increase and oral comments during the Council meeting. Mr. Hobbs explained that after the close of the public comment period, and after the Council took action on the proposed rules and after the completion of the documents for this Board meeting by the Department, the Department received comments from the Oklahoma Municipal League concerning the rule changes. After receiving the comments and debate by the Council, the Council proposed an amendment to the Department's proposed rule changes concerning the fee increases. The amendment was for the fee increase to be based on the rate of inflation, from the effective date of the last fee modification through 2007, removing the fee increase that was projected for the next five years; and would change the automatic fee increase in fees from once every five years to once every year. Council voted unanimously to recommend that the Board approve the changes to Chapter 606 as amended by the Council.
Following questions and comments from the Board and from the public, Dr. Galvin called for a motion for approval of the proposal as amended. Mr. David Griesel made the motion and Mr. Wuerflein made the second.

transcript pages 58 - 66

Brita Cantrell  Yes  Steve Mason  Yes
Jack Coffman  Yes  Sandra Rose  Yes
Bob Drake  Yes  Terri Savage  Yes
David Griesel  Yes  Richard Wuerflein  Yes
Jerry Johnston  Yes  Jennifer Galvin  Yes

Rulemaking – OAC 252:611  General Water Quality  Mr. Lowell Hobbs, Chair of the Water Quality Management Advisory Council, advised that the proposal would update the incorporation by reference of certain federal regulations from July 1, 2006, to July 1, 2007 in the Oklahoma Administrative Code 252:611-1-3. Hearing no comments, Dr. Galvin called for a motion to adopt as proposed. Mr. Wuerflein made the motion and Ms. Cantrell made the second.

transcript pages 66 - 68

Brita Cantrell  Yes  Steve Mason  Yes
Jack Coffman  Yes  Sandra Rose  Yes
Bob Drake  Yes  Terri Savage  Yes
David Griesel  Yes  Richard Wuerflein  Yes
Jerry Johnston  Yes  Jennifer Galvin  Yes

Rulemaking – OAC 252:616  Industrial Wastewater Systems  Mr. Lowell Hobbs, Chair of the Water Quality Management Advisory Council, stated that this proposal would increase industrial wastewater annual fees by the rate of inflation since the effective date of the last fee modification and to provide for automatic fee adjustments for inflation. He added that this amendment would have increased non-discharging industrial wastewater system fees by the rate of inflation since the effective date of the last fee modification, which was on or about July 1, 1997 and the projected inflation rate over the next five years. Also, the Department proposed to have fees automatically increase every five years thereafter, pursuant to any increase in the Consumer Price Index over the previous five years.
Mr. Hobbs noted that the Council debated the proposed fee increase. The Department did not receive any written comments concerning the fee increase and there were no oral comments received during the Council meeting. Council proposed an amendment for the fee increase to be based on the rate of inflation, through the effective date of the last fee modification, through 2007, removing the fee increase that was projected for the next five years; and change the automatic increase in fees from once every five years to every year. The Council voted unanimously to recommend that the Board approve the changes to Chapter 616 as amended by the Council.

Hearing no comments from the public, Dr. Galvin called for a motion to adopt 252:616-3-3 as presented. Mr. Johnston made the motion and Mr. Griesel made the second.

*transcript pages 68 - 71*

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<th>Brita Cantrell</th>
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<th>Steve Mason</th>
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**Rulemaking – OAC 252:621 Non-Industrial Flow-Through And Public Water Supply Impoundments Including Land Application**  Mr. Lowell Hobbs, Chair of the Water Quality Management Advisory Council, advised that the proposed would increase its non-industrial flow-through and public water supply impoundment annual fees by the rate of inflation since the effective date of the last fee modification and to provide for automatic fee adjustments for inflation. Mr. Hobbs stated that the amendment would have increased non-industrial flow-through and public water supply impoundment system fees by the rate of inflation since the effective date of the last fee modification on or about July 1, 1999; and the projected inflation rate over the next five years. Additionally, the Department proposed to have fees automatically increased every five years thereafter, pursuant to any increase in the Consumer Price Index over the previous five years.

Mr. Hobbs pointed out that after the close of the public comment period, the Department received comments from the Oklahoma Municipal League concerning the rule changes. After debate, the Council, proposed an amendment that the fee increase be based on the rate of inflation, from the effective date of the last fee modification, through 2007, removing the fee increase that was projected for the next five years. Additionally, the proposed amendment would change the automatic increase
in fees from once every five years, to every year. The Council voted unanimously to recommend that the Board approve the changes to Chapter 621 as amended by the Council.

Hearing no comments from the public, Dr. Galvin called for a motion to approve as proposed. Ms. Rose made the motion to approve and Mr. Wuerflein made the second.

*transcript pages 71 - 75*

Brita Cantrell   Yes   Steve Mason   Yes
Jack Coffman     Yes   Sandra Rose   Yes
Bob Drake        Yes   Terri Savage   Yes
David Griesel   Yes   Richard Wuerflein   Yes
Jerry Johnston  Yes   Jennifer Galvin   Yes

**Rulemaking – OAC 252:623  Pre-Treatment for Central Treatment Trusts** Mr. Lowell Hobbs, Chair of the Water Quality Management Advisory Council, advised that the proposal would amend rules concerning Central Treatment Trusts [Oklahoma Ordnance Works Authority] to update the incorporation by reference of federal rules from July 1, 2006, to July 1, 2007. Mr. Hobbs noted that no comments were received during the comment period or at the Council meeting. The Council voted unanimously to recommend that the Board approve the changes to Chapter 623. Dr. Galvin called for a motion for approval as amended. Mr. Drake moved approval and Mr. Coffman made the second.

*transcript pages 75 - 77*

Brita Cantrell  Yes  Steve Mason   Yes
Jack Coffman   Yes  Sandra Rose  Yes
Bob Drake      Yes  Terri Savage   Yes
David Griesel Yes  Richard Wuerflein   Yes
Jerry Johnston Yes  Jennifer Galvin   Yes

**Rulemaking – OAC 252:624  Minor Public Water Supply Systems** Mr. Lowell Hobbs, Chair of the Water Quality Management Advisory Council, advised that the proposed rulemaking clarifies and consolidates all construction, operation and maintenance rules applying to minor public water supply systems into one set of rules separate from the more complex rules that apply to other public water supply systems. Currently, the rules dealing with minor public water supply systems are in two separate Chapters. The proposed rules also require an individual permit for slow sand filters; modify pre-testing requirements; add property ownership criteria; reduce the frequency of certain VOC testing; allow DEQ to require additional testing; and impose closure requirements.
Mr. Hobbs noted that DEQ did not receive any comments from the public concerning the proposed rule modifications. Mr. Hobbs added that none of the recommended changes would make the rule less stringent but would make the system a little better for the regulated community, as well as staff. After debate, the Council voted unanimously to recommend that the Board approve Chapter 624 as amended by the Council.

Dr. Galvin called for a motion to adopt as amended. Mr. Johnston moved approval and Ms. Rose made the second.

*transcript pages 77 - 82*

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**Rulemaking – OAC 252:626  Public Water Supply Construction Standards** Mr. Lowell Hobbs, Chair of the Water Quality Management Advisory Council, advised that the Department undertook a major rewrite of this chapter proposing changes to remove outdated language; add design and construction standards for new treatment techniques; delete a supplemental information section and integrate that section into the rules; revoke Subchapter 21 and Appendix G, as those requirements are proposed to be moved to OAC 252:624; update structure requirements to meet new the EPA disinfection and sampling requirements and correct typographical errors and omissions of certain definitions.

Mr. Hobbs mentioned that written comments were received from the City of Tulsa. There were agreed modifications to the proposed rule modifications based on the comments from the City of Tulsa. There were no oral comments received during the Council meeting. The Council voted unanimously to recommend that the Board approve the changes to Chapter 626, as amended by the Council. Mr. Mason moved for approval and Mr. Griesel made the second.

*transcript pages 82 - 86*

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Rulemaking – OAC 252:631  Public Water Supply Operation  Mr. Lowell Hobbs, Chair of the Water Quality Management Advisory Council, advised that the proposal covered several items:

- Increases public water supply annual fees by the rate of inflation since the effective date of the last fee modification, which was on or about July 1, 1993 and the projected inflation rate over the next five years.
- Fees would automatically increase every five years thereafter pursuant to any increase in the Consumer Price Index over the previous five years.
- Updates rules concerning the date of incorporation by reference of certain federal regulations, except for the new groundwater rule which will not be adopted by reference. The change updates the publication date of the federal rules from July 1, 2006 to July 1, 2007.
- Revokes Subchapter 5 moving those requirements to OAC 252:624.
- Updates language to meet EPA requirements and rule reference changes by EPA.
- Requires 25 pounds per square inch throughout the entire distribution system, and adopts new requirements for source water development.
- Corrects typographical errors, omissions of certain definitions and other construction requirements from the rules and recognizes what kind of testing will be required for new disinfection treatment techniques.

Mr. Don Maisch explained that the Department received written comments from the City of Tulsa during the comment period which were reviewed by the Department and there were agreed modifications to the proposed rule modifications based on those comments. He added that the fee increase amendment was for the fee increase to be based on the rate of inflation, from the effective date of the last fee modification, through 2007, removing the fee increase that was projected for the next five years. Additionally, the proposed amendment would change the automatic increase in fees from once every five years, to every year. The amendments based on the City of Tulsa comments were to remove the term "watershed" from the requirement for protection of a lake or a reservoir that is used as a public water supply source, as such protection of the entire watershed would be impossible; and to remove the need for the operation and maintenance manual to be approved by the DEQ.

Mr. Hobbs related that the Council voted unanimously to recommend that the Board approve the changes to Chapter 631 as amended by the Council. Dr. Galvin called for a motion to adopt as presented. Mr. Coffman made the motion and Ms. Rose made the second.
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**Rulemaking – OAC 252:633  Drinking Water State Revolving Fund** Mr. Lowell Hobbs, Chair of the Water Quality Management Advisory Council, advised that the proposal would revoke Appendix A and replace with a new Appendix A which would implement changes to the Priority Project System and the Finding Priority Formula necessary to meet federal and state requirements. No written or oral comments were received. The Council voted unanimously to recommend that the Board approve the proposed changes to Appendix A. Hearing no comments, Dr. Galvin called for a motion to adopt as presented. Mr. Drake made the motion and Mr. Griesel made the second.

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**Rulemaking – OAC 252:641 Individual And Small Public On-Site Sewage Treatment Systems** Mr. Lowell Hobbs, Chair of the Water Quality Management Advisory Council, advised that the proposal covered eight items:

- increases fees to compensate for the increased cost of operating the program
- adds low pressure dosing fields and drip irrigation fields as new options for the treatment and dispersal of wastewater
- increases the separation distance from the spray irrigation pattern to property lines from 5 feet to 15 feet
- requires that installers maintain aerobic systems they install for two years after the date of installation and delineate what maintenance installers shall perform
- requires the use of soil profile descriptions instead of percolation tests when designing systems in the Scenic River Corridors
establishes property ownership criteria that ensures all on-site sewage treatment systems are located on property that is owned by or dedicated in easement to the use of the system or is located on the property where the wastewater is generated increases the number of lots where subsurface systems can be used by reducing the vertical separation distance from limiting layers for soils with high clay content includes in the rules those systems that were previously categorized as standardized alternative systems

Mr. Hobbs conveyed that the Water Quality Management Advisory Council debated the proposed changes to the rules and heard comments from the public then voted four to one to recommend that the Board approve the proposed changes to Chapter 641. Mr. Steve Thompson and Mr. Gary Collins fielded questions and comments from the Board and those from the public. Oral comments were heard from Mr. Bob Kellogg, attorney for the Oklahoma Certified Installers Association. Ms. Mista Turner-Burgess, DEQ attorney, continued staff presentation mentioning the amendment to Subchapter 23 Section 2 (a)(6) where the fee would just revert back to $30.

Dr. Galvin called for a motion for permanent adoption. Mr. Drake moved for adoption as amended and Mr. Griesel made the second. Mr. Givens asked that the motion be more explicit so Dr. Galvin stated the motion would be for permanent adoption of OAC 252:641 including the amendments to OAC252:641-21-12(a)(2) that within 15 working days after the work has been completed, the certified installer shall submit an accurate completed DEQ Form 641-576A or 641-576S to the local DEQ office. The installer shall pay DEQ a $30 fee each time the installer fails to submit a completed DEQ Form 641-576A or 641-576S within 15 days of completing the work. Also, the vote would be for the amendment to OAC 252:641-23-2(a)(6), where there is a $30 fee as well.

Ms. Ellen Phillips, Assistant Attorney General felt the motion stated by the Chair is a motion on the amendment; therefore, approval was needed for the amendment as stated, and then another vote for approval of the rule as amended. Again Mr. Drake made the motion and Mr. Griesel made the second.
Dr. Galvin then called for the motion for adoption as amended. Ms. Cantrell moved approval and Mr. Coffman made that second.

*transcript pages 142 - 143*

Brita Cantrell    Yes    Steve Mason    Yes
Jack Coffman    Yes    Sandra Rose    Yes
Bob Drake    Yes    Terri Savage    Yes
David Griesel    Yes    Richard Wuerflein    Yes
Jerry Johnston    Yes    Jennifer Galvin    Yes

**Rulemaking – OAC 252:656 Water Pollution Control Facility Construction**

Mr. Lowell Hobbs, Chair of the Water Quality Management Advisory Council, advised that this proposal would have increased non-industrial flow-through and public water supply impoundment and system fees by the rate of inflation since the effective date of the last fee modification, which was on or about July 1, 1993 and the projected inflation rate over the next five years. Additionally, fees would automatically increase every five years thereafter pursuant to any increase in the Consumer Price Index over the previous five years.

Mr. Hobbs explained that after the close of the comment period, the Department received comments from the Oklahoma Municipal League concerning the rule changes. After debate, the Council proposed an amendment that the fee increases be based on the rate of inflation, from the effective date of the last fee modification, through 2007, and removing the fee increase that was projected for the next five years. Additionally, the proposed amendment would change the automatic increase in fees from once every five years, to every year. The Council voted unanimously to recommend that the Board approve the proposed changes to Chapter 656 as amended.

Dr. Galvin called for a motion for permanent adoption as amended. Mr. Johnston made the motion and Mr. Coffman made the second.

*transcript pages 144 - 148*

Brita Cantrell    Yes    Steve Mason    Yes
Jack Coffman    Yes    Sandra Rose    Yes
Rulemaking – OAC 252:690  Water Quality Standards Implementation  Mr. Lowell Hobbs, Chair of the Water Quality Management Advisory Council, advised that the Department’s proposal would update rules concerning the date of the incorporation by reference of certain federal regulations. The change updates the publication date of the federal rules from July 1, 2006 to July 1, 2007 and the Oklahoma Administrative Code in 252:690-1-4. He related that no comments were received during the comment period or at the Council meeting. The Council voted unanimously to recommend that the Board approve the proposed changes to Chapter 690. Dr. Galvin called for a motion for permanent adoption. Mr. Mason made the motion and Mr. Drake made the second.

transcript pages 148 - 150

Mr. Hobbs expressed that he is privileged to represent the members of the Council and to work the DEQ staff. He thanked the Board with appreciation of the confidence shown by its acceptance of Council’s recommendations. In turn, the Board thanked the staff for guidance on the rule changes.

Rulemaking – OAC 252:710 Waterworks and Wastewater Works Operator Certification  Mr. Arnold Miller, Chair of the Waterworks and Wastewater Works Advisory Council, advised that the proposal would amend OAC 252:710-1-12 to increase operator certification fees by the rate of inflation since the effective date of the last fee modification which was on or about July 1, 1994 and the proposed inflation rate over the next five years. Additionally, the proposal would have fees automatically increase every five years thereafter, pursuant to any increase in the Consumer Price Index over the previous five years. Mr. Miller related that the Council had vigorous debate concerning the proposed fee increases. No written comments were received concerning the fee increase during the comment period, but afterwards the Department received comments from the Oklahoma Municipal League.
Following debate, the Council proposed an amendment to the Department’s proposed rule to have one-half of the fee increase go into effect on July 1, 2008 with the remaining fee increase effective July 1, 2009. Mr. Miller noted that Council’s vote was 7 - 2 to recommend that the Board approve the changes to Chapter 710, as amended by the Council. Dr. Galvin called for a motion for permanent adoption as presented. Mr. Wuerflein made the motion and Mr. Coffman made the second.

Mr. Thompson interjected that the Waterworks and Wastewater Works Operator Advisory Council is up for sunset this year but it looks like it will be continued at least for the next four years. He thanked Mr. Miller for going to the Capitol committee meeting.

New Business – None

Adjournment - The meeting was adjourned at 12:30 p.m. The Board’s next meeting will be in Duncan on August 19.
MEMBERS OF THE BOARD

JENNIFER GALVIN - CHAIR, PRESENT
BRITA CANTRELL - VICE-CHAIR, PRESENT
JACK COFFMAN - PRESENT
BOB DRAKE - PRESENT
DAVID GRIESEL - PRESENT
JERRY JOHNSTON - PRESENT
STEVE MASON - PRESENT
SANDRA ROSE - PRESENT
TERRI SAVAGE - PRESENT
RICHARD WUERFLEIN - PRESENT
MIKE CASSIDY - ABSENT
TONY DARK - ABSENT
KERRY SUBLETTE - ABSENT

DEQ STAFF PRESENT
STEVE THOMPSON - EXECUTIVE DIRECTOR
ELLEN PHILLIPS - ASSISTANT AG
JIMMY GIVENS - GENERAL COUNSEL
DON MAISCH - ATTORNEY
MISTA TURNER-BURGESS - ATTORNEY
MYRNA BRUCE - SECRETARY
LOWELL HOBBS - CHAIRMAN OF WQ COUNCIL
GARY COLLINS - DIRECTOR OF ECLS
BILL KROPH - ECLS REGIONAL MANAGER

EDDIE TERRILL - DIRECTOR OF AQD

DAVID BRANECKY - CHAIRMAN OF AQ COUNCIL

JUDY DUNCAN - DIRECTOR OF LSAC

KENNETH CRAWFORD - CHAIRMAN OF LSAC

STEVE WOODS - CHAIRMAN OF RMAC

ARNOLD MILLER - CHAIRMAN OF WWWAC

JAY STOUT - CHAIRMAN OF SWMAC

ELLEN BUSSERT - ADMINISTRATIVE SERVICES
MEETING

DR. GALVIN: Good morning. The February 29, 2008 Regular Meeting of the Environmental Quality Board has been called according to the Oklahoma Open Meeting Act, Section 311 of Title 25 of the Oklahoma Statutes. Notice was filed with the Secretary of State on November 2, 2007. Agendas were mailed to interested parties on February 15, 2007 (sic) and posted at the Department of Environmental Quality, 707 North Robinson, Oklahoma City, on February 27, 2008. Only matters appearing on the posted agenda may be considered.

If this meeting is continued or reconvened, we must announce today the date, time and place of the continued meeting and the agenda for such continuation will remain the same as today's agenda.

Thank you. Let's get started. Myrna, can I have the roll call please.

MS. BRUCE: Good morning. Ms.
Cantrell.

MS. CANTRELL: Here.

MS. BRUCE: Mr. Cassidy is absent. Mr. Coffman.

MR. COFFMAN: Here.

MS. BRUCE: Mr. Dark is absent. Mr. Drake.

MR. DRAKE: Here.

MS. BRUCE: Dr. Galvin.

DR. GALVIN: Here.

MS. BRUCE: Mr. Griesel.

MR. GRIESEL: Here.

MS. BRUCE: Mr. Johnston.

MR. JOHNSTON: Here.

MS. BRUCE: Mr. Mason.

MR. MASON: Here.

MS. BRUCE: Ms. Rose.

MS. ROSE: Here.

MS. BRUCE: Ms. Savage.

MS. SAVAGE: Here.

MS. BRUCE: Dr. Sublette is absent. Mr. Wuerflein.

MR. WUERFLEIN: Here.

MS. BRUCE: We do have a quorum.

I would like to remind us to push the blue
button to talk and pull your microphone
toward your face. That would be a great
aid. Thank you.

DR. GALVIN: Thank you, Myrna.

All right. The next Agenda Item is the
Approval of the Minutes from the November
15th Regular Meeting. Do I hear any
comments or corrections from the Board on
those minutes? They were included in your
packet.

MR. COFFMAN: I move for
approval.

MR. JOHNSTON: Second.

DR. GALVIN: I have a motion and
it has been seconded. Did you have a
comment?

MR. DRAKE: No, I was just going
to second.

DR. GALVIN: Okay. Myrna, please
call the roll.

MS. BRUCE: Ms. Cantrell.

MS. CANTRELL: Yes.

MS. BRUCE: Mr. Coffman.

MR. COFFMAN: Yes.

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

MS. BRUCE: Dr. Galvin

DR. GALVIN: Yes.

MS. BRUCE: Mr. Griesel.

MR. GRIESEL: Yes.

MS. BRUCE: Mr. Johnston.

MR. JOHNSTON: Yes.

MS. BRUCE: Mr. Mason.

MR. MASON: Abstain.

MS. BRUCE: Ms. Rose.

MS. ROSE: Yes.

MS. BRUCE: Ms. Savage.

MS. SAVAGE: Yes.

MS. BRUCE: Mr. Wuerflein.

MR. WUERFLEIN: Yes.

MS. BRUCE: Motion passed.

DR. GALVIN: Thank you. The next item we have on the Agenda is Election of Officers. And at this time, I guess we open the floor for election of the Chair.

MR. DRAKE: I move that we re-elect Dr. Galvin as Chair, please.

MR. GRIESEL: Second.

DR. GALVIN: Any discussion on that? No discussion, Myrna, will you give
us a roll call?

MS. BRUCE: Ms. Cantrell.

MS. CANTRELL: Yes.

MS. BRUCE: Mr. Coffman.

MR. COFFMAN: Yes.

MS. BRUCE: Mr. Drake.

MR. DRAKE: Yes.

MS. BRUCE: Dr. Galvin.

DR. GALVIN: 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. Wuerflein.

MR. WUERFLEIN: Yes.

MS. BRUCE: Motion passed.

DR. GALVIN: Thank you. The floor is now open for election of Vice-Chair for the Board.
Mr. Drake: Madam Chairman, I move that we re-elect Brita as the Vice-Chair.

Mr. Griesel: And I'll second.

Mr. Drake: I move that all nominations cease and we re-elect by acclamation.

Dr. Galvin: Did everyone hear that motion? Myrna, will you take a roll call please?

Ms. Bruce: Ms. Cantrell.

Ms. Cantrell: Yes.

Ms. Bruce: Mr. Coffman.

Mr. Coffman: Yes.

Ms. Bruce: Mr. Drake.

Mr. Drake: Yes.

Ms. Bruce: Dr. Galvin.

Dr. Galvin: 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.
Welcome back ladies.

DR. GALVIN: Thank you. And thanks to the Board for that vote of support.

At this time I would like to turn this over to the Executive Director for some comments.

MR. THOMPSON: Thank you, Madam Chairman. I asked to talk briefly this morning, a little bit out of order, in hopes that maybe something that I said might stick, but I'd rather it be the end to a long day.

The Department has unfortunately, over the last two or three years, dealt with a huge number of emergency issues. When you think about floods, and tornadoes, and ice storms, and oil spills from our friends in Kansas, our efforts relative to
emergency response are more refined than we think wished we were.

The latest thing that the Department was involved in was a problem at the City of Lone Grove, where a pesticide applicator was filling a tank that already contained the pesticide and simultaneously there was a line break. And the pesticide back-siphoned into the public water supply at Lone Grove.

So the Agency had to deal with two issues. We had to deal with the chemical issues from the pesticide, and the city of course, and bacteriological issues as a result of the line break at virtually the same place and at the same time. And so we acted with the city -- to shut the water off in Lone Grove.

Now as you might expect when you cut people's water off, they are really anxious to get it back. And we knew when we did that that we were going to have to work very hard to efficiently and as quickly as possible return that public water supply system to full use.
So we set about to do that, and it did in fact take a couple of weeks to do because this pesticide seemed particularly -- there was a lot of difficulty in removing the residues from the lines, the nature of this particular pesticide. So it took a huge amount of sampling, a huge amount of on-site effort, and a lot of work at nights and over weekends to get this problem solved as quickly as possible.

So I want to take a minute to recognize some of the employees that were important in that effort.

That public water supply system has now been returned to full use with the exception of the home of the pesticide applicator, which continues to be monitored.

So if these folks are here, please either -- well, it looks like there they are. Please come out where people can see you.

Cara Williams, on-site sampling. Anthony Degear, sample analysis. Michael Denette, fairly did everything. Jennifer
Von Fennell, laboratory analysis. Skip Pierce, laboratory analysis. Don Winn, laboratory analysis. Rocky Amenett, coordination of sampling. Monty Elder, the Agencies mouthpiece in emergency issues for coordination of communications with not only Lone Grove, but with the county folks. Jeannette Couch, laboratory analysis. Richard McDaniel, stand up Richard. This is the first time that any of us knew that Richard owned a suit, we're proud of that. David Golden, technical assistance. Debbie Taylor, technical assistance. Kay Coffee, on-site sampling. Greg Carr. Mark Hildebrand. David Mercer, on-site. James Brandon Hall and Don Tullius, on-site sampling. Mike Harrell and David Pruett, coordination of response. Michelle Welch, coordination of analytical results. And again Mike Stickney, who did apparently everything.

If you would, please, join me in thanking these folks for the good work that they did.

Okay, Richard, you can go back to
rescuing small communities now. I hope we don't get to do that again for a while.

I guess I should also report that we have begun -- it's comes so often that we've begun to produce reports, about what we did as an Agency. That became available yesterday. I haven't had a chance to look at it but Judy Duncan tells me it's a very good report, so I look forward to looking at that, and we will be happy to make that available to people that are interested.

But our cost for that one emergency response, when you take analytical cost and the staff time, it was approaching a hundred thousand dollars. It's an issue that you can't budget, and we've had a lot of those lately.

Second thing I wanted to do, you know, I thought it was a good idea, and I've been encouraged to do so by some Board Members, to sort of set the stage for what the Board will be dealing with today.

Early last fall, David Dyke, who is our Administrative Services Director, informed me that he believed that the
projected shortfall for the Agency in FY '09, which is the year beginning July 1st of this year, that the shortfall would be 6.4 million dollars. And that we had -- while we always have a couple of divisions that were struggling to meet their operational costs, we had a third rather large division that had joined them. David is sick today, I don't know if there is a relationship between that and this, but anyway Shelly is here. And that 6.4 million dollar shortfall was caused by a number of things.

The first and probably one of the most important is increasing personnel costs to try to remain at least marginally competitive in an exploding job market in the state of Oklahoma. We have become aware that we are unfortunately paying professional engineers at the same rate that some people are paying interns. We have over the last two years suffered a three point million dollar shortfall in legislatively mandated salary increases. We have increasing cost for the
Agency, for agency contributions, for both retirement and insurance benefits. And those have not stabilized, they continue to escalate. We have increasing federal mandates with flat or declining federal funding.

For the first time, a couple of years ago -- not this year but last year, we declined to accept a federal program in the drinking water program. And it appeared to us without some change, there were a lot more federal programs that we were not going to be able to accept at the state level.

And for an agency that drives a lot to do inspections and complaint response in enforcement and compliance issues, we're paying the same three dollars a gallon for gas that everybody else is, among other escalating costs. So given that I asked the Division Directors to go make fee cases before the Councils and the result of that effort is before you today.

Now everybody kind of hold your breath, the cumulative fee increase that
you will be considering today, amounts to
5.8 million dollars.
Now, I think that the Board,
probably more than most, understands that
the Councils do not take their
responsibilities lightly. And I can tell
you from personal experience that they were
particularly diligent in reviewing the
issues that the Agency brought before them
and held the Department accountable to make
those fee cases. These decisions were made
after a lot of very long Council meetings
and in some cases multiple Council
meetings, to have these decisions made.
But the Councils did ultimately pass the
fees unanimously, if not joyously, in every
case with the exception of one individual
fee issue which received one dissenting
vote.
So I wanted to set the stage for
what you are going to hear today, and for
your consideration. With that Madam
Chairman, I'll hand it over to you.
DR. GALVIN: Thanks, Steve. And
I know if you have looked at the Agenda,
that's certainly a lot of the things that we have to discuss -- discuss today involves fee increases and we're about to begin hearing about those.

ITEM NUMBER 5

DR. GALVIN: So let's move on to Item Number 5 on the Agenda, which is Air Pollution Control, OAC Title 252, Chapter 100. And I believe we have David Branecky here to present that information.

MR. BRANECKY: Thank you, Madam Chair, Members of the Board. There are actually two issues we have before you today. Subchapter 5, which deals with fee increase, and the other is a revision of Subchapter 24. So we will deal with that after we address Subchapter 5.

I don't know if I agree with Mr. Thompson. I don't know if we passed this joyously, but we passed it unanimously.

MR. THOMPSON: I said you thought -- I may have misquoted -- I said you did it unanimously, but I didn't think it was very joyously.
The Air Quality Council recognized the need and certainly support the need for an Air Quality Program in Oklahoma. But we felt that we wanted to fully fund it adequately, but at the same time we recognized the potential burden on the regulated community; both minor sources, the small businesses, and the major sources in Oklahoma.

We have a lot of details in your Board packet. I'm not going to go through all those details, I will go through some of the highlights of what we ended up with. We started this process last June, our last meeting February 5th, the fee increase was the only item on that agenda and we spent four hours discussing that fee increase. We struggled with it but we eventually did pass it unanimously.

One of the things that I think -- one of the major things that came out of it, and it's also in your packet, is the Resolution from the Council, asking that DEQ pursue the concept of mobile source fees. We've done that before in the past,
but mobile sources are a significant part of the air pollution in Oklahoma, if not the major portion. And we feel that industry pays its way. Mobile sources, if they contribute to the pollution in Oklahoma, should pay some part of funding of the program. So that's why we passed the Resolution asking the DEQ to pursue some type of funding through the Legislature for mobile source fees.

To help with that, in the language in the rules, we put language that said if DEQ was able to obtain additional funding, that the fees that are proposed in the rule -- the $25.12 for minor sources, and the $32.30 for major sources, would be reduced based on the amount of additional funding that was attained maybe through the Legislature. So we had that language put in there.

DEQ at the same time also agreed there was some concern from the Council and from industry and the regulated community that we would like to make sure that DEQ is spending their money properly. And so DEQ
agreed to a third-party audit that will be
done sometime in the near future. The
Council will be working with DEQ and its
staff on some protocol and finding a
consultant to do that. And the Finance
Committee -- we have a subcommittee of the
Council Finance Committee, which will be
reviewing the Air Quality budget yearly, to
make sure that the funding is adequate or
the funding is more than adequate. We
eventually did pass it unanimously. But we
felt like we needed to have some controls
to make sure that the regulated community
would not be an over-burden, and at the
same time the Division is getting the money
that they needed.

With that, I'll be happy to answer
any questions. Any hard questions, I have
staff here that will answer that.

MR. THOMPSON: We really
appreciate the work of the Council on this
thing. We have agreed and we are -- when I
talked to David this morning, we are going
to try to get together a group of people to
help us work on the mobile source fees in
the near future.

One minor correction relative to the third-party audit. What we will do is work with the Finance Committee and the Air Quality Council to develop the RFP, and we will provide the funding. The actual selection of the audit firm will be done by the Department of Central Services. So that's the way the typical state process is. So we will look to the Department of Central Services to determine the auditor, but we will work with the Council to guide the request for the proposal, that will guide DCS's decision.

DR. GALVIN: Any comments from the Board? Richard.

MR. WUERFLEIN: Just a couple of questions. You mentioned the state mandates were almost a half a million higher than the proposed fee increases today. Are we looking at just belt-tightening or just the mobile source fee proposal that would cover that gap?

MR. THOMPSON: Well, these are projections. When David came to me -- what
we're doing is projecting in the coming
year. And what he was doing was projecting
in the coming year.

I think as we got to the Councils
and we were refined to the issue, we found
some belt-tightening, some flexibility.
But it was a guess and we wanted to be as
conservative as possible to try to meet
that -- to try to accommodate that
projection. I wouldn't want to take credit
for belt-tightening. We're just trying to
meet what we think -- it's a guess in the
future and we're trying to get into the
range of what we need.

Fees fluctuate back and forth and it
may well be that these fees will generate
somewhat more or somewhat less. But we'll
just have to monitor that.

DR. GALVIN: Any other questions
or comments from the Board?

MR. JOHNSTON: My name is Jerry
Johnston, and I serve on the National
Committee that meets directly with the EPA.
And all the problem isn't right here. The
Board meeting we had with the
Administrator, they openly admitted that there is a shortfall of something like over 12 million dollars between the rules they hand down and the money it takes to do them. So those things come down with no money or very little money to the state. So it starts way up above us. It's not all here that the problem is.

DR. GALVIN: Steve.

MR. MASON: I would presume most of our customers here live on budgets, and their budgets for this year were done six months ago. So is there any discussion about this 30 percent fee increase for those that live on budgets and given a years notice?

MR. BRANECKY: Well, I think last year the Air Quality Division gave us a feel for what we could expect in a worst-case. So at least for my company I knew the worst-case scenario and I budgeted accordingly hoping that it would come in less. We started this process last June. Maybe Eddie can add to that.

MR. TERRILL: It's also possible
that we won't bill this full amount too.

But one of the major things we've done is we've stopped billing before the end of the fiscal year. In other words, in the past what we've done, is we would bill in the March-April time frame. And then some of the money would come in before the end of the fiscal year, some would come in after. Some companies were paying on a quarterly basis. That can create a real confusion, because -- I'm not a government accountant, but it was apparent to us that we were having a real problem being able to balance the books, if you will, because we had money coming in in different fiscal years and it was just a mess.

What we are doing, starting with this fiscal year, we're not going to bill for this year until after July 1st or towards the end of June or maybe after July 1st, depending on when the Legislature approves this. And that's what we're going to do in the future so we can get as close to the end of that fiscal year to know if we've got money that we're going to
carryover. If we are going to carryover money, then we will reduce what we would bill by that amount. Because I don't need to have a huge balance that I carryover at the end of every year. So that's part of the commitment we made to work with the finance committee, so they can see where we are. If we are not able to fill 10 positions during the year and we have money at the end of the year, we would reduce what we would bill by that amount. And if we can get additional money from somewhere else, we will reduce for that. We've got an "up-to amount" that we will bill to, but it's got language in there that says we will reduce that if we have carryover money or if we have money from other sources. So we're mindful of that. But we are hopeful that this year, that we won't have to bill that full amount, because it doesn't look like we are going to get the cuts at the federal level that we thought we were going to get. And they also didn't roll in our PM 2.5 grant into the base, they have kept that separately, which they said they were
not going to do.

So we think there may be some things so we don't have a huge deficit bigger than we think that we may not have to bill that full amount. We're mindful of that too.

We don't want it to be burdensome, but we hope that the message got out there enough so that folks can at least have some warning that this might happen. But we're hopeful that we won't have to bill that full amount this year.

DR. GALVIN: Any other comments from the Board?

I would just like to ask David to give the general public a sense of how much the actual increases are. For example, three dollars per ton for minor facilities, and how we compare to other states. And you can do that generally, I don't have to have --

MR. BRANECKY: I'll probably let Eddie do that.

MR. TERRILL: What we're doing -- the base fee, which was the fee that we had in our rule that we calculated from the CPI
from -- I think the last time we did a fee case was 2002 or 2003 was $22.28, what we're actually going to bill this year is $25.12, if we had not gotten the fee increase. And that's what the minor sources will be billed at this year with no CPI addition in the future. So that will go to $25.12 which is -- I don't know what we billed last year, but it's about 45 or 50 cents higher than what we billed last year due to the CPI.

The major sources, in the worst-case scenario, would go from what we projected $25.12 to $32.30. And then from that point the CPI will be added on next year at it will be an "up-to amount". So it's about a $7.18 increase.

How we compare to other states, it's kind of like comparing apples and oranges because some states have fees for doing inspections. Some FIP states have fees for -- a lot higher fees for writing permits. We didn't really want to do that in this case, because we felt like there needed to be a lot more thought given to what we
would move, say the Title V fee permit to, because of the Department of Commerce relies on that as part of their selling tool when people come in. And we do have a relatively low permitting system. So there is some room to do some adjustments there in the future, but we decided to just focus on the Title V fee because we did have just a demonstrative shortfall in our personnel costs. We are not adding any new personnel. We are not adding any new programs. It's just to make up the personnel costs and because we have been able to avoid Title V increases other than CPI, we felt like that's where it needed to hone in on for this particular exercise. We did a -- I think it was in the Board packet, we did have a chart that we did show what some of the other states are charging. And it ranges from Arkansas at $20.96. Colorado at $22.90, but they have a hazardous air pollutant fee of $152 per ton. Iowa is at $35.20. We are -- by raising our fee we're a little bit higher than Kansas and Arkansas, but we are in
line with everybody else in the region or
less. So we really should have done this a
couple three years ago. By putting it off
and by getting some money through the
Legislature, we were able to avoid having
to do this. And it just finally caught up
with us.

DR. GALVIN: Any further comments
from the Board? Does anyone in the general
public have any comments, questions?

All right, hearing or seeing no
activity out there, David, you're asking us
to --

MR. BRANECKY: Pass it as a
permanent rule.

DR. GALVIN: Any further comments
from the Board? Do I hear a motion?

MR. JOHNSTON: I move to approve.

MR. MASON: I will second the
motion.

DR. GALVIN: All right, Myrna,
the motion was made by Jerry and seconded
by Steve --

MR. WUERFLEIN: Point of
clarification, please?
DR GALVIN: Okay.

MR. WUERFLEIN: How much of the Air Quality proposal is this motion covering? Is it just the first stapled package or the whole --

MR. BRANECKY: Just Subchapter 5.

MR. WUERFLEIN: Okay.

MS. BRUCE: Ms. Cantrell.

MS. CANTRELL: 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. Wuerflein.

MR. WUERFLEIN: Yes.
MS. BRUCE: Dr. Galvin.

DR. GALVIN: Yes.

MS. BRUCE: Thank you. Motion passed.

DR. GALVIN: All right, David, can you introduce Subchapter 24.

MR. BRANECKY: Yes. This one will be a little bit more simple. We're proposing to revise Subchapter 24 which deals with particulate matter emissions from grain, feed, or seed operations. There are really three changes. The first one is they had a reference in there to Subchapter 41, which no longer exists, 41 was replaced with Subchapter 42 a while back. So we're making that change in this rule to reference Subchapter 42 instead of 41. We are changing the word requirements to specifically say what the requirement is which is a 20 percent opacity limit. And then on the back page, we're proposing to strike the words "at any time". Because the way that you measure
opacity is through an EPA records method number 9 and it has a set time. It's a six minute average, and you take it over 30 minutes. By having the words "at any time" you could apply an instantaneous reading, which is inconsistent with the way the method should be done. So we're striking that and using EPA records method to measure the 10 percent opacity.

DR. GALVIN: Any questions from the Board? Any questions from the public? Hearing none, do I hear a motion?

MR. COFFMAN: I move to adopt.

MR. DRAKE: I second.

DR. GALVIN: All right. I have a proposal to adopt the changes that were proposed for Subchapter 24. Myrna.

MS. BRUCE: Ms. Cantrell.

MS. CANTRELL: Yes.

MS. BRUCE: Mr. Coffman.

MR. COFFMAN: Yes.

MS. BRUCE: Mr. Drake.

MR. DRAKE: Yes.

MS. BRUCE: Mr. Griesel.

MR. GRIESEL: Yes.
ITEM NUMBER 6

DR. GALVIN: Moving on to the next Agenda Item, which are proposed changes to Laboratory Accreditation, and we have a presentation by Kenneth Crawford.

MR. CRAWFORD: Good morning, everyone. I'm Kenneth Crawford, Chair of the Laboratory Advisory Council.

We would like to revoke a chapter and put a new one in place.
The Laboratory Accreditation Rule provides standards for accreditation of privately and publicly owned environmental laboratories for the performance of analysis of water and wastewater. The DEQ proposes to revoke Chapter 300 and replace it with a new Chapter 301. Besides the reformatting, changes include updated proficiency testing rules, supplemental studies, a fee increase provision for an automatic fee adjustment for inflation. The Laboratory Service Advisory Council discussed the need for these rule changes at meetings on September 26 and December 20. The proposed rules were drafted and brought before the Council for a vote at our regular meeting this January 30th, at which time the Council voted overwhelmingly to recommend the rule change and to bring it to the Board for adoption.

I would like to -- there is a little thing that we would like to bring to your attention that -- needing clarification in the new Chapter 301 regs.

It's in Section 252, Chapter 301-1-
The second line of the first sentence of this section refers to laboratory "services" program, okay. We request that this reference be changed to the laboratory "accreditation" program.

The laboratory accreditation program is supported solely by fees which have not been adjusted since 1994. The DEQ has functioned the last few years with only one laboratory accreditation inspector and has been unable to provide timely and effective inspections at this staffing level. The program is vulnerable to failure should that one individual leave or be unavailable for any reason. A second staff person will allow the program to provide better service and also provide greater stability to the program in the future. This proposal will increase fees by 34.2 percent and it's based upon increases in the Consumer Price Index for the time period since fees were last adjusted and established a process for annual adjustment of fees based upon the changes in the CPI.
Judy Duncan or myself will be happy
to entertain any questions that the Board
may have.

DR. GALVIN: Are there any
questions from the Board? Go ahead, Brita.

MS. CANTRELL: I have one
question. In our packets -- under
definitions, and it's the first definition
for "acceptable results", as it's defined
in the proposal, it means a result within
the limits determined on the basis of
statistical procedures as described by the
Department. Where would we find the
procedures described by the Department, or
how is that being addressed by the rules?

Mr. Crawford: The acceptable
results as the program has stated, we, the
laboratories, perform evaluation samples at
least twice a year with the vendors that we
purchase these studies from -- materials
from. They have established a passing
criteria on these analytes that we analyze.
Those are based upon NELAC standards,
calculations, and stuff like that, that the
program takes care of.
The DEQ reviews our analytical results from these tests, and it will be when we are evaluated by passing or failing. And that's based upon percent recoveries on these analytes and that ranges like I said, done statistically based upon NELAC rules and regulations. And DEQ just makes sure, verifies that we are passing in those analyte ranges -- those passing ranges.

DEQ really doesn't have a formula that they have come up with and established a passable range for this analyte. That's done by another entity and enforced by our vendors and such.

MS. CANTRELL: Kenneth, if I may, are you part of the National Quality Assurance Program?

MS. DUNCAN: Not as such. What we do is we follow the consistent standards that have been developed by, as Ken mentioned, NELAC -- the National Environment Laboratory Accreditation Conference. And that is the -- in the past it's been a voluntary conference of the
creditors of environmental laboratories.
Within the last two years that has
transitioned to a not-for-profit agency --
or not-for-profit organization that
oversees this, which is the NELAC Institute
or TNI. TNI has a set of rules that are
the NELAC standards that they follow for
oversight of -- to establish an oversight
system for people to produce proficiency
exams. And part of that oversight is to
look at how and establish how the
acceptable limits are set. And the
proficiency testing providers must then
follow those procedures. And all of that
can be found on the website for the TNI
Institute, all of that is right there. And
we have over the years, gradually changed
our laboratory accreditation standards so
that they conform with these voluntary
proficiency procedures -- or voluntary
standardized procedures.

MS. CANTRELL: Thank you.

DR. GALVIN: Any other questions
from the Board? Any questions from the
public? Hearing none, do I hear a motion
from the Board?

MR. MASON: I would move approval including the suggested changes.

DR. GALVIN: Do I hear a second?

MR. COFFMAN: Second.

DR. GALVIN: The motion for approval has been made and seconded.

Myrna, will you give us a roll call.

MS. BRUCE: Ms. Cantrell.

MS. CANTRELL: 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. Wuerflein.
MR. WUERFLEIN: Yes.

MS. BRUCE: Dr. Galvin.

DR. GALVIN: Yes.

MS. BRUCE: Motion passed.

DR. GALVIN: Thank you.

ITEM NUMBER 7

DR. GALVIN: We will move to the next Agenda Item which is again addressing Laboratory Services. Kenneth Crawford will give us that presentation.

MR. CRAWFORD: Thank you very much. Amendments are proposed to OAC 252, Chapter 305 regs, the Laboratory Service rule. The purpose of this rule is to establish fees for the Department of Environmental Quality State Environmental Laboratory. The SEL provides laboratory services to public water supplies in the state, subdivisions of the DEQ, other state and federal agencies, Indian tribes and private citizens. These fees were last reviewed in 2005 and adjusted in 2006. Since that time cost of laboratory supplies, equipment, maintenance and
personnel have all risen. This proposal would increase fees by 6 percent based upon increases of the Consumer Price Index for 2006 and 2007. An annual adjustment of the fees will then be made based upon the CPI on July 1st of every year, although the DEQ could wave collection of the automatic fees if other revenues have increased sufficiently to make the funds generated by the automatic adjustment unnecessary for that year.

There are over 250 individual fees in this rule, ranging amounts from $8 to $450. Each individual fee will be increased at 6 percent. The increased fees will range from $8 then to $477 each. The fee increase is expected to generate $120,000 in new income for a total of $2,136,000.

The Laboratory Services Advisory considered these rule changes at their regular meeting on January 31st, at which time they voted overwhelmingly to recommend the changes to the EQ Board for adoption.

Once again, Judy Duncan and I will
be happy to entertain any questions
concerning these changes.

DR. GALVIN: Thanks, Kenneth.

Any questions from the Board? Any
comments?

Any questions or comments from the
public?

Seeing none, do I hear from the
Board a motion to adopt 305 Laboratory
Services, as proposed?

MS. CANTRELL: I move to adopt.

DR. GALVIN: Do I hear a second?

MR. COFFMAN: Second.

DR. GALVIN: We have a motion on
the floor to adopt Laboratory Services OAC
252 Subchapter 305.

Myrna, will you please take the roll
call.

MS. BRUCE: Ms. Cantrell.

MS. CANTRELL: Yes.

MS. BRUCE: Mr. Coffman.

MR. COFFMAN: Yes.

MS. BRUCE: Mr. Drake.

MR. DRAKE: Yes.

MS. BRUCE: Mr. Griesel.
ITEM NUMBER 8

DR. GALVIN: Moving on to Agenda Item Number 8, we are going to hear about proposed changes in the Radiation Management Standard. And our presentation will be by Steve Woods.

MR. WOODS: Thank you, Madam Chair, Members of the Board. Good morning.
I'm Steve Woods, Chairman of the Radiation Management Advisory Council. The Council request that the Board approve rule changes to our x-ray rules. These proposed changes do not modify any fees, but clarify the rules by using standardized language. The change also attempts to clarify some language on calculating fees for radiation producing machines that has proven confusing to some users and an example is given at the bottom of Appendix A. These proposed changes have not caused any adverse effect or any adverse comment and we do not believe there is any negative effect on any person or entity in the state.

On behalf of the Radiation Management Advisory Council, I ask that you approve the proposed changes. I would be happy to answer any questions that you may have.

DR. GALVIN: Any questions from the Board?

Steve, I have one. In our packet we have Appendix A marked revoked, and then we
have an Appendix A new; is that what we'll
be voting on?

MR. WOODS: Yes, the revoked rule
will be replaced by the new Appendix A.

DR. GALVIN: Any other questions
from the Board?

Any questions from the public?

Seeing none, I bring it back to the
Board for a proposal.

MR. DRAKE: This is not going to
cost us anything. And it's not going to
cause any problems out there anywhere, it's
just proposing some changes. So I
enthusiastically make a motion to approve
this.

MR. JOHNSTON: I enthusiastically
second that.

DR. GALVIN: Any other
clarification from the Board? All right,
we have on the floor a proposal to adopt
changes --

MS. BRUCE: We need to call the
roll.

DR. GALVIN: Yes. I was going to
recite that.
MS. BRUCE: Oh, I'm sorry.

DR. GALVIN: We have on the floor
to adopt the changes to OAC 252:410
Radiation Management.

Okay, Myrna, would you please take
the roll call now.

MS. BRUCE: I was
enthusiastically wanting to call the roll.

Ms. Cantrell.

MS. CANTRELL: 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. Wuerflein.
MR. WUERFLEIN: Yes.

MS. BRUCE: Dr. Galvin.

DR. GALVIN: Yes.

MS. BRUCE: Motion did pass, enthusiastically.

DR. GALVIN: Thank you.

MR. GIVENS: Madam Chair, may I interrupt for just a moment?

There was a question asked of me just a moment ago that may be worth clarifying right now.

Back on Chapters 300 and 301, the motion may have only referred to Chapter 301. I just want to clarify that the sense of the Board in adopting that was that they were not only adopting new Chapter 301, but also revoking old Chapter 300.

DR. GALVIN: Jimmy, thanks for bringing that up. Is that the sense of the Board and should we bring that to another vote; or is that the sense of the Board, that we were revoking 300 and approving 301?

MR. MASON: That was my motion.

DR. GALVIN: It was your motion.
Hearing no concern from the Board -- Jimmy, does that take care of your concern?

MR. GIVENS: Yes. Thank you.

ITEM NUMBER 9

DR. GALVIN: We'll move on to Solid Waste Management. And we have a presentation by Jay Stout.

MR. STOUT: Thank you, Madam Chair. The revisions that we bring to you today result from Senate Bill 747, which was statutory in nature, effective July '07. We recommended approval of the same. The changes require waste tire facilities, tire derived fuel facilities and entities involved in erosion control, such as qualified applicants -- or also known as qualified applicants, to submit request for reimbursement to the DEQ. To concur with the statute, the rule changes required qualified applicants to demonstrate that at least 2 percent of the waste tires are collected from illegal dumps, or landfills, or priority cleanup lists of community-wide cleanup events, as opposed to the previous
5 percent.

The rule changes also clarify the authority with respect to the manifest requirement, tire dealer inspections and motor license agent inspections. DEQ approval upon completion of the collection efforts must be obtained.

And then in the very last part of the 252:515, there is a typo error that we would like to insert where -- the word "applicant" -- and this is 71(b), the word "applicant" after the word "qualified" be inserted to bring continuity to this.

Are there any questions?

Hearing none, thank you.

DR. GALVIN: Thank you, Jay. I would just like to clarify for the Board before I ask for comments, that we will have to have three votes. The reason being, this is a request for an emergency need. So we will have to agree that first of all that there is an emergency need; then we will have to vote on the emergency rule; and then adopt a permanent rule. So I wanted to make that clear up-front so
that there's not a whole lot of confusion.

And with that, I'd like to ask for comments from the Board.

MR. COFFMAN: Just a question on what's driving the reduction from 5 percent to 2 percent?

MR. STOUT: You would have to ask the State Legislature that question. Nothing was shared, maybe staff can respond to that.

MR. THOMPSON: I'll respond to that, Mr. Coffman. This was neither the request nor the desire of the Agency. In fact, we believe that the number of waste tires are going to grow as a result of this reduction. And I have asked staff to monitor that over this coming year. And if we see an increase in the number of tires in tire dumps, we fully intend to go back to the Legislature and ask that that be reinstated at 5 percent.

There is about 350,000 tires in dumps now, which is pretty good. But at 2 percent, we can mandate 60,000 tires -- 60 or 70. That means that those existing
tires are going to take five years to clean
up. And that doesn't anticipate additional
tires in dumps, which we certainly believe
will occur. So we're going to watch it.

MR. COFFMAN: Thank you.

MR. THOMPSON: I would also like
to add to the enthusiasm of the Board, this
is two in a row where there is no fee
attached to it.

MR. STOUT: In addition to those
 comments, the industry certainly was not
happy over the reduction of 5 percent to 2
percent.

MR. MASON: I'm okay with the
rule, but as far as finding an emergency,
no one seems to be excited about the rule.
And I don't see how it is an emergency,
reducing it from 5 percent to 2 percent.

MR. THOMPSON: If I could address
that. I think there's two reasons that we,
the Agency, would really like to see this
done as an emergency.

One is that this 2 percent thing,
there has been discussion about the nature
of whether this means 2 percent per year or
whether this is a rolling average and we
really need to get that clarified if we're
going to at least get the 2 percent picked
up.

The second is that there is a change
in the way that it has been proposed and
the way that proration occurs. And it is
an issue that -- we are going to face
proration in the near future, and we would
like to have that clarified as quickly as
possible. We could have made the
administrative decision relative to how
proration is done. We chose instead to do
what we always do, and seek the advice of
our Boards and Councils on that issue. And
so we would just like to have quite
frankly, all of that clarified as quickly
as possible.

DR. GALVIN: Any further comments
or questions from the Board? Any questions
from the public?

Seeing none, do I hear a motion to
move for an emergency -- that we agree that
there is an emergency need.

MR. JOHNSTON: I so move whatever
that wording needs to be.

MR. DRAKE: Second.

DR. GALVIN: I have a motion on
the floor that we need to vote on that the
Board agrees or disagrees that there is an
emergency need to pass, Management of Solid
Waste 252:515. Myrna, would you take a
vote.

MS. BRUCE: Ms. Cantrell.

MS. CANTRELL: 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: Yes.

MS. BRUCE: Ms. Savage.

MS. SAVAGE: Yes.

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

MS. BRUCE: Dr. Galvin.

DR. GALVIN: Yes.

MS. BRUCE: Motion passed.

DR. GALVIN: Thank you. Now as I say, we will move to -- we will ask the Board -- is there any further discussion on this, either from the Board or the public? We will now have to move to adopt this as an emergency rule. Are there any further questions?

MR. JOHNSTON: I so move we adopt it as an emergency rule.

MR. COFFMAN: Second.

DR. GALVIN: I have a motion from Jerry Johnston and a second from Jack Coffman, that we adopt 252:515 as an emergency rule.

Myrna, will you take the roll call.

MS. BRUCE: Ms. Cantrell.

MS. CANTRELL: 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: Yes.

MS. BRUCE: Ms. Savage.

MS. SAVAGE: Yes.

MS. BRUCE: Mr. Wuerflein.

MR. WUERFLEIN: Yes.

MS. BRUCE: Dr. Galvin.

DR. GALVIN: Yes.

MS. BRUCE: Motion passed.

DR. GALVIN: Thank you. Now as indicated to me by counsel, we need to take a vote and adopt this as a permanent rule.

Are there any comments or questions from either the Board or the public on that issue?

All right. Hearing none.

MR. COFFMAN: I move for permanent adoption.

MR. DRAKE: And I second based on
what Mr. Thompson said, that they would be
continuing to look at this, because we know
this is probably not good. So I second.

DR. GALVIN: Thanks, Bob. We
have a motion on the floor from Jack
Coffman and seconded by Bob Drake, that we
do adopt 252:515 as a permanent rule.

Myrna, please take the roll.

MS. BRUCE: Ms. Cantrell.
MS. CANTRELL: 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. Wuerflein.
MR. WUERFLEIN: Yes.

MS. BRUCE: Dr. Galvin.

DR. GALVIN: Yes.

MS. BRUCE: Motion passed.

DR. GALVIN: Thank you.

MR. STOUT: Thank you.

DR. GALVIN: Thanks, Jay.

ITEM NUMBER 10

DR. GALVIN: Moving on to Agenda Item Number 10, we are going to have a presentation on Oklahoma Pollution Discharge Elimination System Standards. And that will be presented by Lowell Hobbs, who is Chair of our Water Quality Management Advisory Council.

MR. HOBBS: Thank you. I want to tell you right off that I appreciate the magnitude of your responsibility as Board Members of this Board. If you look at the Agenda, the spaces that our Water Quality takes up, you'll know that we've had a pretty busy year.

I'm an original member of the Water Quality Management Advisory Council, when
it was first incepted. When I was first
appointed to this Council, I also started
serving as a member of the National Beef
Promotion and Research Committee.

And I live 7 miles from our Post
Office and I found out that the postal
carrier is not only paid on the amount of
mail he delivers but the mileage. And in
our little small town of Haskell, Oklahoma,
because of my position of starting to serve
on these two Boards and with the amount of
paperwork that I got, they developed a
third rural route. And with my military
level, he buys me breakfast.

I say that quite seriously, because
I understand the magnitude of the paperwork
that you all have to review, to understand
what you're voting on. And I'll tell you
at the same time, that the Water Quality
Management Advisory Council is composed of
some very sophisticated people who take
this matter quite seriously. We get a lot
of paperwork, they deal with that. We have
an excellent staff. We have excellent
minds on that Council. We peruse this and
act on it very seriously and very
thoroughly.

We have learned through that process
a term that I call utmost good faith.  I
know that you all have some of that built
into your positions here, to have some
utmost good faith, and those that serve you
in these Councils, presenting this
information to you.

Now on with the business at hand.

Our first presentation to you has to do
with Oklahoma Pollution Discharge
Elimination System Standards, Chapter 606.

Now I'm going to read this to you and I
know that you've had a chance to look at
this.  But I hope that as we review this,
you will have a chance to reflect on what
you've read and what you understand was our
decisions as the Water Quality Council.

We went into session to update the
rules concerning the Oklahoma
Administrative Code 252, Chapter 606.

The Department proposed to change
the date of the incorporation by reference
of certain federal regulations by changing
The publication date of the federal rules from July 1, 2006 to July 1, 2007 in OAC 252:606-1-4.

The Department proposed to revoke Appendix B, Appendix C, Appendix D, Appendix E, and Appendix F, of Chapter 606 and replace each appendix with a new appendix.

The Department proposed each new appendix would have increased OPDES permit and annual fees by the rate of inflation since the effective date of the last fee modification, which was on or about July 1, 1999 and the projected inflation rate over the next five years.

Additionally, the Department proposed to have fees automatically increase every five years thereafter pursuant to any increase in the Consumer Price Index over the previous five years.

The Council had vigorous debate concerning the proposed fee increases. I'm sure a lot of people back here say that we had a vigorous debate and we did.

I might mention that we don't have
the treats but I'm -- Myrna, think about us
next time when we have these meetings.

(Response)

MR. HOBBS: The Department received written comments concerning the
fee increase, and oral comments were
received during the Council meeting. These
comments and the Department's responses are
reflected in Executive Summary for Chapter
606.

After the close of the public
comment period, and after the Council took
action on the proposed rules, and after the
completion of the documents for this Board
meeting by the Department, the Department
received comments from the Oklahoma
Municipal League concerning the rule
changes. A copy of the comments are
contained in your documents provided by the
Department.

After receiving the comments and
debate by the Council, the Council proposed
an amendment to the Department's proposed
rule changes concerning the fee increases.
The amendment was for the fee increase to
be based on the rate of inflation, from the
effective date of the last fee modification
through 2007, removing the fee increase
that was projected for the next five years. Additionally, the proposed amendment would
change the automatic fee increase in fees
from once every five years to once every
year.

The Council voted unanimously to
recommend that the Board approve the
changes to Chapter 606 is amended by the
Council.

I was smart enough to bring my
attorney with me. If any of you have any
questions, I'm probably going to refer
those technical things to him.

DR. GALVIN: Thank you. Are
there any questions from the Board?

MR. COFFMAN: I have a question.

Can you give me a flavor of why you are
recommending annual increases on the CPI
from here on instead of the five-year? Was
it because the jump was so large?

MR. HOBBS: Yes, that is correct.

We were concerned -- a lot of the debate
was over whether you take a hit -- a big
hit every five years or take a little hit
each year. And we unanimously decided to
do it incrementally, rather than once every
five years.

MR. HOFFMAN: Thank you.

DR. GALVIN: Any other questions from the Board?

MR. WUERFLEIN: Lowell, I missed your Council meeting. How many hours did you meet this time? The other Councils --

MR. HOBBS: We were here about three weeks. It was a long --

MR. WUERFLEIN: I missed that on purpose.

MR. HOBBS: I got to go home in time for breakfast the next morning.

You're glad you missed it. We had some spirited debate, I can tell you. It was a lively time.

DR. GALVIN: Any questions or comments from the public? All right, I'll bring it back to the Board. Have you thought of any other comments or questions?

If not, I'm looking for a motion on OAC
252:606 as amended; and Appendices A, B, C, D, E, and F, are revoked. And those are provided new in your packet. Do I hear a motion from the Board?

MR. GRIESEL: So moved.

DR. GALVIN: Do I hear a second?

Mr. Wuerflein: I second.

DR. GALVIN: Thank you. Myrna, will you take a roll call please?

MS. BRUCE: Ms. Cantrell.

MS. CANTRELL: 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.
ITEM NUMBER 11

DR. GALVIN: Moving on to Agenda Item Number 11, General Water Quality.

Lowell Hobbs is up again.

MR. HOBBS: This is Title 252, Chapter 611. The Department proposed to the Council to update its rules concerning the date of incorporation by reference of certain federal regulations. The change updates the publication date of the federal rules from July 1, 2006 to July 1, 2007 in the Oklahoma Administrative Code 252:611-1-3.

There were no comments received during the comment period or at the Council meeting. The Council voted unanimously to recommend that the Board approve the changes to Chapter 611.
DR. GALVIN: Thanks, Lowell. Do I have any comments or questions from the Board? Seeing none, are there any questions or comments from the public?

All right. Hearing none, I'll bring this back to the Board. Do I hear a motion to adopt OAC 252:611 as proposed?

MR. WUERFLEIN: I move to adopt Chapter 611.

MS. CANTRELL: I second.

DR. GALVIN: Thank you. Myrna, can I have a roll call?

MS. BRUCE: Ms. Cantrell.

MS. CANTRELL: 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.
1                  MS. ROSE:   Yes.
2                  MS. BRUCE:   Ms. Savage.
3                  MS. SAVAGE:   Yes.
4                  MS. BRUCE:   Mr. Wuerflein.
5                  MR. WUERFLEIN:   Yes.
6                  MS. BRUCE:   Dr. Galvin.
7                  DR. GALVIN:   Yes.
8                  MS. BRUCE:   Motion approved.
9                  DR. GALVIN:   Thank you.
10
11                        ITEM NUMBER 12
12                  DR. GALVIN:   Agenda Item Number
13 12, Industrial Wastewater Systems. This is
14 a fee increase proposal and Lowell Hobbs
15 the Chair of the Water Quality Management
16 Advisory Council will give us that
17 proposal.
18                  MR. HOBBS:   Thank you, again.
19 This is Title 252 still, in Chapter 616.
20 The Department proposed to amend OAC
21 252:616-3-3.
22 The amendment would have increased
23 non-discharging industrial wastewater
24 system fees by the rate of inflation since
25 the effective date of the last fee
modification, which was on or about July 1, 1997 and the projected inflation rate over the next five years.

Additionally, the Department proposed to have fees automatically increase every five years thereafter, pursuant to any increase in the Consumer Price Index over the previous five years.

The Council debated the proposed fee increase. The Department did not receive any written comments concerning the fee increase and there were no oral comments received during the Council meeting, except for the debate by the Council Members. The Council debate is reflected in the Executive Summary for Chapter 616.

After debate by the Council, the Council proposed an amendment to the Department's proposed rule changes concerning the fee increases. The amendment was for the fee increase to be based on the rate of inflation, through the effective date of the last fee modification, through 2007, removing the fee increase that was projected for the
next five years. Additionally, the proposed amendment would change the automatic increase in fees from once every five years to every year. The Council voted unanimously to recommend that the Board approve the changes to Chapter 616 as amended by the Council.

DR. GALVIN: Thanks, Lowell. Any comments from the Board, or questions? Any comments or questions from the public? Seeing none, I'll bring that back to the Board for a motion to adopt 252:616-3-3 as presented.

MR. JOHNSTON: So moved.

MR. GRIESEL: I'll second.

DR. GALVIN: That was moved for approval by Jerry Johnston and seconded by David Griesel. Roll call, Myrna, please.

MS. BRUCE: Ms. Cantrell.

MS. CANTRELL: Yes.

MS. BRUCE: Mr. Coffman.

MR. COFFMAN: Yes.

MS. BRUCE: Mr. Drake.

MR. DRAKE: Yes.

MS. BRUCE: Mr. Griesel.
ITEM NUMBER 13

DR. GALVIN: All right. We don't want Lowell to have to stand up there any longer than necessary. Moving on to Agenda Item Number 13, Non-industrial Flow-through and Public Water Supply Impoundments Including Land Application. Lowell Hobbs will give us the presentation.

MR. HOBB: Okay, this is Chapter 621. Again, the Department proposed to
amend OAC 252:621-3-3. The amendment would have increased non-industrial flow-through and public water supply impoundment system fees by the rate of inflation since the effective date of the last fee modification, which was on or about July 1, 1999 and the projected inflation rate over the next five years. Additionally, the Department proposed to have fees automatically increased every five years thereafter, pursuant to any increase in the Consumer Price Index over the previous five years.

The Council debated the proposed fee increase. The Department did not receive any written comments concerning the fee increase and there were no oral comments received during the Council meeting, except for the debate by the Council Members. The Council debate is reflected in the Executive Summary for Chapter 621.

After the close of the public comment period, and after the Council took action on the proposed rules, and after the completion of the documents for this Board
meeting by the Department, the Department received comments from the Oklahoma Municipal League concerning the rule changes. A copy of the comments are contained in your documents provided by the Department.

After debate by the Council, the Council proposed an amendment to the Department proposed rule changes concerning the fee increases. The amendment was for the fee increase to be based on the rate of inflation, from the effective date of the last fee modification, through 2007, removing the fee increase that was projected for the next five years. Additionally, the proposed amendment would change the automatic increase in fees from once every five years, to every year. The Council voted unanimously to recommend that the Board approve the changes to Chapter 621 as amended by the Council.

DR. GALVIN: Thank you, Lowell.

Any comments or questions from the Board? Any questions or comments from the public?

Seeing none, I will bring it back to
the Board to approve as proposed, OAC 252:621. Do I hear such a move -- a proposal from the Board?

MS. ROSE: So moved.

DR. GALVIN: Do I hear a second?

MR. WUERFLEIN: I'll second that.

DR. GALVIN: Sandra Rose proposed adoption, Mr. Wuerflein seconded. Myrna, will you take a roll call, please.

MS. BRUCE: Ms. Cantrell.

MS. CANTRELL: 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.
ITEM NUMBER 14

DR. GALVIN: All right. Moving on to Agenda Item Number 14, Pre-treatment for Central Treatment Trusts. Lowell Hobbs will give us the presentation.

MR. HOBBS: This rule, Chapter 623, pertains to the Oklahoma Ordnance Works Program in Pryor. The Department proposed to amend this rule concerning Central Treatment Trusts, Oklahoma Ordnance Works Authority, OOWA, to update the incorporation by reference date from July 1, 2006 to July 1, 2007 in OAC 252:623-1-7.

There were no comments received during the comment period or at the Council meeting. The Council voted unanimously to recommend that the Board approve the changes to Chapter 623.

DR. GALVIN: Thanks, Lowell. Are
there any questions or concerns from the Board?

MR. WUERFLEIN: Madam Chair. Did you say this only affects one entity, this whole rule; is that right?

MR. HOBBES: Yes.

MR. WUERFLEIN: Okay.

DR. GALVIN: Any further questions from the Board? Any questions or comments from the public?

All right. I bring it back to the Board to adopt OAC 252:623-1-7, as proposed as amended.

MR. DRAKE: So moved.

DR. GALVIN: Do I hear a second?

MR. COFFMAN: Second.

DR. GALVIN: All right. Myrna, will you do a roll call, please.

MS. BRUCE: Ms. Cantrell.

MS. CANTRELL: 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. Wuerflein.

MR. WUERFLEIN: Yes.

MS. BRUCE: Dr. Galvin.

DR. GALVIN: Yes.

MS. BRUCE: Motion passed.

DR. GALVIN: Thank you.

ITEM NUMBER 15

DR. GALVIN: Moving on to Agenda Item Number 15, Minor Public Water Supply Systems. We will have a presentation by Lowell Hobbs.

MR. HOBBS: You might think by what we're proposing here, that all of our discussions had to do with fee increases.

But I can assure you that we cut apart
every one of these proposals and discussed them at length. And there were a lot of
discussions other than just the fee increases. And this next one is a typical one of those.

This is Chapter 624, and the Council voted unanimously to recommend that the
Board adopt Chapter 624.

The proposed rulemaking clarifies and consolidates all construction, and
operation and maintenance rules applying to minor public water supply systems into one set of rules, separate from the more complex rules that apply to public water supply systems. Currently the rules dealing with the minor water supply systems are located in two separate chapters.

The proposed rulemaking will also require an individual permit for slow sand filters; make the pretesting requirements less stringent; include ownership criteria that ensures minor public water supply systems are located on property that is owned by or dedicated in an easement to the users of the system or on property where
all service connections are owned by or
dedicated in an easement to the owner of
the wellhead; reduce the frequency of VOC
testing for wells within 300 feet of
gasoline underground storage tanks; provide
DEQ the option to require additional
testing based on the proximity of the well
to known potential pollution sources; and
include closure requirements.

The Council debated the proposed
changes to the rules. The Council proposed
changes -- they debated and then they
proposed changes. The DEQ did not receive
any comments from the public concerning the
proposed rule modifications. The Council
voted unanimously to recommend that the
Board approve Chapter 624 as amended by the
Council.

DR. GALVIN: Thanks, Lowell. Any
questions or comments from the Board? Any
questions or comments from the public?

All right. I'll bring it back to
the Board for consideration of adoption,
rule OAC 252:624.

MS. CANTRELL: I do have one
question. My question is, what was the
thought behind decreasing or making less
stringent the pretesting requirements?

MR. COLLINS: These minor water
systems are small systems. And I think the
only thing I can remember we reduced was,
if it was an underground storage tank
nearby, I think we reduced it from
quarterly to yearly. Is that the one
you're talking about? That's the only one
I can think of that's less stringent.

VOCs are the only ones I can
remember right off the top of my head, that
was less stringent. We previously required
quarterly to reduce that, to once a year,
because it just hadn't been a problem.

MS. CANTRELL: Okay. Thank you.

MR. HOBBES: I'd like to expand on
that a little bit. None of these changes
that we recommended will make it any less -
it won't sacrifice our environment.

Everything we did was to make the system a
little better for the regulated community,
as well as staff here. Nothing was
intended to disrupt our environment.
MS. CANTRELL: Thank you.

MR. Hobbs: Sure.

DR. GALVIN: Any further questions or comments from the Board?

Hearing none, I propose that the Board consider OAC 252:624.

Actually, I need a motion for what the Board would like to do with this.

MR. JOHNSTON: So moved.

DR. GALVIN: That we adopt?

MR. JOHNSTON: That we adopt.

DR. GALVIN: Thanks, Jerry. Do I hear a second?

MS. ROSE: Second.

DR. GALVIN: Ms. Rose, shall we say made the second. All right. Myrna, can we have a roll call.

MS. BRUCE: Ms. Cantrell.

MS. CANTRELL: 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. Wuerflein.

MR. WUERFLEIN: Yes.

MS. BRUCE: Dr. Galvin.

DR. GALVIN: Yes.

MS. BRUCE: Motion passed.

DR. GALVIN: All right. Christy do you need a break?

COURT REPORTER: I'm fine, thank you.

ITEM NUMBER 16

DR. GALVIN: Moving on to Agenda Item Number 16, Public Water Supply Construction Standards. Lowell Hobbs will give us the presentation.

MR. HOBBES: You will probably know my name by the time we get through
here today.

Chapter 626. The Department proposed to amend this rule concerning Public Water Supply Construction Standards. The Department undertook a major rewrite of this chapter. The proposed changes removed outdated language; add design and construction standards for new treatment techniques; delete a supplemental information section and integrate that section into the rules; revoke Subchapter 21 and Appendix G, as those requirements are proposed to be moved to OAC 252:624; update structure requirements to meet new the EPA disinfection and sampling requirements and correct typographical errors and omissions of certain definitions.

The Department received written comments from the City of Tulsa during the comment period. The comments from the City of Tulsa were reviewed by the Department. There were agreed modifications to the proposed rule modifications based on the comments from the City of Tulsa. There
were no oral comments received by the
Council during the Council meeting. The
City of Tulsa's comments, Department
responses and proposed amendments are
reflected in the Executive Summary for
Chapter 626. The Council voted unanimously
to recommend that the Board approve the
changes to Chapter 626, as amended by the
Council.

DR. GALVIN: Thank you, Lowell.
Are there any questions or comments from
the Board? Any questions or comments from
the public?
All right. I'll bring it back to
the Board for a motion on --

MR. MASON: I move for approval.

DR. GALVIN: You move for
approval for Title 252, Chapter 626, as
proposed as amended.

MR. GRIESEL: I'll second.

MR. WUERFLEIN: I have one
question. I noticed when we combined the
chapters last time for the minor systems, I
am wondering if there should have been some
things revoked that would be duplicating,
but then I see on this chapter we did
revoke a lot of language on the
construction; does that cover -- are those
two totally different things?

MR. MAISCH: No. Those

repetitions that you see are those
provisions that were moved over to 624,
where we're revoking them from 626.

MR. WUERFLEIN: We're revoking

them?

MR. MAISCH: Yes. And you will
also see the same thing in Chapter 631 in
that. There will be a Subchapter in that
Chapter which will be revoked which are
those minor water system requirements that
were moved into 624 as well.

MR. WUERFLEIN: Thanks, Don.

MR. HOBBS: How did you like my

answer on that?

MR. WUERFLEIN: It was good.

DR. GALVIN: All right. There is
a motion on the floor to adopt as amended
OAC 252:626. Myrna, can we have a roll

call.

MS. BRUCE: Ms. Cantrell.
ITEM NUMBER 17

DR. GALVIN: Moving on to Agenda

Item Number 17, Public Water Supply
Operation. Lowell Hobbs may need a chair, but he's also going to give us a presentation on this issue.

MR. HOBBS: I'm pleased to share this with you, Chapter 631. The Department proposed the falling rule modifications to Chapter 631 to the Council.

The Department proposed to increase public water supply annual fees by the rate of inflation since the effective date of the last fee modification, which was on or about July 1, 1993 and the projected inflation rate over the next five years. Additionally, the Department proposes to have fees automatically increase every five years thereafter pursuant to any increase in the Consumer Price Index over the previous five years.

The Department proposed to update its rules concerning the date of incorporation by reference of certain federal regulations, except for the new groundwater rule, which will not be adopted by reference. The change updates the publication date of the federal rules from
July 1, 2006 to July 1, 2007.

The Department proposed to revoke Subchapter 5, as those requirements are to be moved to OAC 252:624, update language to meet EPA requirements and rule reference changes by EPA, require 25 pounds per square inch, throughout the entire distribution system, and adopt new requirements for source water development. Finally, the remaining changes correct typographical errors, correct omissions of certain definitions and other construction requirements from the rules and recognize what kind of testing will be required for new disinfection treatment techniques.

The Department received written comments from the City of Tulsa during the comment period. The comments from the City of Tulsa were reviewed by the Department and there were agreed modifications to the proposed rule modifications based on the comments from the City of Tulsa. Additionally, there were questions from the Council concerning the proposed Chapter 631 rule modifications. No other
oral comments were received by the Council during the meeting. The City of Tulsa's comments, Councils questions, Department responses and proposed amendments are reflected in the Executive Summary for Chapter 631.

After the close of the public comment period, and after the Council took action on the proposed rules and after completion of the documents for this Board Meeting by the Department, the Department received comments from the Oklahoma Municipal League concerning the rule changes. A copy of the comments are contained in your documents provided by the Department.

After debate by the Council, the Council proposed amendments to the Department's proposed rule changes concerning the fee increases and the comments from the City of Tulsa. The fee increase amendment was for the fee increase to be based on the rate of inflation, from the effective date of the last fee modification, through 2007, removing the
fee increase that was projected for the
next five years.

   Additionally, the proposed amendment
would change the automatic increase in fees
from once every five years, to every year.
The amendments based on the City of Tulsa
comments were to remove the term
"watershed" from the requirement for
protection of a lake or a reservoir that is
used as a public water supply source, as
such protection of the entire watershed
would be impossible; and remove the need
for the operation and maintenance manual to
be approved by the DEQ.
The Council voted unanimously to
recommend that the Board approve the
changes to Chapter 631 as amended by the
Council.

   DR. GALVIN:   Thank you, Lowell.

Any questions or comments from the Board?

   MR. MASON:   I have one question.

   DR. GALVIN:   Steve.

   MR. MASON:   In 631, there are
some comments from the Oklahoma Municipal
League dated February 6.
MR. MAISCH: Yes.

MR. MASON: Have we doubled this?

Have those been doubled?

MR. MAISCH: Those comments we received after the public comment period had ended, after the public meeting. We have talked to the Municipal League about those comments, but we have not correctly addressed those in any document.

MR. MASON: Assuming they were in the audience and they were making those comments today, what would we tell them? How would we respond to their concerns?

MR. MAISCH: Hang on one second.

MR. HOBBES: While he is looking that up, I might share with you something that happened at our Council meeting. A fellow presented us a letter during the course of our discussion with some thoughts that they had. I encouraged him to not do that -- bring them to our Council meeting. We've had quite a few weeks to study the proposed changes. We've had time for comments, written and oral and public comments, and him bringing them over at a
time when we had already digested this
information and try to change it again, I
just said please bring that further in
advance so we can have notice of that. We
didn't hardly have time to read his letter
during the Council meeting, so we asked him
to put that in a time frame that we could
respond to it better. And then we would
take that into consideration and look at
the next work session.

MR. MAISCH: Steve, starting with
the first comment -- actually, I will start
quickly with Comments Three and Four. And
they agreed with the City of Tulsa's
comments concerning both 626 and 631. And
we addressed those and made those City of
Tulsa's amendments. So those were
addressed at the meeting itself.

On Number One, they were looking at
documents that included the increase for
the projected five years. So that 55
percent increase is actually less, it's
down to about a 42 percent increase.

What we would say is that those fees
have not increased since -- in this
situation it was about 1993. And all we
did was take those -- the only way we
calculated those increases was to look at
each year's rate of inflation and take that
fee increase up each year, just like we did
on all the other fees. So the fees
actually were not increased by 55 percent,
but only by about 42 percent.
And as you heard the Council,
especially on 606 and all the other fees,
took those issues into account as to the
hardship that it would be upon any of the
permitees. And when they did that, they
reduced down that five years. That would
be our response there.
As to the second question, I can
tell you that Jimmy Givens and the entire
legal staff looked at the CPI question.
And we modeled our CPI language, that is
the same as it is contained in the state
statute for Air Quality fees. We looked at
all the statutes and all the cases
concerning those and we came to the
conclusion that the Board has the authority
to put into the rules an increase yearly
based on the CPI. And we took a look at
that and we believe that it does comply
with state requirements.

MR. THOMPSON: I think the
comments were you should raise fees based
on need rather than just some automatic
CPI. I think that was the issue. I think
what happened was the staff looked at the
needs of the programs and they said how do
we get there? And what they did was make a
calculation related to the CPI and it
tended to somewhat match up. So it was a
way to get to the needs that doesn't
necessarily address the specifics about
that.

DR. GALVIN: Are there any other
questions or comments from the Board? Any
questions or comments from the public? All
right. I bring it back to the Board, do I
hear a motion?

MR. COFFMAN: I move to adopt.

DR. GALVIN: Do I hear a second?

MS. ROSE: Second.

DR. GALVIN: It was seconded by
Sandra Rose. And I would just like to
clarify that we are moving to adopt as
presented in our packet, Subchapter 5 is
revoked but there are other pieces there
that are revoked. But I would just like to
point out that we are adopting it as
provided to us, and when I say it -- OAC
252:631 for permanent adoption as presented
in our packet.

MR. COFFMAN: Correct.

DR. GALVIN: All right. Thank you. Myrna, would you call the roll.

MS. BRUCE: Ms. Cantrell.

MS. CANTRELL: 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.
ITEM NUMBER 18

DR. GALVIN: I'd like to indicate that we are on Agenda Item 18. We will take a short break right after 18, so be aware of that.

Agenda Item Number 18 is addressing Drinking Water State Revolving Fund. Lowell Hobbs will give us the presentation.

Mr. Hobbs: Thank you. I might say, I appreciate the confidence that you are showing in our Council recommendations to you and I want to assure you that they are not without merit. Because we do analyze that and debate it. I also want to commend the staff, because they are very interested in working with the regulated
community to try to work out those problems
that you've asked about and make it
something that everybody can live with and
still keep the integrity of our environment
and our water quality safe and sound.

Aside from that we are still on
Chapter 633.

The proposed changes to the DEQs
Drinking Water State Revolving Fund rules,
revoke Appendix A and replace the appendix
with a new Appendix A which would implement
changes to the Priority Project System and
the Finding Priority Formula necessary to
meet federal and state requirements.

There were no oral comments received
from Members of the Council and from the
public during the Council meeting, which is
summarized in the Executive Summary. The
Department did not receive any written
comments concerning the proposed rule
changes. The Council voted unanimously to
recommend that the Board approve the
proposed changes to Appendix A in Chapter
633.

DR. GALVIN: Thank you, Lowell.
Any questions or comments from the Board?

Any questions or comments from the public?

All right.

Hearing none, I'll bring it back to the Board. Do I hear a proposal to revoke Appendix A and adopt the new Appendix A, the Finding Priority Formula as outlined in OAC 252:633?

MR. DRAKE: So moved.

MR. GRIESEL: I'll second it.

DR. GALVIN: Bob Drake has proposed the adoption and David Griesel has seconded the adoption of the Drinking Water State Revolving Fund 252:633 as proposed.

Myrna, please take a roll call.

MS. BRUCE: Ms. Cantrell.

MS. CANTRELL: 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.
MR. MASON: Yes.

MS. ROSE: Yes.

MS. SAVAGE: Yes.

MS. BRUCE: Mr. Wuerflein.

MR. WUERFLEIN: Yes.

MS. BRUCE: Dr. Galvin.

DR. GALVIN: Yes.

MS. BRUCE: Motion passed.

DR. GALVIN: Thank you. We will take a break at this time. Please be back at roughly 11:15, a short break.

(Whereupon, a break was taken after which the following took place)

MR. THOMPSON: I am in serious trouble. I mentioned the folks from all the other divisions that were helpful on the issue at Lone Grove, and I forgot my own person.

So Skyler, stand up. Skyler McElheny is our PIO, Public Information Officer. She dealt with 10,000 press
inquiries during that issue. So please
give her a hand.

DR. GALVIN: All right. We are
back in session.

ITEM NUMBER 19

DR. GALVIN: We are dealing with
Agenda Item 19, Individual and Small Public
On-site Sewage Treatment Systems. And we
have a presentation by Lowell Hobbs.

MR. HOBBS: This is dealing with
Chapter 641. There are only eight main
reasons for this proposed rulemaking.
The first is to increase fees to
compensate for the increased cost of
operating the program.
The second is to add low pressure
dosing fields and drip irrigation fields as
new options for the treatment and dispersal
of wastewater.
The third is to increase the
separation distance from the spray
irrigation pattern to property lines from 5
feet to 15 feet.
The fourth is to require that
installers maintain aerobic systems they install for two years after the date of installation and delineate what maintenance installers shall perform.

The fifth is to require the use of soil profile descriptions instead of percolation tests when designing systems in the Scenic River Corridors.

The sixth is to establish property ownership criteria that ensures all on-site sewage treatment systems are located on property that is owned by or dedicated in easement to the use of the system or is located on the property where the wastewater is generated.

The seventh is to increase the number of lots where subsurface systems can be used by reducing the vertical separation distance from limiting layers for soils with high clay content.

The eighth is to include in the rules those systems that were previously categorized as standardized alternative systems.

The Council debated the proposed
rule changes, and proposed changes to the rules. The DEQ did receive comments from the public concerning the proposed rule modifications. A summary of the public comments are contained in your Executive Summary.

The Council voted four to one to recommend that the Board approve the proposed changes to Chapter 641.

DR. GALVIN: Thank you, Lowell. Are there any questions or comments from the Board?

MS. CANTRELL: Lowell, I have a question. You had mentioned -- well, actually it's under the testing provisions of the rule, that the rule provides limitations for certain percolation testing in a Scenic River Corridor. As you go through the rule and you move beyond the testing provisions, were there other protections throughout the rule as far as placement of some of these treatment systems in a Scenic River Corridor?

MR. HOBBS: Do you understand the question good enough to answer it?
MR. COLLINS: I think so.

MR. HOBB: Because I can't.

MR. COLLINS: The way the rules are now, there aren't any special requirements in a Scenic River Corridor.

So this will be the new requirement that's been added. Does that answer your question?

MS. CANTRELL: Well, I probably didn't ask my question very well. I was pleased to see the limitations in the Scenic River Corridor for percolation testing.

But then my question was beyond the percolation testing provision. When you move on through the different types of tanks and treatment systems, are there any restrictions in those portions of the rules, as far as placement in a Scenic River Corridor?

MR. COLLINS: No, not as far as the Scenic River Corridor. The only difference in the Scenic River Corridor and the rest of the state, is when you design a system in a Scenic River Corridor you have
to do a soil profile rather than a
percolation test. And the reason for that
is in a soil profile you're going to go
four feet deep and you're going to identify
the soil below the lateral fields; where as
if you only do a perc test, you're only
going to identify the top two feet of the
soil. You can go down to 30 inches, but
you're probably not going to see what's
below that system. And in some of those
areas the soils are very fractured. And
what happens is the sewage goes out of the
house and into the septic tank and into the
lateral field and it never surfaces. So
nobody ever sees it failing. So what
happens is it goes straight to the river
without any treatment.

But if you do a profile you will
identify those soils and then you can add a
different treatment option to treat the
wastewater better before it's discharged,
or you can land apply it, or put in a drip
irrigation, some way to provide better
treatment for that sewage before it reaches
the creek.
MR. THOMPSON: Brita, I think the answer to your specific question is, no. That's the only provision in the rules we've adopted relative to the protection of Scenic River Corridor, for on-site sewage.

MS. CANTRELL: Thank you. As I understand it then the way the Scenic River Corridor is protected under this system, would be to use a soil analysis as opposed to the percolation method, given the rocky soil of many of the Scenic River Corridor, I guess, their ecological structure?

MR. COLLINS: Right.

MS. CANTRELL: Just one more question on that same vein. The aerobic treatment systems, would those not be -- this is more of a technical question. Would those not be similar to the percolation testing? Do those pose a risk -- was the risk to Scenic River Systems considered when you were promulgating the rules for the aerobic treatment systems as far as their placement in a Scenic River Corridor?

MR. COLLINS: On the aerobic
treatment systems, if they are properly maintained they provide better treatment than a septic tank. So the effluent that is being discharged is a much better quality. And using an aerobic treatment, you are either going to spray it on top of the ground and allow it to soak in to be used up on the grass or you're going to put it in a drip irrigation, which means you're going to put the sewage about eight inches underground, so you're putting it up in the topsoil with an aerobic treatment unit. Your effluent is discharged either eight inches deep or on the surface. So you can get a better treatment with an aerobic treatment unit.

MS. CANTRELL: I guess my question is given that and given the fact that the scenic rivers -- the river corridors themselves seem to be short on that upper layer of grass, they seem to be very rocky and less of the absorbing material. Is there a restriction -- how do these rules protect the Scenic River Corridor as far as where these aerobic
treatment systems are being placed?

MR. COLLINS: The rules don't say that you can or can't place them in a Scenic River Corridor. What it will say is if you have that fractured soil, that I was talking about, where you put the effluent to go through the septic tank and then into a lateral field with very little treatment, instead of it going out into the lateral field and then straight to the stream, it is going to be treated in an aerobic treatment unit first. And then it's going to be applied to the top of the soil or in the top eight inches of the soil. So hopefully, when it does seep into the ground and into that lake or stream, it's going to be a much better treatment.

MS. CANTRELL: Okay. Thank you very much.

MR. THOMPSON: I think the answer is that we -- while the system that is being adopted may not be perfect, we are much more confident. Indeed these aerobic systems have chlorinators in them, so they tend to address bacteriological issues and
provide a much more effective treatment method than septic tanks do. So we think we've come a long way, maybe we have further to go but at least we've taken this -- the Council has taken this step.

MS. CANTRELL: Thank you very much.

DR. GALVIN: Any further questions from the Board? Any questions from the public?

Yes, Mr. Kellogg. Would you please identify yourself once you get to the podium.

MR. KELLOGG: Thank you, Ms. Galvin.

Madam Chairman, Members of the Board, ladies and gentlemen, my name is Bob Kellogg. I am an attorney here in Oklahoma City, now in private practice.

I'm here to comment to you today on behalf of the Oklahoma Certified Installers Association. Don't worry, I'm not going to ask you to change the rules that are in the packet in front of you today. But I would like to give you a bit of an explanation as
to why you should expect to see some
procedural simplifications come back to you
next year.

I was very pleased to hear, Brita,
the discussion and the questions about
aerobic treatment systems. That is a
fairly modern technology, but like most
modern technologies, it is complicated.
More complicated than the old fashioned
septic tank system, and it requires
maintenance. Those are obligations that
fall to the homeowner. And when the
homeowner doesn't live up to those
obligations there are environmental
problems besides the public health problems
that go along with those. So that is very
critical and that is the driving factor of
what caused the Certified Installers
Association to ask me to come to you today.
You all do know there are public treatment
systems that are so efficient that we take
sewage treatment for granted. But that
isn't necessarily true outside of cities
where these private systems or on-site
systems, including aerobic treatment
systems, are installed. They must be properly installed. They must be properly maintained. That is what keeps us and our environment so sound. Aerobic systems require more maintenance and that is a bit of a problem.

The Oklahoma Certified Installers Association is a not-for-profit organization that educates its members on the technology and the regulations, so that better on-site sewage treatment systems will be installed and thereby improve public health and the environment.

The Chief Executive Officer is Mr. Bill Warden. He is here in the audience today. Bill, please stand. He is retired from the DEQ as a District Sanitarian. And during his 30-year career with the Health Department and then the DEQ, he was very instrumental in the on-site sewage treatment program. He now heads this organization, the OCIA.

By the way the ECLS has certified, approximately, a little over 300 installers; about half of whom are members
The Oklahoma Certified Installers Association holds an annual convention to educate its members, to provide the requisite education, continuing education, that certified installers must have, and to examine new technologies that are out there.

This year the convention was held at the Oklahoma City Fairgrounds, just last month, and it drew a little over 200 people to that convention. And so I trust you'll think of the Oklahoma Certified Installers Association as a kindred spirit to your Board. Their goal is public and environmental protection. It is not a lobby group, nor does it work to get jobs for its members.

They have commented on these particular rules, and it took courage for them to stand up to ECLS, to comment on the rules, to comment before the Water Quality Council, and to even send me here today. To show a little more about their sincerity and how critical this program is, one of
their Board Members is here today. Mr. David Jones, from Edmond. Sir, would you please stand. Thank you very much. The President of the OCIA Board, is Mr. Earl Biggs from the Piedmont area.

I first became involved with the OCIA when they invited me to speak to their convention back in 2003. At that time, they complained to me that they were over-regulated and unfairly regulated and they wanted a change in the law. I advised them in 2003 to wait a while to give that new certified installers law an opportunity to operate, so the Legislature can see how it was doing. Well, it's now been five years, and it's time to improve the procedures and to make the program fair. The OCIA did submit written comments to ECLS in advance of the Water Quality Council meeting. Those comments were considered by the Water Quality Council, and I went to the Water Quality Council meeting on behalf by the OCIA Board, and commented.

I told the Council that the
technical revisions that were contained in
the proposed rules were very good, and that
the OCIA commended the ECLS staff for
having put them together. But the OCIA
continues to have concerns with the
processes and the procedures that are
involved; not the technical standards but
the processes and the procedures.

The OCIA believes the program needs
to be simpler, the paperwork needs to be
simpler, late fees on the certified
installers need to be removed. The Water
Quality Council listened to those comments,
and I suspect they understood. By the time
this chapter came up on the long Water
Quality Council Agenda, it was about 6:30
in the evening. Mr. Jeffrey Short was the
presiding officer and he commented -- Mr.
Short commented that he thought that the
certified installers had been created to
self-inspect the on-site sewage systems, so
that the ECLS staff would thereby be freed
up to spend more time protecting the
environment. Mr. Short was concerned about
the micromanagement of the installers was
taking away from that effort to spend more
time protecting the environment.

Well, the Water Quality Council, out
of exhaustion at 6:30 that evening, did
recommend that the revisions come to this
Board for adoption. But the Council fully
expected to see them come back.

Simply stated the three major
controversies that the OCIA has is:

One, there is a need to simplify the
paperwork on installing systems and on
becoming certified. The regulations
require performance bonds for certified
installers, but they don't require them for
uncertified installers. The enabling
legislation, the statute doesn't mention
anything at all about bonds. So it simply
seems unfair to single out the certified
installers for this obligation and not make
it uniform across-the-board.

The third comment is again about the
automatic fee increase which they believe
is wrong, if not contrary to law. Without
going into the legal arguments, let me
point out that OCIA's belief about the
tying on an automatic fee increase is that
that promotes complacency, and business as
usual. It does not promote change. It
does not promote simplification. It does
not promote improvement in the processes.
The OCIA, its members, and the
certified installers have lost patience
with business as usual. And this is
evidenced by many of the certified
installers who have not renewed their
certification. The last count I had was
approximately 50 that had not renewed. I
do not know where that stands today, but I
think that's indicative of a problem.
While the ECLS staff, I'm pleased to
say, has begun to listen and to talk with
the Oklahoma Certified Installers
Association. Last Friday, a week ago
today, ECLS staff met with the OCIA at
their Board meeting in Stroud. They began
to work to simplify some of the paperwork.
Now the OCIA also learned from this
process about some of the constraints that
ECLS feels, and it has on them as well. In
any program by actually working together, a
more reasonable process can be developed for the benefit of all. Hopefully, those dialogues will continue and the processes can improve.

So in conclusion, the Oklahoma Certified Installers Association does not ask today that you reject these proposed revisions, rather that you adopt them. But the OCIA does ask that you expect to see these rules come back next year with a simpler process.

Thank you for your time and your patience, and I would be happy to answer any questions that you may have.

DR. GALVIN: Are there any questions or comments for Mr. Kellogg from the Board or the general public?

MR. MASON: He's kind of going back to this whole red slipper concept about annual CPI increases, which I guess Jimmy has looked at.

MR. HOBBS: May I add something, Madam Chairman?

DR. GALVIN: Yes.

MR. HOBBS: We have some things
that were inadvertently left out of our reclamation here that kind of addresses that. This was a highly discussed topic at our last Council meeting. We've spent a long time dealing with this, and a lot of issues came up. And I might say on behalf of our Council, as Chairman of the Council, I don't have an issue with anybody. I don't know most of these people that come and present their things, which is fortunate for me. My issue is with the ideas, and the rules and the regulations that we deal with. So I have no issue with personalities and I'm very comfortable with that.

But Mista has got what we have inadvertently left out of what I have presented to you here. It may be in your executive packet. I don't know but let Mista present what we have left out.

MS. TURNER-BURGESS: It's just an amendment -- a proposed amendment to the rules as presented to you -- before you today.

At the Oklahoma Certified Installers
Association meeting that Bob talked about, that took place after the Council meeting, DEQ talked with the installers. And it was the -- of the installers present they requested two things -- two rule changes.

One was that the time to submit the paperwork, which is the final inspections that they do of septic systems be submitted, they allow -- the time to be increased from 10 days after installation to 15 days after installation, which DEQ staff was in agreement with.

The other one was there was a fee increase proposed for late fees for submitting those final inspections late if you submitted them after the 10 or 15 days, it was originally $30. We were proposing to increase it to $50. The members of the Oklahoma Certified Installers Association requested that we leave it at $30 and the DEQ staff agrees.

So with that said, we are proposing two amendments. One is 252:641-21-12(a) (2), it would increase the time frame to turn in paperwork from 10 working days to
15 working days and to change that fee in
there back to $30. That's under Chapter
21-12(a)(2). Does everybody see that?
It's Subchapter 21, Section 12(a)(2). It's
on Page 30.

DR. GALVIN: So the wording that
I'm seeing on Page 30 is 641-21-12(a)(2)
states, submittals to DEQ. Within 10
working days after the work has been
completed, the certified installer shall
submit an accurate completed DEQ Form --
and it gives the name of the form -- to the
local DEQ office.
The installer shall pay DEQ a $50
fee each time the installer fails to submit
a completed form -- form name given --
within 10 working days upon completing the
work.
Is the proposal that within 10, be
changed to 15?

MS. TURNER-BURGESS: Yes, on both
occasions.

DR. GALVIN: And that the late
fee -- so the installer shall pay the DEQ
-- leave it at a $30 fee?
MS. TURNER-BURGESS: Yes, take out the underlined $50.

DR. GALVIN: So what we have is the addition of a 15 and a removal of a strike-through, with the addition of a strike-through to the $50.

MS. TURNER-BURGESS: Yes, strike 10 in both places and insert 15. And just delete the $50 and leave the original $30. Remove the strikeout of the $30.

MR. WUERFLEIN: Madam Chairman, I see those numbers in Subchapters 1 and 2, are we dealing with both of those or just one of those subchapters?

MS. TURNER-BURGESS: We are only dealing with (a)(2).

MR. THOMPSON: At the risk of starting a debate with my good friend Bob Kellogg, a former coworker, the Agency constantly -- the ECLS is constantly striving to find efficiencies in this program. I think it is fair to say that we have found some efficiencies.

When you want an approval for one of these systems, if you can do it by credit
card, we can turn that thing around in a
day, or at least two. It is a vast
improvement over the system that we had
before.

So I don't want the Board to leave
with the impression that ECLS has just
turned its back to improvements. We've
worked with the OCIA to make some
improvements. We will continue to do so,
and where we can find those that we do not
believe interferes with our regulatory
machines, we will do so.

MS. SAVAGE: I have a question.
I may be completely wrong about this. But
at first glance, when I look at a rule that
says if you don't file on time you get hit
with a fee of $50.

The way I view that as, it's a
protection to the homeowner. If you're in
a construction project, you are depending
upon these people that you are hiring to do
the work and to do it in a timely manner.
And by saying if you -- if you present to
the installer, and I may be wrong, if
you're saying to the installer that if you
don't get it in on time you're going to get
hit with a fee. To me that’s sort of an
incentive. That's kind of a carrot to get
it in on time. Am I reading this wrong?

MS. TURNER-BURGESS: Yes, that's
right.

MS. SAVAGE: So it seems to me
that if you say, well, we're going to
extend it for five days and we're going to
back the fee off, it says to me that you're
setting a benchmark of opportunity for a
worker, someone -- a homeowner that has
contracted to you, it's kind of a benchmark
of opportunity to kind of maybe -- you
know, that's the way it goes, oh, well,
maybe it's 17 days. I think you're taking
away the opportunity for incentives here to
do a good job for the homeowner. Now, I
may be wrong. But that's how I read it and
I just thought I'd throw that out there.

So unless someone can convince me, I
think I might be predisposed not to go
along with the changes that were requested.
Let's just keep it the way it is. Let's
not make any amendments, let's keep it the
way staff has proposed. And if they want
to come back to the Council, like they said
maybe in a year, and not drop this on our
laps in the meeting, and present some good
reasons -- but just on the face of it I am
kind of inclined to keep it -- to go along
with these changes.

MR. THOMPSON: I think in the
ongoing effort of the Agency to try to work
with these folks, this occurred at a
meeting after the Council, or it would have
been proposed to you during the Council
meeting. I think the staff believed that
it could accommodate them in that way. But
clearly, it's the Board's choice. And so I
am somewhat ambivalent about -- I shouldn't
say ambivalent, but it's a --

MS. SAVAGE: Are these changes
enthusiastic? I mean, is staff really
enthusiastic to say okay, this is too much,
let's --

MR. THOMPSON: Ask Mista, she's
never enthusiastic about anything.

MS. SAVAGE: These are the people
that do the heavy lifting, we are the
people that come in four times a year. I'm saying give me a compelling reason. Say, no, really, we think it's okay, we think we're dealing with some good folks, yada-yada, we think these changes should happen.

That's what I want to hear.

MR. COLLINS: Right, I really think they ought to have them. We talked about that at the convention. This issue was brought up before the convention. And so we got the statistics and went to the convention. And there really aren't that many of them that turned them in late. So it's not a major concern. But we do need that deadline, and we do think there should be some incentive. We just don't think we need to increase the incentive.

MS. SAVAGE: As long as it just doesn't create -- you know, big terminal that you're going to drive a big semi through that's going to impact homeowners and to screw up their lives.

MR. COLLINS: No, we don't think so.

DR. GALVIN: Anymore comments
from the Board?

MR. MASON: I have a comment.

Jimmy, this is on Page 35, this whole annual automatic CPI raising fees.

I think Mr. Kellogg's comments are fair comments that we need to be judicious in raising the fees. And then if you -- and I'm not a lawyer, if you go to this OML comment about the red slipper case; how can we raise fees automatically in the future, when we don't even know what the cost of the service is if we have to tie fee increases to cost of service. I can't tell you if there will be an increase in cost of service next year.

MR. GIVENS: Let me begin by saying -- echoing what Don said earlier, there was mention made of the legality of it. And I do want to emphasize that we literally started at the intern level and worked our way up to the point where I reviewed it and felt like that this was something that legitimately can be done under the case law that is out there. So if we are ever challenged on it, I believe
that we can adequately defend it. But in
terms of the practicality -- what our law
requires us to do is to reasonably
approximate the cost of our services. And
we believe that tying it to CPI is a
reasonable way we do that. Is it exact,
no, but it's never going to be exact. We
are either going to use this model, or else
we're going to be coming back in here every
year and trying to approximate it.
And frankly, I don't think the
Council and most of the regulated
community, in their expression of
sentiments to the Councils, wanted that.
So I believe it is legal to go this
direction. I believe it is practical to go
this direction. It reasonably reflects our
cost.

MR. THOMPSON: I guess the idea
of this originated with me. When your
Administrative Services Director comes in
and says we're 6.4 million dollars short,
and in some cases we haven't raised fees
since 1994, there is an anxiety I think on
my part. And I won't speak for the
Councils and the Board, I've had that occur.

So I asked them to visit with the Councils, and we are visiting with you today about that very issue to avoid the kind of shortfalls that we are seeing now.

I don't think that -- in many cases, we have good associations and we sort of report -- and I know in one case with the Water Quality Council and in every case, I think, with the Air Quality Council we are pretty good about providing information about the cost approach.

If the CPI tends to outrun the actual cost, then we can always come back in and lower fees. I don't anticipate that's going to happen.

But if you're looking for the guy who said let's not have this situation arise where we have to go through a long stream of fee increases like we are having to do today, let's try to mitigate those as we go along, that's what I think. I'm the guy that's recommended that the staff go
forth with that.

DR. GALVIN: Yes, Mista.

MS. TURNER-BURGESS: I just have one more amendment and it goes along with the change of the fee. If you guys decide to do that it would also need to include a change to Subchapter 23, on Page 34; Section 2, which is on the bottom of Page 34, (a)(6).

It would just revert back to $30. I'm sorry I didn't get that out quicker.

MR. HOBBS: This is very indicative of the discussion we had at the meeting. And this is the case I was telling you about that was presented at the meeting. And we asked staff, from the Council -- and it was beginning to get pretty late, and we asked Council to review this presentation and make any changes that they felt needed to be changed to recommend to the Board on this basis. We didn't have a chance to meet from then until now. So that's what you've heard is their suggested changes after the Council meeting, to this, because of their presentation at our
Council meeting.

Which further goes to remind you that we're trying our very best to work with the regulated community in a way that does not restrict them from operating but still protects the public.

MS. CANTRELL: Lowell, may I ask one more question while you're there?

MR. HOBBS: You can ask two, if you want to, I have two answers.

MS. CANTRELL: I have a question.

When you talk about the statutory charge being to protect the waters of the state as you go through the promulgation of these rules, was there any thought given to requiring that these types of systems be installed by a certified installer?

MR. HOBBS: As opposed to a non-certified installer?

MS. CANTRELL: Right. And I guess with self installation being part of that discussion, were there any certification requirements that were discussed as far as what it takes to be able to adequately install one of these
systems; and whether or not there needs to be some sort of thought given to that?

MR. HOBBS: I'm going to let staff answer that. But let me tell you first what my understanding is.

As a non-certified installer the Water Quality staff itself inspects that. So it's not like it's not inspected or it doesn't meet the criteria. So, no, it's not one put in and it's not basically certified. It's not done by one of the members of the Certified Installers Association. But let Gary answer that better.

MR. COLLINS: Yes, that's correct. If it's a non-certified installer, the DEQ field staff does inspect that system. But in order to change it to where all systems have to be certified, that would require a statutory change. And there has been some discussion of changing that. But that's something that we have to take to the Legislature.

Currently, if you install more than 10 systems per year, you have to be
certified. So we would prefer that they all be certified as with the Certified Installers Association. But there are folks in western Oklahoma, where there are very few installers, feel that would be a burden on those installers in western Oklahoma. That was the discussion when the bill was originally passed.

MR. THOMPSON: That's right. I think this is geographic rather than -- an issue more than anything. But when the original statute was passed, the folks in the western part of the state said we don't do 10 a year, and so we don't want to be included in this.

Now I think there is discussion maybe of lowering that number. But it was an accommodation by the Legislature for the people in the western part of the state, where it is rare that they put in ten systems. That, I think, is the background of the statute.

MS. CANTRELL: Thank you.

MR. WUERFLEIN: Madam Chair, I've got a question. On page -- referring to
Page 33, we've been doing all this discussion on the Consumer Price Index, and some of these fee schedules are increasing from $50 to $150 over the next five years. That's considerably more than the Consumer Price Index. Where does that come from?

MR. THOMPSON: When we looked at the cost of the program, we wanted to take all of that cost in one year. And that was not particularly well received in the public meetings which we held in Oklahoma City and Tulsa and across the state.

So what we were asked to do is to step that fee up. Instead of taking it all in one year, step it up so if we're going -- if we initially proposed $200 -- I think in one case, we agreed that we would start at $150 and step it up the next year of 25, and the next 25; and then have the CPI apply to it after that. So it was an accommodation to the industry to meter the increase rather than taking it all in one year.

DR. GALVIN: Any further questions from the Board? Are there any
further questions or comments from the
public?

MR. LINDSEY: I have a comment.

DR. GALVIN: Yes, sir.

MR. LINDSEY: I'm Jim Lindsey.

I'm a public works engineer in Tahlequah.
We were looking at this noting that really
if you're talking about one area of the
state being the Scenic River Corridor --
and there was a thought that we looked at
-- we were looking at this about the soil
profile description. And that process you
follow there, well, ultimately, if you know
the terrain of geology in that area -- and
our family has been here since 1883, so we
kind of know the geology of the area, those
soil profiling descriptions are going to
really add a major cost to the installation
of systems in the rural areas, which is
mostly in the Scenic River Corridor. And I
really think that's going to shut down --
by soil profile description it's going to
shut down a lot of the systems that would
normally use typical lateral systems. And
if you don't have the right percolation
rate then you go ahead and add more lineage footage for your septic systems, so those systems will work. By shutting down, putting most of these systems in the way they are standardly put in now, it's going to open up a bigger market, I guess, for the aerobic systems, which is fine. And the installation -- and we've got procedures and everything that are going to protect the public and the protection of the river during that period of time.

But it's kind of like inspecting and looking at a new car. What happens when that car is 20 years old? Nobody in the state inspects those cars now. You know what I'm saying.

So you are going to have these systems where you're going to have property owner changes; one, two, three down the road. You're going to have people that aren't going to want to maintain it. Right now our own water treatment plant has an aerobic system. It's maintained great. We have a program -- a contract for $250 a year, and they come in and they check it
out. And we make sure it's running right.

But are homeowners going to do this over
the years; 5 years, 10 years, 15 years? I
think we're setting up systems where the
soil profiling description is going to shut
down our standard way. We're going to see
more of these aerobic systems come into
play and down the road as they get older,
in 10 years, 15 years, 20 years down the
road, we're going to see more problems that
somebody is going to have to deal with.
And the state's sanitarian and stuff, you
know, we have two that cover the entire
county, and they are burdened with just the
systems that they have now that they have
to deal with.

How does the state look at trying to
enforce this on down the road as these
systems get older and all that? It was
just a thought that we had, that we feel
the soil profiling descriptions are
actually going to end up being more of a
problem down the road. And by changing
this -- thinking that higher technology is
going to solve the scenic river area and
protect the river, long-term I think it's a pipe dream. I just wanted to throw that comment in for your consideration. Thank you.

DR. GALVIN: Thank you.

MR. THOMPSON: I don't think we disagree with what was stated. I don't think we know what the perfect answer to on-site sewage systems are.

Once you try to solve one problem of this fractured soil going straight to the river, you just don't totally solve the problem. You mitigate that problem as it exists. Do we think it's better, is it perfect, we don't know. There is a lot of discussion about requiring maintenance agreements. And I think that the Agency has said a maintained system is better than a non-maintained system.

But today there are 40,000 of those systems out there and whether that is -- I don't want to say politically, but is a public policy issue acceptable to require maintenance agreements, I think remains to be seen. At some point, the problem may
increase to the point that that is necessary.

So I defer to Gary, but I think we continue to search for ways that we protect the environment. And we may be solving a problem here -- we hope we are creating less of a problem over here. So we continue to search for answers. Gary, I guess that's --

MR. COLLINS: Yeah, I think that's accurate. And I think that when we talked to the certified installers about that, they serve and support maintenance for all systems. So we've -- but I'm not sure that we did that through the legislative process, without it being a major problem.

I would say that an aerobic system, as I explained before, you're going to spread it on top of the ground, if you spray poorly treated sewage on top of the ground it's going to start plugging up your sprinkler heads, and then it going to start having an odor, so the homeowner, where most of the homeowners would see that as a
problem and take care of it. And, of
course, we will work on a complaint basis
when we get complaints.
The other option for the aerobic
system is to put it into a drip irrigation
system. And if you don't treat it properly
there what's going to happen is it's going
to plug up that irritation system and the
sewage will back up into your house.
So to some extent, I think it's going to
take care of itself. Although I certainly
agree with some of the concerns that he has
about maintenance on aerobic systems. That
is something that I think every state --
and we go to some national meetings --
every state we go to is struggling with
requiring maintenance or requiring people
that maintain them are trained. We haven't
found a good answer to that yet.

MR. THOMPSON: Keep looking.

DR. GALVIN: Further comments?

MR. LINDSEY: I just wanted to
say that what you have proposed now is a
great short-term solution to protect the
environment. I don't think this will
answer a long-term solution to protecting
the river -- the water quality of the river
through this system. I'm not against it or
anything, it's just -- I don't know if we
are putting the right foot forward, as Mr.
Thompson was saying, but hopefully it is.
Again, it's probably really not the place
to bring this up, but we ran out of time to
say it anywhere else. Thank you for your
time.

MR. THOMPSON: I think it's a
very fair comment.

MR. LINDSEY: Thank you.

DR. GALVIN: We'll try again.

Any further comments from the public or the
Board?

Hearing none, do I hear a motion
from the Board for permanent adoption?

Shall I try to frame what the --

MR. DRAKE: I so move.

DR. GALVIN: You so move.

MR. DRAKE: I move as amended.

MR. GRIESEL: I'll second.

MR. GIVENS: It needs to be more

explicit.
DR. GALVIN: How about if I try crafting what we agreed to and then we can disagree, if we need to.

We propose as a permanent adoption OAC 252, Chapter 641 with the following amendments; 252:641-21-12(a)(2) will be amended as follows:

Within 15 working days after the work has been completed, the certified installer shall submit an accurate completed DEQ Form 641-576A or 641-576S to the local DEQ office.

The installer shall pay DEQ a $30 fee each time the installer fails to submit a completed DEQ Form 641-576A or 641-576S within 15 days of completing the work.

MR. THOMPSON: I think Ellen believes that the motion stated by the Chair is a motion on the amendment. So we need approval of the amendment as stated, and then come back and have an approval of the rule as amended. So you need two.

MR. DRAKE: Okay, so moved.

(Discussion)

DR. GALVIN: All right. What we
have on the floor --

MR. COFFMAN: Jennifer, you also

need to incorporate, if we're going to vote

on the amendment, on Page 34, 252:641-23-

2(a)(6), that's a $30 fee there as well.

DR. GALVIN: Yes, I just hadn't
gotten there yet. So we're calling for

them to adopt that motion.

MR. DRAKE: Motion to approve the

amendment.

MR. GRIESEL: I second.

MR. DRAKE: And a second to my

left.

DR. GALVIN: Myrna, shall we have

a roll call. Does anybody need a refresher

as to what we just agreed to?

Okay, roll call please.

MS. BRUCE: Ms. Cantrell.

MS. CANTRELL: Yes.

MS. BRUCE: Mr. Coffman.

MR. COFFMAN: Yes.

MS. BRUCE: Mr. Drake.

MR. DRAKE: Yes.

MS. BRUCE: Mr. Griesel.

MR. GRIESEL: Yes.
MR. JOHNSTON: Yes.

MR. MASON: Yes.

MS. ROSE: Yes.

MS. SAVAGE: Yes.

MR. WUERFLEIN: Yes.

MS. BRUCE: Dr. Galvin.

DR. GALVIN: Yes.

MS. BRUCE: Motion approved.

DR. GALVIN: Thank you.

(Discussion)

DR. GALVIN: Okay. I don't know if everyone heard that on the Board. We need another motion to approve as amended -- to approve 252:641 as amended.

MS. CANTRELL: I move to approve 252:641 as amended.

DR. GALVIN: Do I hear a second?

MR. COFFMAN: Second.

DR. GALVIN: Thank you. Myrna, will you do a roll call.
MS. BRUCE: Ms. Cantrell.

MS. CANTRELL: 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. Wuerflein.

MR. WUERFLEIN: Yes.

MS. BRUCE: Dr. Galvin.

DR. GALVIN: Yes.

MS. BRUCE: Motion approved.

DR. GALVIN: Thank you. We do appreciate the comments from the public.

ITEM NUMBER 20
DR. GALVIN: Moving on to Agenda Item Number 20, Water Pollution Control Facility Construction. It will be presented by Lowell Hobbs.

MR. HOBBS: As a recommendation as the representative of our Council, I might recommend to you all next time Water Quality comes before you if you would just immediately say, we know they've done a good job and we're going to approve it.

When we had this meeting recently discussing this and other things, one advantage we had, we didn't have to fight the traffic when we left here that night. We had to deal with the incoming traffic the next morning.

Something else I might say before I finish up. I was talking to Ms. Savage here during break a while ago and she was talking about reading -- what Christy is doing over here. And if you don't think that will kind of sober you up, if you will read what comments you've said, or how you try to say something and read back what she has written down it will improve your
English and your language communication skills quite well, hopefully. Okay, on to Chapter 656.

The Department proposed to amend OAC 252:656-3-9. The amendment would have increased non-industrial flow-through and public water supply impoundment and system fees by the rate of inflation since the effective date of the last fee modification, which was on or about July 1, 1993 and the projected inflation rate over the next five years.

Additionally, the Department proposed to have fees automatically increased every five years thereafter pursuant to any increase in the Consumer Price Index over the previous five years.

The Council debated the proposed fee increase. The Department did not receive any written comments concerning the fee increase and there were no oral comments received during the Council meeting, except for the debate by the Council Members. The Council debate is reflected in the Executive Summary for Chapter 656.
the close of the public comment period, and
after the Council took action on the
proposed rule and after completion of the
documents for this Board meeting by the
Department, the Department did receive
comments from the Oklahoma Municipal League
concerning the rule changes. A copy of
those comments are contained in your
documents provided by the Department.

After debate by the Council, the
Council proposed an amendment to the
Department's proposed rule changes
concerning the fee increases. The
amendment was for the fee increase to be
based on the rate of inflation, from the
effective date of the last fee
modification, through 2007, and removing
the fee increase that was projected for the
next five years.

Additionally, the proposed amendment
would change the automatic increase in fees
from once every five years, to every year.
The Council voted unanimously to recommend
that the Board approve the proposed changes
to Chapter 656 as amended.
DR. GALVIN: Thank you, Lowell.

Are there any questions or comments from the Board? Are there any questions or comments from the public? I don't hear any further questions or comments from the Board. Do I hear a proposal for permanent adoption for OAC 252, Chapter 656, as amended?

MR. JOHNSTON: So moved.

MR. COFFMAN: Second.

DR. GALVIN: All right. We have a proposal for an adoption. Myrna, may we have a roll call.

MS. BRUCE: Ms. Cantrell.

MS. CANTRELL: 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.
ITEM NUMBER 21

DR. GALVIN: All right. Moving on to Agenda Item Number 21, Water Quality Standards Implementation. Lowell Hobbs will give us the presentation.

MR. HOBBS: This deals with Chapter 690.

The Department proposed to the Council to update its rules concerning the date of the incorporation by reference of certain federal regulations. The change updates the publication date of the federal rules from July 1, 2006 to July 1, 2007 and the Oklahoma Administrative Code in 252:690-1-4.
There were no comments received during the comment period or at the Council meeting. The Council voted unanimously to recommend that the Board approve the proposed changes to Chapter 690.

DR. GALVIN: Thank you, Lowell.

Are there any questions or comments from the Board? Are there any questions or comments from the public? Seeing none, I bring it back to the Board. Do I hear a proposal?

MR. MASON: I move for approval.

MR. DRAKE: Second.

DR. GALVIN: All right. For permanent adoption of Title 252, Chapter 690. Myrna, will you give us a roll call please.

MS. BRUCE: Ms. Cantrell.

MS. CANTRELL: 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. Wuerflein.

MR. WUERFLEIN: Yes.

MS. BRUCE: Dr. Galvin.

DR. GALVIN: Yes.

MS. BRUCE: Motion passed.

DR. GALVIN: Thank you, Lowell.

MR. HOBBS: On behalf of the Water Quality Council, it is my privilege to represent them and that's all I do. They are a very intelligent group of people. The staff I commend them. And I thank you all for letting us present these. I appreciate your confidence shown in us by accepting these recommendations that we have made. Thank you.

MR. DRAKE: Before he leaves, this just gives you an idea of how
important the work is that you all have
done. But when we got this from Steve, I
made a phone call or two, to see if there
was going to be any money from the State
Legislature. I have a good friend who
knows something about that, and they just
kind of laugh at you. So there wasn't any
doubt about that we were going to have to
do this. And as a result of that
conversation I indicated, you know, that
we're going to have some fee increases, and
they're not going to be pleasant. And you
guys just keep giving us more and more to
do, with less and less to do it with, and
then scream about when we have to have
increases. So you have to have some kind
of happy medium, or sooner or later EPA, in
their benevolent matter, will come in to
help us out. And I don't think you really
want that. So it's been a rough day on
everybody, but thank you for what you've
done and everyone else has done. And I
think that we certainly owe whoever is left
in here that's been doing all this work, a
big hand.
ITEM NUMBER 22

DR. GALVIN: Now moving on to Agenda Item Number 22, Waterworks and Wastewater Works Operator Certification. We have a presentation by Mr. Arnold Miller, who is the Chair of Waterworks and Wastewater Works Advisory Council.

MR. MILLER: Madam Chairman of the Board, Title 252, Department of Environmental Quality, Chapter 710, Waterworks and Wastewater Works Operator Certification, the Department proposed to amend OAC 252:710-1-12.

The amendment would have increased operator certification fees by the rate of inflation since the effective date of the last fee modification which was on or about July 1, 1994 and the proposed inflation rate over the next five years.

Additionally, the Department
proposed to have fees automatically
increase every five years thereafter,
pursuant to any increase in the Consumer
Price Index over the previous five years.
The Council had vigorous debate
concerning the proposed fee increases. The
Department did not receive any written
comments concerning the fee increase. Oral
comments were received from both Members of
the Council and the public. The Council
debate and comments, as well as the
comments from the public are reflected in
the Executive Summary of Chapter 710.

After the close of the public
comment period, after the Council took
action on the proposed rules and after
completion of the documents for this Board
meeting by the Department, the Department
received comments from the Oklahoma
Municipal League concerning the rule
changes. A copy of the comments are
contained in your documents provided by the
Department.

After debate by the Council, the
Council proposed an amendment to the
Department's proposed rule changes concerning the fee increases. The amendment was to have one-half of the fee increase go into effect on July 1, 2008 with the remaining fee increase effective July 1, 2009.

The Council voted 7 to 2 to recommend that the Board approve the changes to Chapter 710, as amended by the Council.

DR. GALVIN: Thank you. Are there any comments or questions from the Board? Are there any questions or comments from the public?

MR. THOMPSON: Just one comment, Madam Chairman. The Waterworks and Wastewater Works Operator Advisory Council is up for sunset this year. Mr. Miller -- the company made it to the Capitol to the committee meeting relative to that. Because of his good work, it looks like that sunset bill is sailing right on through, and it will be continued for at least the next four years. So I just wanted to take the opportunity to thank Mr.
Miller for his participation in that.

MR. MILLER: Thank you.

DR. GALVIN: Any further comments? I will bring it back to the Board for permanent adoption of Title 252, Chapter 710. Do I hear a proposal?

MR. WUERFLEIN: Call for adoption.

DR. GALVIN: Do I hear second?

MR. COFFMAN: Second.

DR. GALVIN: Jack Coffman seconded, Richard Wuerflein made the proposal. Myrna, please give us a roll call.

MS. BRUCE: Ms. Cantrell.

MS. CANTRELL: 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. Wuerflein.

MR. WUERFLEIN: Yes.

MS. BRUCE: Dr. Galvin.

DR. GALVIN: Yes.

MS. BRUCE: Motion passed.

DR. GALVIN: Moving on to Agenda Item Number 23. Is there any new business to be brought before the Board that could not have been reasonably foreseen prior to the time of the posting of the Agenda? If not, Agenda Item Number 24, the Director's Report.

(No Report was given)

DR. GALVIN: The last item is adjournment.

MR. DRAKE: So moved.

?: Second.

DR. GALVIN: This meeting is adjourned.
(Meeting Concluded)
CERTIFICATE

STATE OF OKLAHOMA   )
COUNTY OF OKLAHOMA ) ss:

I, CHRISTY A. MYERS, Certified Shorthand Reporter in and for the State of Oklahoma, do hereby certify that the above meeting is the truth, the whole truth, and nothing but the truth; that the foregoing meeting was taken down in shorthand by me and thereafter transcribed under my direction; that said meeting was taken on the 29th day of February, 2008, 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 2nd day of April, 2008.

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