

MINUTES
SOLID WASTE MANAGEMENT ADVISORY COUNCIL
September 20, 2007 Regular Meeting
Department of Environmental Quality
Multipurpose Room 707 N. Robinson
Oklahoma City Oklahoma

For EQB November 15, 2007
SWMAC Approved
 January 10, 2008

Notice of Public Meeting The Solid Waste Management Advisory Council convened for its regular meeting at 9:00 a.m. September 20, 2007, in accordance with the Open Meeting Act, Section 311 of Title 25 of the Oklahoma Statutes. Notice of regular meeting was filed at the Office of the Secretary of State on November 30, 2006. Agendas were posted on the entrance doors at the DEQ Central Office in Oklahoma City at least twenty-four hours prior to the meeting. Mr. Jay Stout, Chair, called the meeting to order and a quorum was confirmed.

- | | |
|------------------------|--------------------------|
| MEMBERS PRESENT | DEQ STAFF PRESENT |
| Donald Fletcher | Scott Thompson |
| Steve Landers | Dee Ready |
| T. J. McCullough | Ferrella March |
| Patrick Riley | Fenton Rood |
| Jeff Shepherd | Sonny Johnson |
| Jay Stout | Jon Roberts |
| Bill Torneten | Sherry Combs |
| Ralph Triplett | Myrna Bruce |
| MEMBERS ABSENT | OTHERS PRESENT |
| Vacancy | |

Sign-in sheet is attached as an official part of these Minutes.

Approval of Minutes of the 9/14/06 regular meeting Mr. Jay Stout called for a motion to approve the minutes. Mr. Triplett made the motion and Mr. Torneten made the second.

See transcript pages 5 - 6

Roll Call			
Donald Fletcher	Yes	Jeff Shepherd	Yes
Steve Landers	Yes	Bill Torneten	Yes
T. J. McCullough	Yes	Ralph Triplett	Yes
Patrick Riley	Yes	Jay Stout	Yes

Public Forum - No issues raised.

Discussion of Solid Waste Program Fees/Expenditures Mr. Fenton Rood stated that Council had been presented with information on Fiscal Year 2006 Expenditures and the budget projections for 2007. He added that there has been no change from what has been presented in years past and the general pattern of expenditures is the same. Mr. Rood fielded questions then Mr. Stout called for a motion. Motion to approve the expenditures as presented was made by Mr. Triplett and second by Mr. Fletcher.

See transcript pages 6 - 9

Roll Call			
Donald Fletcher	Yes	Jeff Shepherd	Yes
Steve Landers	Yes	Bill Torneten	Yes
T. J. McCullough	Yes	Ralph Triplett	Yes
Patrick Riley	Yes	Jay Stout	Yes

Mr. Rood added that a Resolution needed to be forwarded to the Governor’s office November 1, 2007. Mr. Jeff Shepherd made motion to approve the Resolution as presented and Mr. Patrick Riley made the second. Council voted on that Resolution and it was signed by Mr. Stout. Staff forwarded the document to the legislature and indicated that it is typically included in our annual report.

See transcript pages 9 - 11

Roll Call			
Donald Fletcher	Yes	Jeff Shepherd	Yes
Steve Landers	Yes	Bill Torneten	Yes
T. J. McCullough	Yes	Ralph Triplett	Yes
Patrick Riley	Yes	Jay Stout	Yes

Public Forum Continued – No issues were raised.

Proposed revisions to OAC 252:515 Subchapter 19, Part 13 (wheel washes); proposed amendments to OAC 252:515 Appendix C; and proposed new and amended language to OAC 252:515, Subchapter 21 (waste tire processing, certifications, permits and compensation). Mr. Stout advised that agenda item 6 will be split into three parts.

Subchapter 19, Part 13 (Wheel Washes) Ms. Dee Ready explained that these proposed amendments to arose from a legislation enacted in 2007, that became effective July 1 of this year. Senate bill 509 made significant changes to the Wheel Wash law and it eliminated the provision for recoupment and it provided instead for reimbursement. She added that the new proposed rules mirror the current wheel wash rules relative to the requirements for installation, operation, proper invoicing and DEQ approvals. Reimbursement will be made by the DEQ to eligible applicants in the order of approval of invoiced amounts until the state fiscal limitation of \$300,000.00 is reached. Then during each subsequent fiscal year, the reimbursement to eligible applicants will be apportioned in the percentage the approved invoice amount bears to the total reimbursements. Ms. Ready fielded questions from Council regarding the expected costs. Mr. Stout called for a motion. Mr. Fletcher made motion to approve the 252:512 Subchapter 19, Part 13 of the Wheel Wash provision. Mr. Shepherd made the second.

See transcript pages 12 - 20

Roll Call			
Donald Fletcher	Yes	Jeff Shepherd	Yes
Steve Landers	Yes	Bill Torneten	Yes
T. J. McCullough	Yes	Ralph Triplett	Yes
Patrick Riley	Yes	Jay Stout	Yes

OAC 252:515 Appendix C. Ms. Ready reviewed the proposed amendment explaining that Appendix C has been outdated in our rules for a few years; therefore, proposed amendments would delete the suggested SW-846 methods and practical quantitation limit columns to update it to the current Federal Appendix II 40 CFR 258. She added that since the SW-846 methods are no longer required in general by any existing RCRA regulations, the DEQ will not have to update the Appendix C to evolving methods that are constantly out there and quantitation limits that are constantly changing. So if laboratories choose to utilize SW-846 methods, final updates can be available soon after publication and be available for immediate use instead of the long wait for the availability, as they go through the rule making process, which sometimes will take a long time and we have good methods that could be used but we couldn’t until they

became part of our rules. It would be more cost effective to comply with RCRA-related regulations by allowing more flexibility in method selection and use by removing unnecessary required uses of this SW-846, some of which are not necessary. So by making it clear that one use any appropriate method, regulated entities may be able to cut the cost of compliance monitoring by using less expensive methods. So this is basically updating something we've needed to do for awhile. Ms. Ready fielded questions and concerns from the Council and no public issues were raised. Mr. McCullough made a motion that to approve the proposed amendments to the OAC 252: 515 Appendix C. Mr. Riley made the second.

See transcript pages 20 - 34

Roll Call

Donald Fletcher	Yes	Jeff Shepherd	Yes
Steve Landers	Yes	Bill Torneten	Yes
T. J. McCullough	Yes	Ralph Triplett	Yes
Patrick Riley	Yes	Jay Stout	Yes

OAC 252:515, Subchapter 21 (waste tire processing, certifications, permits and compensation). Ms. Ferrella March, Environmental Specialist in the DEQ Waste Tire Program, provided staff's proposal stating that the proposed amendments to Subchapter 21 arose from Senate bill 747, and would require qualified applicants, which would include waste tire facilities, tire derived fuel facilities, and entities that install the Stream Bank Erosion Projects, to request for reimbursement and that information would have to go to the DEQ. Previously, reimbursement requests went through the Oklahoma Tax Commission from the Waste Tire Indemnity Fund. The second major amendment would change from 5% PCL requirement, which is a priority clean up list. The priority clean up list includes: Illegal tire dumps, community wide events, and pick ups from landfills. This requirement has changed from 5% to 2%. Also, the qualified applicants would be required to receive approval from DEQ on these collection efforts. Also, the amendments clarify DEQ's authority with respect to manifest requirements so that we can track the tires from the generator to the processor and that helps us to track the tires and then the qualified applicants will submit these manifests along with the report for reimbursement. Lastly, the amendments further clarify DEQ's responsibility with respect to tire dealer inspections and inspections of motor license agents. Staff answered questions from the Council and fielded public comments. After much discussion, Mr. Stout called for a motion on the rulemaking. Mr. Torneten made motion to table Subchapter 21 to a future Council meeting allowing staff to do further work on the rule. Mr. Fletcher made the second.

See transcript pages 34 - 109

Roll Call

Donald Fletcher	Yes	Jeff Shepherd	Yes
Steve Landers	Yes	Bill Torneten	Yes
T. J. McCullough	Yes	Ralph Triplett	Yes
Patrick Riley	Yes	Jay Stout	No

Election of Officers – Mr. Torneten opened the floor for nominations for new officers for Calendar Year 2008. Mr. Triplett recommended and made motion that the current officers, Mr. Stout and Mr. Shepherd, be retained by acclamation. Mr. Torneten made the second.

See transcript pages 114 - 115

Roll Call

Donald Fletcher	Yes	Jeff Shepherd	Yes
Steve Landers	Yes	Ralph Triplett	Yes
T. J. McCullough	Yes	Bill Torneten	Yes
Patrick Riley	Yes	Jay Stout	Yes

Dates and locations for 2008 Council meetings -- Council set four meeting dates: January 10, May 8, September 11, and December 11. All the meetings will be held in the DEQ Multipurpose Room.

See transcript pages 116 - 117

Donald Fletcher	Yes	Jeff Shepherd	Yes
Steve Landers	Yes	Ralph Triplett	Yes
T. J. McCullough	Yes	Bill Torneten	Yes
Patrick Riley	Yes	Jay Stout	Yes

Adjournment Mr. Shepherd made motion to adjourn. Mr. Fletcher made the second. Motion passed unanimously. The meeting was adjourned at 11:00 a.m.

Transcript and Attendance Sheet are attached and made an official part of these minutes.

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DEPARTMENT OF ENVIRONMENTAL QUALITY
STATE OF OKLAHOMA

TRANSCRIPT OF THE ENVIRONMENTAL
SOLID WASTE MANAGEMENT
ADVISORY COUNCIL MEETING
HELD ON SEPTEMBER 20, 2007, AT 9:00 A.M.
IN OKLAHOMA CITY, OKLAHOMA

* * * * *

MYERS REPORTING SERVICE
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P.O. BOX 721532
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1 MEMBERS OF THE COUNCIL

2

3 JAY STOUT - CHAIR

4 JEFF SHEPHERD - VICE-CHAIR

5 STEVE LANDERS - MEMBER

6 T.J. MCCULLOUGH - MEMBER

7 DONALD FLETCHER - MEMBER

8 PATRICK RILEY - MEMBER

9 BILL TORNETEN - MEMBER

10 RALPH TRIPLETT - MEMBER

11

12 STAFF MEMBERS

13

14 MYRNA BRUCE - SECRETARY

15 FENTON ROOD - PROGRAMS MANAGER

16 SONNY JOHNSON - LEGAL STAFF

17 FERRELLA MARCH - WASTE TIRE PROGRAM

18 SCOTT THOMPSON - DIRECTOR

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COUNCIL MEETING

MR. STOUT: I'd like to call the meeting to order.

(Comments)

MR. STOUT: Protocol Statement opens our regularly scheduled meeting on November 20, 2007 of the Solid Waste Management Advisory Council was called in accordance with the Open Meeting Act.

Notice was filed with the Secretary of State on November the 30th, 2006 of our agendas and amended on July the 10th, 2007. The agenda was duly posted on the doors of the DEQ, 707 North Robinson, Oklahoma City, Oklahoma, 24 hours prior to the meeting.

Only matters appearing on the posted agenda may be considered at this regular meeting. In the event that this meeting is continued or reconvened, public notice of the date, time and place of the continued meeting will be given by announcement at this meeting. Only matters appearing on the agenda of the meeting which is

1 continued may be discussed at the continued
2 or reconvened meeting.

3 Myrna, would you do the roll call.

4 MS. BRUCE: Donald Fletcher.

5 MR. FLETCHER: Here.

6 MS. BRUCE: Steve Landers.

7 MR. LANDERS: Here.

8 MS. BRUCE: T.J. McCullough.

9 MR. MCCULLOUGH: Here.

10 MS. BRUCE: Patrick Riley.

11 MR. RILEY: Here.

12 MS. BRUCE: Jeff Shepherd.

13 MR. SHEPHERD: Here.

14 MS. BRUCE: Bill Torneten.

15 MR. TORNETEN: Here.

16 MS. BRUCE: Ralph Triplett.

17 MR. TRIPLETT: Here.

18 MS. BRUCE: Jay Stout.

19 MR. STOUT: Here.

20 MS. BRUCE: We have one vacancy.

21 We do have a quorum.

22 I want to thank all of you for being
23 here today. It's been a year since we've
24 been here, so welcome back to the hot seat.
25 I will update you in reference to -- if you

1 remember what we had to do last year at our
2 meeting, the item that we proposed to the
3 Board.

4 I went to Tulsa in November of last
5 year representing this Council, presented
6 it and it was approved, unanimously, in
7 about three minutes.

8 So maybe that's a clue as to how we
9 want to operate. We'll maybe be able to
10 adjourn by 10 after 9:00.

11 Approval of the minutes?

12 MR. TRIPLETT: I'll move that we
13 approve the minutes of the previous
14 meeting.

15 MS. BRUCE: Thank you.

16 MR. TORNETEN: I'll second.

17 MR. STOUT: Motion has been made
18 and seconded. Any discussion? All in
19 favor? Do we need a roll call on the
20 minutes?

21 MS. BRUCE: Yes.

22 MR. STOUT: All right.

23 MS. BRUCE: Donald Fletcher.

24 MR. FLETCHER: Yes.

25 MS. BRUCE: Steve Landers.

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2

MR. LANDERS: Yes.

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MS. BRUCE: T.J. McCullough.

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MR. MCCULLOUGH: Yes.

5

MS. BRUCE: Patrick Riley.

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MR. RILEY: Yes.

7

MS. BRUCE: Jeff Shepherd.

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MR. SHEPHERD: Yes.

9

MS. BRUCE: Bill Torneten.

10

MR. TORNETEN: Yes.

11

MS. BRUCE: Ralph Triplett.

12

MR. TRIPLETT: Yes.

13

MS. BRUCE: Jay Stout.

14

MR. STOUT: Yes.

15

MS. BRUCE: Motion passed. Thank

16 you.

17

MR. STOUT: Item 5 on the agenda

18

is discussion of Solid Waste Program Fees

19

and Expenditures. Making the presentation

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is Fenton Road. And when Fenton comes

21

before us, if any of you wish to address

22

the Council, you will come forward,

23

identify yourself, and then share your

24

comments with us. Fenton.

25

MR. ROOD: Good morning. You

1 should have already received information on
2 Fiscal Year 2006 expenditures and we've
3 also provided the way we budgeted for 2007.
4 The categories are all the same that you
5 have seen in years past and the general
6 pattern of expenditures is the same.

7 Any particular areas you want me to
8 go into more detail or questions that you
9 might have?

10 MR. STOUT: Are there any
11 questions from the Council?

12 MR. TRIPLETT: Any salary
13 increases, Fenton?

14 MR. ROOD: Personnel expenses
15 have gone up as you can tell from comparing
16 the two and probably more significantly
17 travel costs have increased as well.

18 MR. FLETCHER: Is that an
19 across-the-board raise for everybody? Is
20 that what we're --

21 MR. ROOD: We're not budgeting an
22 across the board raise this year.

23 MR. STOUT: Are there more
24 questions?

25 MR. FLETCHER: I had one. You

1 said travel was going up quite a bit, is
2 there -- is it because of the cost of
3 travel or --

4 MR. ROOD: Yes. I mean, same as
5 in your business, the cost of fuel and all
6 other travel-related expenses are
7 increasing, that's not necessarily
8 projecting an increase in travel.

9 MR. FLETCHER: Last year there
10 was an expenditure, I think, in there for
11 North Tulsa Landfill, did that all get
12 spent?

13 MR. ROOD: We did not spend it
14 last year and we have included it in the
15 budget again for this year.

16 MR. STOUT: Anymore questions?
17 (No verbal response)

18 MR. STOUT: Is there a motion to
19 approve?

20 MR. TRIPLETT: Mr. Chairman, I'll
21 move that we approve the budget for the
22 Fiscal Year 2008.

23 MR. FLETCHER: I'll second it.

24 MR. STOUT: Motion has been made
25 and seconded. Any further discussion?

1 We'll have a roll call, please.

2 MS. BRUCE: Donald Fletcher.

3 MR. FLETCHER: Approve.

4 MS. BRUCE: Steve Landers.

5 MR. LANDERS: Yes.

6 MS. BRUCE: T.J. McCullough.

7 MR. MCCULLOUGH: Yes.

8 MS. BRUCE: Patrick Riley.

9 MR. RILEY: Yes.

10 MS. BRUCE: Jeff Shepherd.

11 MR. SHEPHERD: Yes.

12 MS. BRUCE: Bill Torneten.

13 MR. TORNETEN: Yes.

14 MS. BRUCE: Ralph Triplett.

15 MR. TRIPLETT: Yes.

16 MS. BRUCE: Jay Stout.

17 MR. STOUT: Yes.

18 MS. BRUCE: Motion approved.

19 MR. FLETCHER: Mr. Chairman.

20 MR. STOUT: Yes.

21 MR. ROOD: I just wanted to

22 remind you that the Council's duty is to

23 report on this to the legislature, which

24 you typically do through the adoption of a

25 resolution, and then that resolution is

1 typically included in our Annual Report.

2 MR. STOUT: Okay. So you're
3 saying that we need to do a resolution? I
4 thought approving it was our statement.

5 MR. ROOD: Do you have a sample
6 resolution in your packet? That's the
7 format that you've used historically.

8 MR. STOUT: Yes, it's the same as
9 we approve every year. Do any of you need
10 to look at it?

11 (No verbal response)

12 MR. STOUT: If there are no
13 questions on the resolution and that's not
14 listed on the agenda as such, all in favor?

15 MR. TRIPLETT: You make a motion?
16

17 MR. STOUT: Yes, a motion. I'm
18 sorry.

19 MR. TRIPLETT: I make a motion
20 that we approve the resolution.

21 MR. STOUT: Second? Is there a
22 second?

23 MR. FLETCHER: Second.

24 MR. STOUT: Roll call.

25 MS. BRUCE: Donald Fletcher.

1 MR. FLETCHER: Yes.

2 MS. BRUCE: Steve Landers.

3 MR. LANDERS: Yes.

4 MS. BRUCE: T.J. McCullough.

5 MR. MCCULLOUGH: Yes.

6 MS. BRUCE: Patrick Riley.

7 MR. RILEY: Yes.

8 MS. BRUCE: Jeff Shepherd.

9 MR. SHEPHERD: Yes.

10 MS. BRUCE: Bill Torneten.

11 MR. TORNETEN: Yes.

12 MS. BRUCE: Ralph Triplett.

13 MR. TRIPLETT: Yes.

14 MS. BRUCE: Jay Stout.

15 MR. STOUT: Yes.

16 MS. BRUCE: And Mr. Stout, if you
17 would sign that.

18 MR. STOUT: I did.

19 MS. BRUCE: Okay. Thank you.

20 MR. STOUT: We should have had
21 the public forum after we approved the
22 minutes and I don't think I did that.

23 Is there anyone that would like to
24 speak to the Council at this time?
25 (No verbal response)

1 MR. STOUT: All right. Now we're
2 back in order.

3 Item 6 on the agenda. I'm going to
4 split those into three separate items
5 because, in fact, they are three separate
6 items, even though they are listed on the
7 agenda as one. We will discuss the first
8 one, which is 252:515 Subchapter 19, Part
9 13.

10 (Discussion between Council Members)

11 MR. STOUT: So does staff have
12 something they wish to comment in reference
13 to the Subchapter 19?

14 MS. READY: Jay, I'm going to
15 talk about the first two rules on the
16 agenda and I want to introduce you all to
17 Ferrella March and she's in our Waste Tire
18 Program and she's going to discuss the
19 third item on the agenda, which is the tire
20 rule. So when we get to the tire rule,
21 she'll discuss those with you.

22 MR. STOUT: All right, if you
23 would take the first one then.

24 MS. READY: Okay. The Wheel Wash
25 Rule, Subchapter 19, Part 13, wheel washes

1 arose from legislation enacted in 2007, and
2 it became effective July 1 of this year.
3 Senate Bill 509 made significant changes to
4 the wheel wash law and it eliminated the
5 provision for recoupment and it provided
6 instead for reimbursement.

7 So instead of facilities taking ten
8 cents per ton out of what it costs to
9 install these, we got rid of that and
10 decided to just reimburse you for the wheel
11 washes, up to \$300,000 a year.

12 And as written by the rule, it
13 basically says that the first ones of the
14 year that do need to be reimbursed will be
15 reimbursed and subsequent years will be in
16 the order of how many we have that will be
17 allocated to the different people that
18 apply.

19 So I think for this year we've
20 already had one that we've reimbursed and
21 there's a second one that is in the process
22 of doing it. So we look to have two
23 reimbursed this year and in the subsequent
24 years that we'll have -- whoever is in the
25 pool we'll allocate it accordingly up to

1 \$300,000.

2 So that is according to the new
3 rule, you had to have your request to
4 install these by June 1, 2007, and so that
5 date has passed. For your request to be
6 reimbursed in part of the program, you had
7 to have it by June 1, 2007. You have to
8 have it installed and operational by June
9 30, 2008, so that is what this rule entails
10 and it was written to enact what was passed
11 by statute.

12 MR. STOUT: Any questions of
13 staff?

14 MR. RILEY: Dee, from what you've
15 seen so far, what's the cost of these
16 systems?

17 MS. READY: It seems, Patrick,
18 that what I'm seeing, it seems to be around
19 a 180,000, something to that extent is the
20 general range we're seeing.

21 MR. RILEY: Okay.

22 MR. TRIPLETT: So the state limit
23 is 300,000, that means only about two
24 people can do this a year?

25 MS. READY: That's what we're

1 seeing and maybe there won't be enough even
2 for the second one that's going into the
3 second year and they probably won't get
4 paid off.

5 MR. STOUT: The rule impact
6 statement, which is the last few pages
7 attached to this particular item, should
8 cover any questions that might be had, if
9 you read it. If not, feel free to continue
10 to ask staff.

11 MR. TORNETEN: What would be the
12 incentive for a landfill operator to
13 install one of these systems?

14 MS. READY: Well basically, he
15 gets it all paid off and reimbursed for
16 installing it, that's the incentive. I
17 mean, he not only cleans the wheels of the
18 trucks as it comes out and doesn't take a
19 lot of mud out onto the road, which county
20 commissioners have a real problem with, and
21 complaints from citizens causing traffic
22 accidents.

23 So not only does he get that
24 installed and eliminates a lot of
25 complaints and problems in a cleaner

1 landfill, he also gets it reimbursed by the
2 state, so that would be the incentive.

3 MR. TRIPLETT: Dee, is this
4 system a complete system that washes the
5 wheels and then does something with the
6 sludge?

7 MS. READY: Yes, part of the rule
8 talks about the management of the water
9 underneath it, that the system collects and
10 it is part of the rule. If you read a
11 section of the rule that talks about the
12 management.

13 MR. TRIPLETT: That's what makes
14 it so expensive, I guess, then?

15 MS. READY: Well, I guess
16 everything is just expensive now-a-days.
17 Also, the rule talks about all of the
18 things that it encompasses paying for, and
19 if you look at that, it's very clear what
20 all it includes.

21 Approved costs or materials,
22 supplies and equipment, including cost of
23 transportation, rental cost of machinery
24 and equipment necessary for installation
25 and start-up, premiums for all bonds and

1 insurance, permit fees and sales used for
2 similar taxes related to the installation
3 and start-up.

4 Labor, including social security and
5 unemployment insurance, for installation
6 and start-up, fringe benefits required by
7 agreement or custom, and workers
8 compensation insurance and additional costs
9 of supervision and field office personnel
10 directly attributable to the installation
11 and start-up.

12 So that's basically what we are
13 paying for. So we need those items that
14 you submit. They'll submit the invoices to
15 DEQ. First of all, they'll notify us
16 that it's in place, and the DEQ will come
17 and do an inspection and agree it is up and
18 operational. You will submit the invoices,
19 and we will review the invoices and if we
20 find them all adequate, then we will send
21 it on up to finance and then finance cuts
22 the check.

23 MR. TRIPLETT: But after it's
24 installed, then all these costs are on your
25 own?

1 MS. READY: That is right, this
2 is just the initial installation.

3 MR. TRIPLETT: Right. Have we
4 got any idea of what that costs a landfill?

5 MS. READY: From what we're
6 seeing, 180,000 to 200,000 is typically
7 what we're seeing.

8 MR. TRIPLETT: No, I mean, to
9 continue each year what's it going to cost
10 them after --

11 MS. READY: To maintain the
12 system?

13 MR. TRIPLETT: Right.

14 MS. READY: We've had one that's
15 had it up for about a year and I don't know
16 that he's had any problems in the first
17 year, but I would not know the answer to
18 that.

19 MR. TRIPLETT: Thank you.

20 MS. READY: Uh-huh.

21 MR. STOUT: Any other questions?

22 (No verbal response)

23 MR. STOUT: Then, thank you. Is
24 there a motion to approve?

25 MR. FLETCHER: I make a motion we

1 approve it.

2 MR. STOUT: Would you read the --
3 so it will be in the motion, the 252
4 number, the subchapter?

5 MR. FLETCHER: I make a motion we
6 approve 252:512 Subchapter 19 Part 13 of
7 the wheel wash provision.

8 MR. STOUT: Okay. Is there a
9 second?

10 MR. SHEPHERD: Second.

11 MR. STOUT: Any further
12 discussion?

13 (No verbal response)

14 MR. STOUT: All in favor, by roll
15 call.

16 MS. BRUCE: Donald Fletcher.

17 MR. FLETCHER: Yes.

18 MS. BRUCE: Steve Landers.

19 MR. LANDERS: Yes.

20 MS. BRUCE: T.J. McCullough.

21 MR. MCCULLOUGH: No.

22 MS. BRUCE: Patrick Riley.

23 MR. RILEY: Yes.

24 MS. BRUCE: Jeff Shepherd.

25 MR. SHEPHERD: Yes.

1 MS. BRUCE: Bill Torneten.

2 MR. TORNETEN: Yes.

3 MS. BRUCE: Ralph Triplett.

4 MR. TRIPLETT: Yes.

5 MS. BRUCE: Jay Stout.

6 MR. STOUT: Yes.

7 MS. BRUCE: Motion passed.

8 MR. STOUT: All right. The

9 second proposed amendment is the OAC
10 252:515 Appendix C.

11 MS. READY: Okay. That
12 particular Appendix C has been outdated in
13 our rules for a few years. We basically
14 are going to delete the suggested SW-846
15 methods and practical quantitation limit
16 columns, to update it to the current
17 Federal Appendix II to 40 CFR 258, which
18 basically our solid rules pretty much
19 parallel the federal rules.

20 Since the SW-846 methods are no
21 longer required in general by any existing
22 RCRA regulations. The DEQ will not have to
23 update the Appendix C to involving methods
24 that are constantly out there in
25 quantitation limits that are constantly

1 changing.

2 So if laboratories choose to utilize
3 SW-846 methods, final updates can be
4 available soon after publication and be
5 available for immediate use instead of the
6 long wait for the availability as they go
7 through the rule-making process, which
8 sometimes would take a long time.

9 We had good methods that could be
10 used but we couldn't until they became part
11 of our rules. It would be more cost
12 effective to comply with RCRA related
13 regulations by allowing more flexibility in
14 method selection and use by removing
15 unnecessary required uses of SW-846, some
16 of which are not necessary.

17 So by making it clear that one may
18 use any appropriate method, regulated
19 entities may be able to cut the cost of
20 compliance monitoring by using less
21 expensive methods. So this is basically
22 updating something we've needed to do for a
23 while.

24 MR. STOUT: So my concept that
25 it's really housekeeping -- it would be

1 online?

2 MS. READY: Not so much
3 housekeeping as they're seen -- it used to
4 be when the rules first came out, SW-846
5 methods were the gospel, the only method
6 out there and as the laboratories and a lot
7 of people in industry started seeing there
8 were equivalent methods. In fact, a lot of
9 times you could do a method validation and
10 show that this method does as good as
11 SW-846.

12 It's cheaper to use, so why can't we
13 use it? So a lot of questions came up to
14 EPA over it and a lot of public comment,
15 and they basically over the years listened
16 to industry and the public comment and
17 decided, yeah, SW-846 methods do not need
18 to be the gospel methods anymore, there's a
19 broad range out there that can be used and
20 we can allow it.

21 Plus, you know, they tried to get it
22 passed all of those years it took to even
23 -- when there were valid methods to make
24 people be able to use them that was a very
25 incentive to eliminate that factor, so

1 that's basically where we are.

2 And as methods get better, the
3 quantifiable levels have changed and, you
4 know, always having to keep that updated
5 and looking and see what they've adapted
6 now to make the detection limits better,
7 it's just too much of a hassle every year
8 to try to go through that and keep up with
9 that.

10 MR. STOUT: Thank you.

11 MR. TORNETEN: It wasn't clear to
12 me who determines what methods are
13 acceptable.

14 MS. READY: Well, the federal is
15 the ones that originally had come up with
16 and that and uses SW-846 methods, and our
17 rules basically mimic them.

18 MR. TORNETEN: Right.

19 MS. READY: So basically, they
20 have said, no we don't have to just use --
21 EPA has said in their federal rules --
22 solid waste rules that we don't require
23 SW-846 to be the sole method anymore.

24 MR. TORNETEN: Right, but if
25 someone proposes a method, who determines

1 if it's acceptable?

2 MS. READY: I believe that they
3 submit that to EPA to look at if the method
4 that they're using is different. If they
5 validate it and ran all of the standards
6 and then run controls and show that they
7 still get the same results, they submit it
8 to EPA and they basically accept the
9 method.

10 MR. TORNETEN: Okay. So you're
11 allowing methods that have been approved by
12 EPA, specifically?

13 MS. READY: Yes. Yes.

14 MR. TORNETEN: Okay.

15 MS. READY: And that's just not
16 done easy, that's in the validation they
17 have to show.

18 MR. TORNETEN: Yeah.

19 MS. READY: So there's a whole
20 realm out there that oversees laboratories
21 and methods --

22 MR. TORNETEN: Right.

23 MS. READY: -- acceptable methods
24 that they can use outside of DEQ.

25 MR. LANDERS: Dee, I don't know

1 if this is a dumb question or not, but do
2 the haz-waste rules refer to this appendix?

3 MS. READY: We were talking about
4 that and I do believe that haz-waste would
5 be affected by this too. Because they also
6 use SW-846 but this particular appendix is
7 only solid waste. This is totally solid
8 waste rules but there was talk whether we
9 need to look at it in the hazardous waste
10 realm too -- and the hazardous waste rules
11 also. So I know we're looking into that
12 but this particular Appendix C is specific
13 to solid waste.

14 MR. TORNETEN: Is this going to
15 affect any of the historical statistical
16 analysis of groundwater data, if you're
17 changing methods and, you know, your
18 background and statistical analyses were
19 based on different methods?

20 MS. READY: Again, only
21 acceptable methods that are equivalent
22 would be acceptable so they have to be
23 that. But what I do see is it does seem to
24 bring some of the issues related to the
25 groundwater levels that are acceptable.

1 Drinking water levels have been
2 lowered and so a lot of the methods have to
3 reach lower detection limits that some of
4 these outdated methods weren't able to do.
5 In fact, that's kind of how it was brought
6 to our attention because we had people
7 calling and saying, you know, this method
8 in Appendix C, you know -- what particular
9 total metal analysis or instrument analysis
10 must we do to conform with this.

11 And as we got to looking, some of
12 these were so outdated they couldn't even
13 reach the lower detection limits of this
14 drinking water standards. So that's pretty
15 much what brought this to our attention
16 that we needed to modify it because
17 industry is seeing that there is a problem
18 out there.

19 Now if the methods that they can use
20 -- SW-846 can still meet those achievable
21 limits too, but there's other methods that
22 can also. Did I answer your question,
23 Bill?

24 MR. TORNETEN: Partly. I can
25 foresee some problems associated with

1 statistical analysis of data if you change
2 methods and you're comparing it to a
3 background, the method may have been
4 equivalent but --

5 MS. READY: Well, I don't think
6 they're going to -- it's not going to be a
7 whole revamp in the methods out there. I
8 mean, that's not really basically -- I
9 mean, a lot of them are going to continue
10 to use SW-846, the very same method, it's
11 just that some of the detection limits have
12 gotten a little bit smaller so, I mean,
13 they have gotten lesser than what they
14 were. But the methods themselves -- it's not
15 going to be a big revamping of methods out
16 there.

17 MR. TORNETEN: Does it affect
18 constituents?

19 MS. READY: No, they're just
20 coming up with better technology to be able
21 to see down lower --

22 MR. TORNETEN: Uh-huh. Right.

23 MS. READY: -- than they used to
24 be able to see. Whether that be better
25 columns are being developed or, you know,

1 something different in the method of
2 extraction, or something's able to make
3 this a better picture down on the lower
4 end.

5 MR. TORNETEN: Uh-huh.

6 MS. READY: Which we have to do
7 because if you have -- if you are using a
8 method, and it's not reaching that
9 detection limit that you have to show for
10 maximum drinking level, then you have to go
11 to a new method now, that much we can say.
12 So that may be the case in some of these
13 landfills that they may be finding out.

14 Because we're getting letters from
15 permit engineers saying, you know, here's
16 your levels you submitted but you did not,
17 you know, your detection limit is above the
18 maximum drinking level. You did not show,
19 you know, as low as you needed to show, so
20 you need to develop a new method or go out
21 there and find a method that will hit that
22 level, for that particular parameter.

23 MR. TORNETEN: Right.

24 MS. READY: Now maybe it's
25 hitting a lot of the other parameters and

1 that's acceptable to still use that method
2 for those but arsenic in drinking water is
3 lowered, some others are coming in that are
4 being lowered and then you have to choose a
5 method that's going to meet the appropriate
6 detection limit.

7 MR. TORNETEN: So if in the past
8 you were getting non-detect for a variety
9 of parameters, it may have been partly due
10 to the fact that the methods could not go
11 low enough.

12 MS. READY: Well, you look at
13 that laboratory data, you ought to be
14 looking at the detection limit and if
15 they're getting a non-detect and their
16 detection limit is like 1 or .1, and
17 they're supposed to be seeing .05, and
18 they're showing non-detect. While we're
19 saying, you haven't showed us that, you
20 know, that you're there because your
21 detection limit is not low enough to show
22 what we need to be seeing.

23 MR. TORNETEN: Uh-huh.

24 MS. READY. And then we advise
25 that they choose a method that can reach

1 that limit in the future analysis.

2 MR. TORNETEN: So if you had a
3 previous method that was showing non-detect
4 and now we're using a more sensitive better
5 method that's showing detection, how are
6 you going to establish a trend? I guess if
7 you don't have a background that, you know,
8 if background was established using an
9 older method --

10 MS. READY: And that could be a
11 very valid argument that the consultant
12 uses. And again, we're more focused on the
13 key parameters that have kind of gone down
14 on groundwater -- drinking water standards.

15
16 The whole realm really has pretty
17 much stayed the same but there are a few
18 that the argument could be made by the
19 consultant being that we had to go to a new
20 method and developed a new lower detection
21 limit. We will have to collect another
22 eight quarters of background before we can
23 really do a valid statistical.

24 MR. TORNETEN: Okay.

25 MS. READY: And I think that

1 argument could be made and could be
2 accepted.

3 MR. TORNETEN: Okay.

4 MS. READY: However you still
5 have to keep in mind that if they're above
6 that level of, you know, drinking water
7 standard, that's been an issue, you know,
8 that a current acceptable method showing
9 they're above that drinking water standard,
10 we still have an issue right there.

11 MR. TRIPLETT: Are we ever going
12 to reach a point where we're going to find
13 so much stuff in our water we aren't going
14 to be able to drink any of our groundwater?

15 MS. READY: Personally, I don't
16 think so.

17 MR. TRIPLETT: You keep going
18 lower and lower, I'm afraid my little town
19 I live in is going to spend a million
20 dollars for nitrate --

21 MS. READY: Well --

22 MR. TRIPLETT: -- reduction deal.
23 I mean, what if we find out after we do
24 this that it's lower now than what we
25 thought it was?

1 MS. READY: I think that can make
2 arguments that it's naturally occurring in
3 and our permit engineers do that. Do you
4 not, Greg? A lot of times our studies are
5 shown to show its naturally occurring
6 levels of arsenic or barium and so it's the
7 naturally occurring levels that are there,
8 how can you say, oh, this has to be more
9 stringent?

10 I mean, even the city drinking is
11 higher than that from the way it is, and
12 arguments have been made like that and
13 accepted. So it's all up to your ideas to
14 present to us and we talk about it and
15 agree or disagree.

16 MR. TRIPLETT: I agree with you
17 that we need to probably follow the federal
18 regulations and do away with (inaudible).
19 And if this changes -- somehow costs me
20 less doing my water monitoring tests, I'll
21 be all for that too.

22 MS. READY: Yeah, and some of
23 these methods are less expensive so that's
24 an incentive.

25 MR. STOUT: Any further

1 questions?

2 (No verbal response)

3 MR. STOUT: Then I think we're
4 ready to entertain a motion. Now, we do
5 understand what a motion means? We can't
6 do anything without it.

7 MR. MCCULLOUGH: Chairman, I make
8 a motion that we approve the proposed
9 amendments to the OAC 252:515 Appendix C.

10 MR. STOUT: Is there a second?

11 MR. RILEY: Second.

12 MR. STOUT: Any further
13 discussion?

14 (No verbal response)

15 MR. STOUT: All in favor by roll
16 call.

17 MS. BRUCE: Donald Fletcher.

18 MR. FLETCHER: Yes.

19 MS. BRUCE: Steve Landers.

20 MR. LANDERS: Yes.

21 MS. BRUCE: T.J. McCullough.

22 MR. MCCULLOUGH: Yes.

23 MS. BRUCE: Patrick Riley.

24 MR. RILEY: Yes.

25 MS. BRUCE: Jeff Shepherd.

1 MR. SHEPHERD: Yes.
2 MS. BRUCE: Bill Torneten.
3 MR. TORNETEN: Yes.
4 MS. BRUCE: Ralph Triplett.
5 MR. TRIPLETT: Yes.
6 MS. BRUCE: Jay Stout.
7 MR. STOUT: Yes.
8 MS. BRUCE: Motion passed.
9 MR. STOUT: Thank you very much.

10 Next is OAC 252:515 Subchapter 21. And we
11 have a different person that's going to
12 help us with that. So if you'll identify
13 yourself and tell us what your position is,
14 then we'll go forth.

15 MS. MARCH: Okay. As Dee
16 introduced me, I'm Ferrella March. I work
17 with the Waste Tire Program and I'm an
18 environmental specialist at DEQ.

19 MR. STOUT: Thank you.

20 MS. MARCH: First off, the
21 proposed amendments to Subchapter 21 arise
22 from Senate Bill 747. And kind of in a
23 nutshell, our amendments and our new
24 language changes require a qualified
25 applicant, which would include waste tire

1 facilities, tire derived fuel facilities
2 and entities that install stream bank
3 erosion projects.

4 It would require them to request for
5 reimbursement and that information would
6 have to go to the DEQ. Previously, they
7 would request reimbursement from the
8 Oklahoma Tax Commission from the Waste Tire
9 Indemnity Fund.

10 Now they will be requesting that
11 reimbursement from the DEQ. The second
12 major amendment to Subchapter 21, is the
13 change from the five percent PCL
14 requirement, which is a priority cleanup
15 list. The priority cleanup list includes
16 illegal tire dumps, community-wide events,
17 and pick-ups from landfills.

18 This requirement has changed from
19 five percent to two percent. Also the
20 qualified applicants would be required to
21 receive approval from DEQ on these
22 collection efforts. Also the amendments
23 clarify DEQ's authority with respect to
24 manifest requirements and that would
25 include manifest -- we require the manifest

1 so that we can track the tires from the
2 generator to the processor and that helps
3 us to track the tires and then the
4 qualified applicants will submit these
5 manifests along with the report for
6 reimbursement.

7 Also the amendment further clarify
8 DEQ's responsibility with respect to tire
9 dealer inspections and inspections of motor
10 license agents. And last, the amendments
11 require the -- well, actually, no, I'm
12 sorry that's part of the Senate Bill 747.
13 And that's pretty much it. Are there any
14 questions?

15 MR. RILEY: Ferrella, I have a
16 question.

17 MS. MARCH: Yes.

18 MR. RILEY: With the change from
19 the Oklahoma Tax Commission to DEQ, now if
20 I understand it correctly, DEQ has a
21 responsibility for approving the
22 reimbursement requests and doing the
23 inspections of tire dealers and license
24 facilities.

25 Is there -- and this kind of relates

1 back to our rush through our approval of
2 the budget. Has there been additional
3 funds allocated to DEQ for additional staff
4 or personnel and other expenses to take
5 over these duties from the Tax Commission?

6 MS. MARCH: Yes That was set
7 forth in the Senate Bill 747 and we do
8 receive a larger percentage of the fees
9 that are submitted into the Waste Tire
10 Indemnity Fund.

11 MR. RILEY: About how many people
12 have been added? Do you know?

13 MS. MARCH: Currently, none have
14 been added.

15 MR. RILEY: Do you have
16 sufficient staff then to do this?

17 MS. MARCH: Yes. We're
18 investigating or we're trying to assess
19 that need a little further.

20 MR. TRIPLETT: Is this designed
21 to speed up the process in which the people
22 that collect the tires get reimbursed for,
23 since we kind of eliminated the Oklahoma
24 Tax Commission?

25 MS. MARCH: Well, I don't think

1 it's going to speed up the process
2 necessarily because they are reimbursed on
3 a monthly basis and it's pretty timely.
4 The Oklahoma Tax Commission reimburse the
5 qualified applicants in a timely manner
6 and, you know, we will also reimburse them
7 in a timely manner. So I don't think it
8 will be a matter of, you know, how quickly
9 they're reimbursed.

10 MR. SHEPHERD: Why did they
11 decide to move it from the Tax Commission
12 over to DEQ?

13 MS. MARCH: Well, a lot if it is
14 we felt like we could get a better handle
15 on the tire dealers and if they were
16 remitting the proper fees into the Waste
17 Tire Indemnity Fund.

18 MR. TRIPLETT: What is the fee
19 that they get reimbursed for a pasture tire
20 or a large tire?

21 MS. MARCH: Well, do you mean our
22 -- what is the fee that the tire dealer
23 pays into the Waste Tire Indemnity Fund?
24 Is that what you're getting at?

25 MR. TRIPLETT: Well, that's 3.50

1 to us, a dollar for a passenger and 2.50
2 for a truck or larger.

3 MS. MARCH: Right.

4 MR. TRIPLETT: But what do they
5 get reimbursed, these tire collectors?

6 MS. MARCH: Right. The tire
7 collectors get reimbursed for collection
8 and transportation of these waste tires and
9 also for processing the waste tires with
10 the exception of the stream bank erosion
11 control project and those are reimbursed
12 based on the number of tires.

13 MR. TRIPLETT: Is it 50 cents a
14 tire or --

15 MS. MARCH: Well, it's like, for
16 crumb rubber, for instance, it's -- the
17 breakdown is for collection and
18 transportation. I believe it's \$53 per
19 ton.

20 MR. TRIPLETT: \$53 per ton.
21 Okay.

22 MS. MARCH: Right.

23 MR. TRIPLETT: So it is not per
24 tire, it is per ton?

25 MS. MARCH: It's per ton, right.

1 MR. TRIPLETT: Okay.

2 MR. STOUT: Anymore questions
3 from Council?

4 MR. SHEPHERD: Why are you
5 dropping from five percent down to two
6 percent on the PCL's?

7 MS. MARCH: Do you have a
8 comment?

9 MR. JOHNSON: Yes, I have a
10 comment. I'm Sonny Johnson, I'm with the
11 legal staff at DEQ. Our Executive Director
12 would like to know that answer to that
13 question as well, it was done at the
14 legislature.

15 MR. STOUT: Fenton, did you wish
16 to comment?

17 MR. ROOD: He's answered it.

18 MR. STOUT: He covered it.

19 MR. SHEPHERD: Does that mean
20 we're running out of PCL's?

21 MS. MARCH: Absolutely not.

22 MR. SHEPHERD: That's what I
23 figured.

24 MR. STOUT: Any questions from
25 the public?

1 MR. TRIPLETT: Does the tire fund
2 still have enough funding to reimburse
3 these people?

4 MS. MARCH: The processors are
5 reimbursed on a TIER approach. We do have
6 to prorate the reimbursement effort every
7 month. Well, not every month. Most months
8 the qualified applicants are prorated.

9 In other words, they're paid -- the
10 first TIER is paid out, which includes the
11 basic overhead costs and then capital
12 investment, and then the second and third
13 TIERS are usually paid out. The third TIER
14 is usually prorated and the fourth TIER, we
15 usually never get that far. So the fund is
16 a little bit short on a monthly basis.

17 And one of the things that we hope
18 to do actually by taking over a large part
19 of the Waste Tire Program, in terms of
20 allocation of funds is so that we can
21 increase the Waste Tire Indemnity Fund so
22 that we do have enough in the fund to
23 reimburse the qualified applicant.

24 MR. TORNETEN: So I take it the
25 two percent number is in the statute and

1 there's no flexibility there as far as --
2 we either approve it as is, or not at all?

3 MS. MARCH: That is correct. The
4 things that we've identified, we do foresee
5 that as potentially problematic, dropping
6 it from five to two percent and that's why
7 we included the language that DEQ can
8 approve the collection efforts of these
9 illegal tire dump sites in particular.

10 MR. SHEPHERD: So what does that
11 mean, if you're going to approve the
12 collection efforts?

13 MS. MARCH: We're able to go out
14 and determine whether or not that that
15 illegal dump, for instance, has been
16 cleaned up to our satisfaction, which means
17 if we go out there and it's half cleaned
18 up, the processor may not receive
19 reimbursement for that collection effort.
20 Or if we go out and there's a lot of scrap
21 tires left or it's been cherry picked, so
22 to speak, we may not approve that
23 collection effort.

24 MR. TRIPLETT: Okay. In a
25 community-wide collection or pick-up deal,

1 you would have to approve that before the
2 community could do that?

3 MS. MARCH: Right. On the
4 community-wide events, we authorize that
5 prior to the collection event.

6 MR. TRIPLETT: Do these
7 communities -- how do they know that?

8 MS. MARCH: A lot of it is
9 education. They are aware of the
10 authorization process. A lot of times we
11 get people calling in and they want to hold
12 the community-wide event, so we inform them
13 of what the procedure is. We generally
14 don't have a problem with the communities
15 on a community-wide event.

16 MR. STOUT: We have someone from
17 the public. We may call you back, if you
18 would --

19 MS. MARCH: Okay.

20 MR. STOUT: -- that wants to
21 address this.

22 MS. MARCH: Sure.

23 MS. MYERS: Good morning, Mr.
24 Chair, Council, Members of the Staff. I
25 have some comments that I want to make and

1 then I have some specific comments to the
2 rule that I think need to be made before it
3 is approved.

4 MR. STOUT: And you are?

5 MS. MYERS: My name is Sharon
6 Myers. I represent Holcim Cement Plant in
7 Ada, Oklahoma. We have used tires as part
8 of the Waste Tire Program in our process
9 since 1995. We've removed over 20 million
10 tires from the waste streams since that
11 time, so we are a large consumer as an
12 end-user.

13 I'm also here to represent Energis,
14 which is a wholly-owned subsidiary of
15 Holcim. We purchased a permit for
16 processing from Able Tire, two and half
17 years ago and operate that facility as
18 well. It's operated separately but in
19 conjunction with the cement plant.

20 Since 1995, we've removed over 20
21 million tires from the waste stream. When
22 I say remove, we have provided the ultimate
23 disposal. They go into our kilns as part
24 of our fuel, they're totally consumed,
25 there are no parts of the tires that go to

1 landfills, which is something that you run
2 into with some of your other processing
3 technology.

4 Crumb rubber and shredding can end
5 up with as much as 25 to 30 percent of that
6 tire going to the landfill and those people
7 are still compensated for that. They're
8 paid to take it to a landfill. I disagree
9 with that. There are several other things
10 that I disagree with but I'll get to that
11 in a minute. As a processor, since Energis
12 took over ownership two and half years ago,
13 we're the only processor in the state that
14 has physically serviced all 77 counties.

15 And by physically servicing, I mean
16 we have been in every county in Oklahoma to
17 pick up tires including Beaver County,
18 Cimarron County, way up in the northeast,
19 way down in the southeast. We're the only
20 ones that have done that. As part of our
21 commitment for both companies, we believe
22 in 100 percent compliance.

23 In order to do that for the PCL
24 requirements, we did have a higher
25 percentage when we started ownership of

1 Energis. For PCL, we have responded to the
2 request and the agency can confirm this,
3 for cleanup or pick-up all over the state
4 and that's done at our cost. We have to
5 pay money to do that.

6 On one particular site, up by
7 Newcastle, the site required a track hoe, a
8 bobcat, trucks, and operators. It took
9 over five weeks to clean it up. That is a
10 direct cost for us to comply and ensure
11 compliance with the statute. That is in
12 our efforts to maintain and build that
13 percentage of priority cleanup.

14 So using tires comes with a cost.
15 It comes with a cost for an end-user, in
16 that we have to have equipment and
17 operators and maintenance, it has impacts
18 on the process so it's not a free fuel for
19 a cement plant, nor is it a free fuel for
20 the processor to pick all of that up.

21 The Tire Program has some major
22 flaws. I've been vocal about it for
23 several years. We work with the
24 legislature to try and improve them but
25 with any program like this, you end up with

1 compromise so that it is not necessarily
2 the best program that it could be. I
3 understand that.

4 One of the major flaws in the past
5 has been and I don't know who raised the
6 question about compliance and enforcement,
7 but there has been a lack of compliance and
8 a lack of enforcement, in part, because of
9 the confusion over who had which
10 jurisdiction.

11 We hope and we support DEQ in that
12 effort to improve and enhance their
13 enforcement ability. Money has been paid
14 out of the fund to facilities over the
15 years that have not been compliant.

16 It's real easy to go look at some of
17 the records and see what's happened and
18 who's got paid and who did not comply with
19 the law. We object to that. We don't
20 think any money should be paid out until a
21 facility demonstrates that they are in
22 compliance.

23 One of the things that has given us
24 some major concern, at this point and time,
25 is the interpretation of the statute and

1 how the money is going to be allocated. I
2 don't see anything in the statute, nor in
3 the rule that requires the priority cleanup
4 percentage to be reset to zero on July 1st,
5 that has happened.

6 We spent over \$50,000 in the first
7 six months to ensure compliance with the
8 priority cleanup and that's just been wiped
9 out. I think that ought to be done on a
10 rolling 12-month average and that way you
11 can ensure compliance.

12 If you do it only on a annual
13 average, as it was done in the program
14 three or four years ago. You have
15 facilities that will rock along all year,
16 they get money out of the fund and then in
17 December, they haven't been in compliance
18 all year, there's no way to get that money
19 back to allocate it to those who do commit
20 to follow the statute and follow the
21 compliance.

22 There's no way to go back and make
23 it right for the facilities who are
24 striving to do the right thing. Holcim and
25 Energis have very strong commitments to

1 sustain the development, which is in part
2 why we're doing what we do.

3 And the use of alternative fuel and
4 raw material is part of that commitment.
5 We have been strong supporters for
6 improving the structure of the Waste Tire
7 Program and advocates for better
8 enforcement for compliance
9 across-the-board.

10 And if you ask any of the staff
11 members, they can assure you that that's
12 true. Some specific comments as to the
13 rule and the language in the rule.

14 Under 252:515-21-5 Part (b), the
15 time line for collection, it states that
16 the DEQ -- that QACT, which is qualified
17 applicants shall provide documentation to
18 the DEQ to demonstrate whether or not they
19 have complied with the requirements, by the
20 order for compliance with service but
21 there's no consequences in this rule.

22 If you don't have consequences, you
23 have no way of enforcing it. So I think
24 the language pertaining to that needs to be
25 revisited so that, okay, we didn't provide

1 any information, what are you going to do
2 about it?.

3 There's no method of compliance in
4 this or consequences. Under the portion
5 relating to collection efforts from the
6 tire dumps and community-wide cleanups, Ms.
7 March made the comment that DEQ would be
8 providing some oversight.

9 I think language should be in the
10 rule that requires DEQ to have an
11 inspection prior to, during, and after
12 cleanup effort to verify the number of
13 tires. That this program is so wide open
14 in some of these stipulations that there
15 are people who cheat and get paid
16 handsomely for doing so.

17 So I think some language needs to be
18 added in there that requires an inspection
19 before, during, and after, to insure that
20 there is an accurate count for the number
21 of tires that are cleaned up.

22 On Page 3, which is under
23 252:515-21-51, on the manifest required,
24 Part , where it says inaccurate,
25 incomplete, or insufficient manifest. In

1 that first sentence that language needs to
2 be changed, in my opinion.

3 The DEQ "shall not" certify the QACT
4 for reimbursement of tires, which are
5 processed if the manifests are incomplete.
6 Not may not but shall not , there's a
7 huge difference in the way that language
8 reads and what the requirements are. Those
9 are my main comments.

10 We support the tire program. We
11 think it needs to be in place -- and back
12 to the gentleman's question referencing
13 about the PCL, we disagree with that. We
14 didn't want that there. It will lead to
15 additional tire dumps in Oklahoma.

16 It will become a greater issue
17 because it's too easy to comply with two
18 percent compared to five percent or ten
19 percent. Tire dumps are out there. We've
20 been there, we've cleaned them off.

21 In fact, I do not agree with the
22 interpretation and I don't know where it
23 came from that everything was going to be
24 reset to zero. It needs to be done on a
25 rolling 12-month average, not an annual

1 average.

2 There have been too many facilities
3 in the past and these folks are aware of
4 some of the ones that have been in
5 violation. They received payment all year
6 long, and they were not in compliance. And
7 at the end of the year the money that had
8 been allocated to them -- they should have
9 never received in the first place. There's
10 no way to get it to the people that
11 actually do comply.

12 I appreciate your time and efforts.
13 I hope that we can get these changes made
14 in the language before this rule is
15 approved. I think it's got some loopholes
16 in it that are going to be detrimental to
17 the program and more difficult for
18 enforcement for the agency.

19 MR. STOUT: How are you able to
20 determine somebody else is not in
21 compliance, you specifically?

22 MS. MYERS: I specifically have
23 been up to the records room and gone
24 through some of the filings that have been
25 made, anybody can do it, they're public

1 records.

2 And there are facilities you can go
3 through, there are monthly submittals for
4 request for reimbursement, and you can very
5 easily pick out when they, on their
6 affidavits, state that they had two or
7 three percent PCL cleanup when the
8 requirement was five percent and they
9 received compensation.

10 MR. STOUT: So you're saying DEQ
11 is not doing their job?

12 MS. MYERS: I'm saying that in
13 the past there has been some enforcement
14 discrepancies in part that has been because
15 DEQ has not had full enforcement ability,
16 and part, Oklahoma Tax Commission has not
17 followed through their part of it.

18 MR. LANDERS: Sharon --

19 MS. MYERS: Yes, sir.

20 MR. LANDERS: -- explain to me
21 what's involved in this program -- how the
22 four or five applicants are reimbursed.
23 Explain to me what you mean about the
24 12-month rolling --

25 MS. MYERS: For instance, for the

1 six months of this years -- first six
2 months, then I got one of our managers with
3 me that's actually been out there picking
4 up the tires himself. Jimmy, would you
5 like to come up here?

6 MR. BENNETT: I wouldn't like to
7 but I will.

8 MS. MYERS: This is Jimmy
9 Bennett, he's the manager for Energis. For
10 the first six months of this year, Energis
11 went to various sites to cleanup tires from
12 tire dumps. They spent weeks at Woodward,
13 this huge tire dump out at Woodward, spent
14 weeks out there cleaning up. The one at
15 Newcastle, he had a track hoe, bobcat, --

16 MR. BENNETT: Bobcat.

17 MS. MYERS: -- trucks, several
18 people manpower, it took five weeks to
19 clean it up. As of June 30th, our primary
20 cleanup percentage for the year was seven
21 percent.

22 If you take that on a rolling
23 average, then that seven percent would be
24 averaged with -- in a 12-month rolling
25 period you drop off one month, you add

1 another so it's a moving 12-month average.

2

3 If you arbitrarily cut it off, we
4 spent in excess of \$50,000 for compliance
5 that we didn't need to do. Now, we're
6 committed to compliance but we've been
7 penalized for going above and beyond, and I
8 don't think that's fair.

9 And also with the 12-month -- with
10 an annual compliance time-frame, and again,
11 these records are available, all you have
12 to do is look them up. There have been
13 more than one facility to file for and
14 receive compensation when they were not in
15 compliance.

16 And at the end of the year when we
17 took over the Able Tire Facility, he'd been
18 paid for 11 months, yet he was so far out
19 of compliance that it was very difficult
20 for us to reach the compliance level, which
21 was required once we took ownership of the
22 permit.

23 And Jimmy can address anymore
24 specific questions you might have about
25 what's required in terms of the effort to

1 clean up some of these tire dumps. At a
2 two percent level -- to answer your
3 question, you probably hit several of the
4 city-wide cleanups and that's where people
5 can bring tires in and you toss them in the
6 trailers because that's easy.

7 To answer the real concern for
8 Oklahoma, which is the illegal tire dumps
9 like the one in Newcastle and the one in
10 Woodward, that requires a great deal of
11 manpower and effort.

12 And according to the rules, the
13 agency will have discretion on requesting
14 different facilities that are entitled to
15 compensation, to go clean some of these up.

16
17 Again, I would ask that the agency
18 be required to provide inspections before,
19 during, and after, to ensure that the
20 numbers are accurate and that this is being
21 done and that those sites are allocated
22 equitably across-the-board to all the
23 facilities. So that the facilities located
24 in Tulsa, if they have to go to Lawton or
25 some place down in the southwest part of

1 the state or Cimarron County or where ever
2 then they need to do that as well.

3 MR. SHEPHERD: But you use the
4 tires as alternative fuel.

5 MS. MYERS: That's right.

6 MR. SHEPHERD: So what would be
7 the cost -- I mean, I know granted you may
8 have spent \$50,000, but is that --
9 but for Holcim's part of it, aren't they
10 still saving money using the tires as an
11 alternative fuel versus using your other
12 type of fuel -- which I don't know what you
13 use.

14 MS. MYERS: Capitalism is not a
15 dirty word.

16 MR. SHEPHERD: I'm not asking as
17 a --

18 MS. MYERS: Yes, I know. I
19 understand what you're saying. It's not a
20 free fuel. We have equipment, as a matter
21 of fact, we just got through installing
22 over a million dollars worth of equipment
23 to be able to handle the tires.

24 We have manpower that's required
25 with the systems for using tires on a

1 regular basis as opposed to using coal. We
2 got two people around the clock assigned
3 just to that system.

4 MR. SHEPHERD: It's clearly --

5 MS. MYERS: Additionally, it does
6 have some other impacts on the process.

7 MR. SHEPHERD: But clearly, it's
8 something that you guys see as a cost
9 savings versus just burning coal or natural
10 gas.

11 MS. MYERS: It's a cost savings
12 but my company also has a very strong
13 commitment to sustainable development and
14 trying to do everything that we can to
15 conserve natural resources and this is
16 globally. Holcim globally has a commitment
17 and we're held to very high standards in
18 terms of trying to find ways to conserve
19 natural recurring resources.

20 MR. TORNETEN: I would hope the
21 other tire recyclers also derives some kind
22 of financial benefit from the -- whether
23 it's crumb rubber or whatever the end
24 product is, you know, I haven't seen the
25 numbers but presumably if they're in the

59

1 business, they found some use for recycled
2 materials. Hopefully, they're not in
3 business just to recoup money from the
4 fund.

5 MS. MYERS: Well, that has
6 happened before -- that has happened.

7 MR. FLETCHER: What kind of
8 process did you have that you picked this
9 dump to clean up? Was it your decision to
10 clean it up? Was it DEQ's?

11 MR. BENNETT: Actually, DEQ has a
12 list of dump sites.

13 MR. FLETCHER: So you got that
14 list and you picked the one you want to
15 clean up?

16 MR. BENNETT: Basically. They
17 can ask me to go to a specific one. Most
18 generally I'll go see. This was a major
19 dump site around south of Oklahoma City.
20 Didn't realize it was going to be that big
21 when we started but when we start digging
22 you just keep on going.

23 MR. FLETCHER: So you have the
24 ability to say no at the start?

25 MR. BENNETT: Do what?

1 MR. FLETCHER: Do you have the
2 ability to tell them no at the start, pick
3 a different site?

4 MR. BENNETT: Probably would.
5 Probably could.

6 MR. FLETCHER: So the DEQ has a
7 list of sites that are on there and that
8 all the tire dealers have a list that they
9 could go pick from, they can't just go pick
10 their own, correct?

11 MR. BENNETT: No, it's got to be
12 a certified dump site --

13 MR. FLETCHER: Dump site.

14 MR. BENNETT: -- created by and
15 authorized by the DEQ.

16 MS. MYERS: It's found on the
17 priority cleanup list.

18 MR. FLETCHER: I guess the next
19 question of you, I know you are not out
20 there, but how do you know how many tires
21 are there that they're going to clean up?

22 MS. MARCH: Okay. We do provide
23 oversight on the tire dumps and we do go
24 out when a tire dump has been reported to
25 us so we do an initial evaluation and then

1 we also do a reevaluation after the dump
2 has been cleaned up.

3 We actually -- we can assign the
4 tire dumps to the processors, especially if
5 it has a human health hazard -- if it's a
6 human health hazard, if there's lot of
7 mosquitoes, if there are rodents, if there
8 is a rodent concern, so we can assign those
9 dumps.

10 One of the amendments in the
11 proposed rule is that we can assign the
12 collection dumps to the QACT so they can
13 get -- they can go off the list which we
14 try and prioritize as much as we can, but
15 we can also assign a tire dump to a
16 processor.

17 (Multiple inaudible conversation)

18 MR. FLETCHER: You prioritize all
19 the dumps from number one being the worst
20 to number ten being not so bad, right?

21 MS. MARCH: Correct. We're
22 currently trying to reevaluate how we
23 prioritize that list to see if there's a
24 better way to do it.

25 MR. FLETCHER: Do you have some

1 sort of responsibility in these people not
2 reaching their five percent then?

3 MS. MARCH: No. I don't believe
4 so. I don't agree with that.

5 MR. FLETCHER: And so if they
6 come back at the end of the year at only
7 two percent when the rule was five percent,
8 then you still pay them? But you didn't
9 assign them the sites to clean up, then
10 it's their responsibility still?

11 MS. MARCH: It's their
12 responsibility because there are currently
13 plenty of illegal dumps and community-wide
14 events to go around. I don't think there's
15 danger of running out of either one.

16 MR. FLETCHER: Oh, I thought you
17 assigned them.

18 MS. MARCH: We can assign them.
19 We don't always assign them.

20 MR. FLETCHER: But if you see a
21 tire dealer that's low on the percentage
22 you can assign them? If they don't make
23 their five percent --

24 MS. MARCH: No. That would not
25 be our responsibility. It would be the

1 responsibility of the qualified applicant
2 to make sure they are in compliance.

3 MR. FLETCHER: Then you shouldn't
4 pay them.

5 MS. MARCH: If they are not in
6 compliance, then the rules state that they
7 are not qualified to receive reimbursement.

8 MR. THOMPSON: Let me jump in
9 here for a minute. Scott Thompson,
10 Director of Land Protection Division. The
11 way it previously worked under the five
12 percent rule and the way it was operated
13 was that we put sites on the PCL, we'd
14 inspect them first.

15 Our inspectors would try to estimate
16 the number of tires there but if you're
17 looking at a ravine, maybe especially a
18 wooded ravine, when a tire's been there
19 15-20 years, you don't know deep it is,
20 they're making their best estimate on the
21 number of tires.

22 Put that on the list, then the
23 processors would (inaudible) -- would get
24 to pick which dumps they wanted to off the
25 list and, of course, a lot of folks are

1 going to pick the easy ones where the tires
2 are clean, very useable, easy to get to, et
3 cetera.

4 And as long as we -- it used to be
5 ten percent, we lowered it to five percent
6 in terms of dump cleanups. Now it's two
7 percent which is kind of a surprise to us
8 -- our Executive Director is not very happy
9 about how -- this was eluded to earlier.

10 And so the statute actually says
11 annual, in terms of meeting your percentage
12 that's why we're operating on the state
13 fiscal year basis, starting July 1.

14 There's got to be a start date and
15 end date if it is an annual basis. The
16 problem with that for us for enforcement is
17 you can go 11-12 months through the year
18 before we can take enforcement on an annual
19 basis in terms of meeting their percentage
20 commitment. That is a problem, we'd like
21 to get that fixed somehow.

22 I'm not sure how we can do it, given
23 the statute says annual currently. That
24 may be something we have to fix
25 statutorily. And part of the problem with

1 us inspecting before, during, and after
2 these events, is it was left up to the
3 processors to choose when to go get which
4 dump.

5 We have a limited staff, we only
6 receive, I think, about three and a half
7 percent of the tire fund currently. We are
8 adding another position -- actually, we
9 just stole Cliff back from Solid Waste.
10 And he's already working on tires again,
11 and we are adding another position to the
12 program.

13 So we're going to increase our
14 staff, but I'm not sure that we have enough
15 staff and enough funding from the tire
16 program to cover us being all over the
17 state all the time, especially under a
18 short notice.

19 Now, with the two percent lowering
20 of the dump pick-up -- we have the ability
21 to prioritize the dumps. You know, tens of
22 millions of tires have been cleaned up
23 around the state with this program.

24 Lots and lots of dumps have been
25 eliminated but the difficult ones get

1 passed over when it's on a voluntary basis,
2 totally. And there is some of those we
3 feel like we may have to prioritize and say
4 we want this one done to get it off there,
5 otherwise, it may never get cleaned up.

6 Because we're always finding new
7 tire dumps here and there. They're not as
8 big as the old ones were but they're still
9 there.

10 And I prefer a much stronger
11 enforcement and a much stronger presence
12 around the state and we may be able to do a
13 little more of that than what's been done
14 in the past. We're going to have little
15 more authority that previously was with the
16 Tax Commissions to try to make sure
17 everything is on the up and up.

18 We've taken enforcement -- we've
19 taken criminal enforcement in the tire
20 program. And we're doing all we can but it
21 is a very complex difficult program when
22 it's so spread out, and there's so many
23 different entities involved and the numbers
24 are -- and part of the problem in the past
25 has been trying to validate how many tires

1 were picked up, cleaned up.

2 A lot of the documentation and
3 manifest and stuff were apples and oranges.
4 It's by weight instead of by tire count, et
5 cetera. We're trying to clean that up,
6 we're putting some new manifests out there,
7 and some other documents to try to make the
8 numbers more easily trackable in the
9 system. At this point -- our

10 Executive Director would like us to enforce
11 the two percent, monthly, but our lawyer
12 won't let us do it. He's telling us we've
13 got to do it on an annual basis. Until
14 they get that sorted out, I'm not sure how
15 we can do it differently.

16 MR. FLETCHER: If you do it on an
17 annual basis, how come you can't do some
18 enforcement the next prior year then if
19 they haven't reached that five percent of
20 that two percent? Because it seems like
21 that past behavior is a good indicator for
22 future performance. I don't know if you
23 can actually do that since they cut your
24 year off in January -- or June to June?

25 MR. JOHNSON: We go on a fiscal

1 year basis. And I think what Sharon eluded
2 to, the statute does say must annually
3 pick-up X percent and we tried to work
4 with facilities over the years as that
5 changed from ten to five and we instituted
6 that ruling because we thought that's
7 realistic, that way we can see where we
8 are.

9 But primarily because as Sharon
10 said, somebody can come in and not clean up
11 a dump for 11 months and then on the
12 twelfth month they go out and they get
13 their five percent. Well, they've had to
14 receive compensation for that previous 11
15 months, we had no alternative.

16 Therefore the Executive Director --
17 and when it went to two percent, he would
18 like to really be ridged on the
19 enforcement. Because the statute just says
20 annually, I think it's discretionary with
21 DEQ on how we enforce that. And I think
22 that two percent monthly is what we're
23 going to be looking at, but I don't know
24 that we can do an effective enforcement on
25 that because of the way the statute is

1 written.

2 MR. TORNETEN: So effectively,
3 even if we disapprove this rule change,
4 it's not going to change the two percent;
5 that's by statute and that's what's going
6 to take place whether we approve this or
7 not?

8 MR. JOHNSON: That's correct.

9 MR. TORNETEN: As far as language
10 changes, we could do some tweaks in the
11 language presumably, which --

12 MS. MYERS: But we've had lots of
13 experience and have done that with the Air
14 Quality, Bill. So yes, you can make some
15 changes in the language.

16 MR. TORNETEN: Yeah.

17 MR. STOUT: It's my intent that
18 we either approve or disapprove, first,
19 what has been presented by staff. If
20 disapproved, then we can make amendments,
21 changes or whatever. But I don't want us
22 changing what staff has done until we know
23 whether we agree or not.

24 MR. SHEPHERD: What is the proper
25 procedure for changing the -- does it have

1 to go back to the staff to rewrite and then
2 we meet again?

3 MR. JOHNSON: No, you could -- as
4 Jay outlined, you can certainly do it this
5 way and get an up-or-down vote on it as
6 written. If it's approved, then it's
7 approved as is. If it's disapproved, then
8 you can come back in and tweak whatever you
9 want to do, or you could not have a vote at
10 all and just do tweaking right now. It's
11 just whatever this Council wants to finally
12 approve, is the way it will be approve.

13 MS. MYERS: I've served since
14 1997 on the Air Quality Council and when
15 rules come in front of us, the way we
16 handle it if there are some changes in
17 language, we do that prior to any vote.

18 MR. STOUT: Well, the reason why
19 I'm not going to do it that way, is staff
20 -- unless they agree to us making changes,
21 we're going to first say "yes" or "no" to
22 what has been presented to us.

23 MR. JOHNSON: I might point out
24 also, that the Air Quality Council operates
25 under different rules than this Council

1 does. When they approve rules, they're the
2 law. All the other Councils, they pass
3 rules and then they have to go to the Board
4 for approval. But Air Quality, they're up
5 there with the Board.

6 MR. STOUT: Did you have any
7 additional comments you wanted to make?

8 MS. MARCH: No. I do not.

9 MR. STOUT: Okay. Anything else
10 you wanted to say before we ask for a vote?

11 MS. MYERS: No. I would ask
12 though that the procedure you're going to
13 use, that you turn down the rule as written
14 and make the modifications that we asked
15 for.

16 Thank you for your time.

17 MR. STOUT: Council, any further
18 questions or discussion?

19 MR. LANDERS: Sharon, one last
20 question. Did you all submit comments
21 prior to the meeting -- written comments?

22 MS. MYERS: No, sir, I did not
23 before the meeting.

24 MR. SHEPHERD: Well, I would
25 --basically, the comments that were made by

1 Sharon and the changes that they would like
2 to be made, how does the staff feel about
3 that?

4 MR. THOMPSON: Can you ask that
5 question again?

6 MR. SHEPHERD: Some of the
7 comments that Sharon had made and the
8 changes that they would like us to make,
9 how does the staff feel about those
10 changes, I guess? The one was the
11 enforcement on the 21-5(b), the inspector
12 is there all the time.

13 MS. MYERS: Not all the time, but
14 they need to be there at some time
15 periodically during the cleanup.

16 MR. THOMPSON: Well, you know, I
17 think if we were to put that in there, then
18 the only way we could do that would be to
19 tell the processors when they're going to
20 be there to pick them up.

21 You know before -- we can be there
22 before, we can be there after without the
23 processors having to be there; but during,
24 there would have to be some scheduling.
25 And with the limited staff and limited

1 funds we have, I'm not sure that we can
2 cover that. I would like to be there as
3 much as possible because it is difficult to
4 sort of make sure you're getting a valid
5 tire count.

6 We have caught a few people who
7 signed the manifest with more tires in the
8 vehicles than can physically fit in that
9 vehicle. So, you know, those are kind of
10 the easy ones to pick out. I would like to
11 be there more but I'm not sure how to
12 mandate that.

13 MR. SHEPHERD: Okay.

14 MR. RILEY: Scott, is it
15 reasonable to add a notice requirement for
16 the QACT would provide notice to DEQ within
17 a certain amount of time when they would
18 start cleanup?

19 MR. JOHNSON: I think that would
20 have the same effect as what Scott's
21 describing. If we put -- change the rules
22 to put requirements on the DEQ, that's not
23 the intent of the rules. The intent of the
24 rules is to put requirements on
25 (inaudible).

1 MR. THOMPSON: I think he saying
2 how would the QACT notify us when they're
3 going to be there.

4 MR. JOHNSON: Well, that's good
5 in theory, just like us being out there is
6 good in theory, but when it gets to
7 practicalities, I have concerns. I don't
8 have legal concerns, I just have practical
9 concerns.

10 MR. SHEPHERD: What about the
11 process of the hiring, are we mandating
12 that they hire a third-party type of
13 inspector?

14 MR. THOMPSON: I don't know. I
15 don't know where that would fit whether the
16 statute would allow us to do that.

17 MR. STOUT: If I hired an
18 inspector, I promise you he would come up
19 with the results I want. So I don't --

20 MS. MYERS: May I make one quick
21 comment. My intent was not that they
22 should be there the full time during the
23 cleanup. For instance, the one at
24 Newcastle took five weeks. However,
25 periodic spot checks to make sure that

1 everything is going -- as Scott said there
2 have been some who have way more tires in
3 their trailer than there is possibly anyway
4 to fit.

5 MR. SHEPHERD: I mean, that's
6 what we're trying to assess is how to make
7 it work, you know. Even if we say that he
8 doesn't have to be -- he has to go out
9 there during the process, how does the DEQ
10 know that they're out there doing the work?
11 They haven't been notified, right? There's
12 no notification.

13 MS. MYERS: To my knowledge,
14 there is no notification or requirement
15 other than the fact that we stay in close
16 contact with them. I don't know what the
17 others do.

18 MR. THOMPSON: On some of the
19 dumps we are tracking because we have some
20 specific requests about them, and we do
21 kind of keep up with when they're being
22 cleaned up, and that they get cleaned up
23 promptly. But some of the other ones, you
24 know, some of these -- some of the QACT's
25 are hiring third and fourth parties to go

1 out and do some of this collection, so they
2 may not even control the schedule of some
3 of their subcontractors totally and it's
4 kind of a confusing world.

5 We're not dealing, you know -- this
6 company is a lot more consolidated in terms
7 of how they operate. But some of these
8 folks, you know -- a lot of our complaints
9 in the tire program are because some dealer
10 is trying to get his tires picked up and
11 he's not talking to the actual processor,
12 he's talking to some hauler, you know, Joe
13 Bob's Trucking Company, and Joe Bob may
14 tell him anything as to why he didn't come
15 and pick up his tires.

16 And Joe Bob may have gotten fired by
17 whoever was previously employing him to
18 pick up tires, but not convey that
19 information to the dealer. And so the
20 dealer, you know, calls their senator or
21 rep or somebody and then we get a call
22 about how we're not responding, we're not
23 taking care of this guy.

24 And the processor may not even know
25 that this person has had tires not being

1 picked up. He previously received it
2 because you have these intermediaries that
3 are involved in the program. But our
4 enforcement ability and our control is on
5 the processors. And the reimbursement goes
6 to the processors now. So, you know, it's
7 a complicated program to enforce.

8 I'm not opposed to a notification to
9 us, to give us the opportunity to show up
10 sort of unannounced when people are out
11 there. But it could be somewhat
12 problematic for some of the other
13 processors, and they're not all here to put
14 their two cents in on this.

15 MR. FLETCHER: How many
16 processors are there in the state?

17 MS. MARCH: I believe there's
18 six, including the stream bank erosion
19 entity.

20 MR. FLETCHER: So the state is
21 paying six companies?

22 MS. MARCH: Correct.

23 MR. FLETCHER: How many people do
24 you have on the -- I mean how many people
25 working the tire -- the state tire thing

1 that has to go out and inspect? Have you
2 got three people, two people?

3 MR. THOMPSON: Right now it's
4 three people, and we're trying to add a
5 fourth and I have stolen one of those
6 people from the Solid Waste Program and I'm
7 not sure -- I may have to continue to share
8 that person with the Solid Waste Program.

9 MR. FLETCHER: So there are six
10 companies, right? And three people to
11 inspect.

12 MS. MARCH: Correct.

13 MR. THOMPSON: And there are
14 dozens and dozens of tire dumps, hundreds
15 of dealers that we interact with.

16 MR. FLETCHER: And so we've
17 already approved the budget. How many more
18 people are you wanting to get?

19 MR. THOMPSON: Well, the agency
20 has a statutory limit for the number of
21 full-time employees we can employ and we
22 are very close to that limit. In our
23 division, we haven't had a lot of turnover
24 over the years so we keep ours pretty
25 filled up. And at one point, or in a

1 moment of weakness, gave back some of these
2 FTEs to the legislature and now we can't
3 get them back as some of the programs are
4 growing.

5 So last year we asked for 20 FTEs
6 just to -- we asked for that statutory
7 limit to be raised by 20 employees and I
8 think our statutory limit right now is,
9 like 573, something like that; and we got
10 one, and it was the one for the tire
11 program. So that's the one that we're
12 adding.

13 So in a way, even if I had the
14 money, I'm stuck on the number of full-time
15 employees I can put in place, in some of my
16 programs, so -- and some of the work can be
17 farmed out to our county offices but I have
18 to have enough money to fund them to do
19 that.

20 MR. SHEPHERD: Is there a -- for
21 the qualified processors is there a
22 licencing process that anybody can just go
23 up -- come in and say I want to clean up
24 dump number 22?

25 MS. MARCH: Do you want to --

1 MR. THOMPSON: The processors
2 have to go through a permitting process,
3 they have to be approved and there are just
4 a handful of those. Now, they all use
5 subcontractors or many of them do. So if
6 they have -- we're only going to pay the
7 processor, the QACT, we're not going to pay
8 whoever the contractor is that cleans it
9 up.

10 MR. FLETCHER: Right.

11 MR. THOMPSON: You know, it's up
12 to the processor to get everything right,
13 document it properly and then we approve
14 the reimbursement -- actually the Tax
15 Commission makes the payment.

16 MR. FLETCHER: So what you
17 recommended here is because of the amount
18 of people that you have working in the tire
19 part of it?

20 MR. THOMPSON: I would not
21 recommend that we have a mandate to be
22 there at every single dump, at every single
23 cleanup at this point and time. I wouldn't
24 mind having notification from the
25 processors so that we can show up sometimes

1 during cleanups and validate that or maybe
2 have someone from our county offices drop
3 by on occasion.

4 Is there any problem with that? But
5 that would be a mandate for the QACT's
6 until we have the authority over it to have
7 to notify us when dumps are being cleaned
8 up. Now part of this may change as our
9 Executive Director has a great desire, now
10 that it's been reduced to two percent, to
11 say which dumps are going to be cleaned up.

12 So it might be a little easier for
13 us to know which ones should be being
14 cleaned up but there may be times when we
15 just don't have the staff to be there.

16 MR. FLETCHER: So you're telling
17 us that it may be unrealistic for you to be
18 able to -- if we do make the changes in the
19 language to actually enforce or to do what
20 we're suggesting or what she suggested?

21 MR. THOMPSON: I think in exactly
22 the way it was suggested, I have a concern.
23 I think the language we proposed meets the
24 statute, we're comfortable with it.

25 I'm not opposed to reviewing some

1 new language options, but I think some of
2 that might be problematic for us to sit
3 here and say, yes, to instantly, especially
4 anything involving the tire dumps and two
5 percent -- how we're going to deal with
6 that, how we're going to enforce it. I
7 definitely need to run that by the
8 Executive Director.

9 MR. LANDERS: It seems to me this
10 is staff's first time to hear these
11 specific comments in length and I know the
12 Air Quality Council prefers written
13 comments prior to the meetings so the staff
14 has time for review and comment. I would
15 suggest -- this is not a motion but a
16 suggestion, maybe that is the way we
17 proceed with this one.

18 MS. MYERS: Is it going to be
19 another year before you all meet again?

20 MR. STOUT: We meet more often
21 than that supposedly.

22 (Inaudible Discussion)

23 MR. STOUT: I would like to
24 suggest whoever makes a motion to approve,
25 that you -- if you have anything that you

1 think you want to change -- the motion
2 would include approving the document as is,
3 excluding subchapter -- list the
4 subchapter, because I don't want to wind up
5 having the whole thing open for us to
6 nit-pick.

7 So remove items that we need further
8 discussion on and then we'll vote on it
9 separately, if we don't want to approve it
10 as is.

11 MR. SHEPHERD: I have a tendency
12 to agree with Steve though and just --
13 maybe people submit some written comments
14 because I'm -- I don't know. I mean, it's
15 thrown at us, now we've got some comments
16 and it's difficult to make a decision here
17 on the fly.

18 MR. STOUT: Well, and as you
19 know, we have the right to table, if that's
20 what you want to do.

21 MR. BENNETT: I'd like to make
22 one more comment before you vote. As Steve
23 said, under the new statute they could be
24 able to delegate before I go cleanup a dump
25 site.

1 For instance, we rock along here
2 this year and in January, February, they
3 mandate that I go and do a dump site that
4 has 50,000 tires.

5 I don't need it, I've complied with
6 the two percent, but my percentage won't
7 carry over at the end of the year. So I'm
8 obligated to go spend my money as it
9 doesn't come back out the fund. All the
10 extra equipment that we have to spend into
11 a dump site doesn't come out of the fund,
12 that's our money.

13 So with what he said, you know, I
14 think the percentage should carry over. If
15 I do more than two percent, that's good for
16 me, that's good for the state. I mean, if
17 I do ten percent, that's to your advantage
18 -- inspection advantage.

19 MR. SHEPHERD: Can you turn down
20 a site though?

21 MR. BENNETT: Not according to
22 what he just said.

23 MR. SHEPHERD: Can they say, no,
24 I don't want to do that site?

25 MR. THOMPSON: Under the new

1 rules, we can say this one is first, this
2 one is top priority until this one gets
3 done, no other one gets done. That doesn't
4 mean one processor has to be the one to
5 complete it, but generally that is the way
6 it works.

7 MR. SHEPHERD: But how do you
8 choose the processor?

9 MR. THOMPSON: Huh?

10 MR. SHEPHERD: How do you choose
11 the processors? Is it just a random --

12 MR. THOMPSON: I don't know.

13 MR. SHEPHERD: -- pull out of the
14 hat, this one gets this one.

15 MR. THOMPSON: I think we'll have
16 a list and it'll be your turn, and your
17 turn, and your turn.

18 MR. BENNETT: But if I'm in
19 compliance, with my two percent and it's
20 four months prior to the end of the year, I
21 don't need the tires, but I'm forced to it,
22 but yet, that six or eight extra percent,
23 I've got to throw it away on July 1st.

24 MR. THOMPSON: And I think we
25 could take that into consideration when we

1 designated who had to do what.

2 MR. BENNETT: That's what I'm
3 asking now. As of July 1st of this year,
4 me, along with a couple other processors
5 was at six or seven percent with their PCL
6 compliance. Now let's don't throw it away
7 because we went above and beyond, and start
8 at zero. And that's what I'd like for you
9 to look at.

10 MR. FLETCHER: I guess I'm
11 confused too because it's a percentage of
12 the total weight or the total tires that
13 are cleaned up.

14 MR. BENNETT: It's a percentage
15 of the total tires that I collect and
16 transport for the month -- or the year in
17 the state of Oklahoma.

18 MR. FLETCHER: With those
19 considerations of what it cost to clean up
20 a dump? So one person could go out and do
21 it for \$50,000 and the next person could do
22 it for \$2,000 but they could meet their
23 percentage.

24 MR. BENNETT: Right. As Farrella
25 talked a while ago, they can go out, some

1 of them skim the tops off and they'll leave
2 the mess for somebody else to go back and
3 clean up which might include a trackhoe, it
4 may be a 50-foot gully, and all that
5 equipment expense is at our processor's,
6 not the state. It doesn't come out of the
7 State Tire Fund.

8 MR. SHEPHERD: Well, I mean,
9 going to that though, it wouldn't seem that
10 if the DEQ went back out there and saw that
11 the dump was not cleaned up properly, then
12 why would that processor get reimbursed?

13 MR. BENNETT: This is the new
14 statute that just took place July 1st.
15 Prior to that -- they're doing the best --
16 they got two guys -- two people trying to
17 police 10,000 generators, tire processors,
18 lots of transporters and they couldn't get
19 to every place that they needed to be.

20 MR. SHEPHERD: Right. But moving
21 forward though, how are we going to solve
22 that problem?

23 MR. BENNETT: Moving forward, I
24 think the state had a good idea. When I go
25 to the dump site and start cleaning it up,

1 I let them know when I get done, they need
2 to inspect it to make sure it's cleaned up.
3 Then you won't have people coming in later
4 showing that they've been out there
5 cleaning up tires in the dump site, that's
6 hardly been cleaned up.

7 My biggest issue is this five
8 percent being reduced to two percent. I do
9 not agree that.

10 MR. SHEPHERD: Well, there's
11 nothing we can do about that.

12 MR. STOUT: Yeah, that's not even
13 on the table.

14 MR. SHEPHERD: I mean, I don't
15 think there's anything we can do about
16 that, is there Sonny?

17 MR. JOHNSON: No.

18 MR. SHEPHERD: I mean, that's
19 something that's done.

20 MR. BENNETT: In fairness, the
21 statute says you will be required to --
22 produce at least two percent and I just
23 feel like I shouldn't be penalized for
24 anything over the two percent that I
25 already have.

1 MR. SHEPHERD: Well, I don't what
2 to tell you about that, I mean, that's the
3 statute. Can we not -- I don't know what
4 we can do. There's nothing we can do about
5 that, I mean, that's what happens
6 sometimes.

7 MR. BENNETT: It doesn't say
8 throw away what you've accrued. It says
9 you must show a minimum of two percent and
10 I'm doing that --

11 MR. SHEPHERD: Okay.

12 MR. BENNETT: -- with seven
13 percent, but let's don't go to zero July
14 1st.

15 MR. SHEPHERD: Like I said, this
16 is the statute. The statute is written in
17 such as way that we cannot change it from
18 two to five, or five to two, or ten, or 12.
19 So it goes to zero because of the statute.

20 MR. JOHNSON: That's not even in
21 the rule package.

22 MR. SHEPHERD: Right.

23 MR. JOHNSON: The basic rule says
24 two percent annually.

25 MR. SHEPHERD: Right.

1 MR. JOHNSON: And so the agency
2 has discretion. I think their discretion
3 on how they interpret that is as it's going
4 to be, which is two percent annually
5 starting July 1 of this year. We're going
6 to look very carefully at every month.

7 I think there has already been some
8 warning letters sent out to people that
9 have not met or are not at two percent at
10 the current time. I think that we would
11 like to have the discretion to do whatever
12 we feel we need to do.

13 MR. SHEPHERD: But that's not in
14 this rule package.

15 MR. JOHNSON: That is correct, it
16 is not.

17 MR. SHEPHERD: But we can't --

18 MR. JOHNSON: It's just simply
19 what the statute provides, is what's in the
20 rule.

21 MR. FLETCHER: We couldn't even
22 make it an average over five years, could
23 we?

24 MR. BENNET: In January, the
25 statute read five percent annually and we

1 went to a rotating basis -- monthly
2 rotating average, which that wasn't what
3 the statute said before we went to it. And
4 that's why I acquired these tires at my
5 expense, according to your determination,
6 or the DEQ's determination.

7 UNIDENTIFIED MALE: Rules change.

8 MR. STOUT: Is there any further
9 discussion that would be new to the issue?

10 MS. MYERS: I had one other
11 question for staff and that's the timing.
12 What are your time constraints, Sonny, on
13 getting this passed? Does it have to be
14 approved today? Does it -- do you have the
15 opportunity to remand it back to the staff
16 and come back for an annual meeting?

17 MR. JOHNSON: It has to be - if
18 it's not approved today, if the Council
19 wants to have another meeting, or a special
20 meeting, or continue this meeting, it needs
21 -- this rule package needs to go to the
22 Board at their meeting on November 15th.

23 MS. MYERS: So that this time
24 constraint -- if you're going to continue
25 it -

1 MR. JOHNSON: That's correct,
2 because these rules had been drafted to
3 reflect the change in the law this year.
4 And that's what we need to get in -- as a
5 matter of fact, the law is already in
6 place; it was effective July 1, so our
7 rules are already late.

8 We have to follow the law, not
9 withstanding the rules, but we would like
10 our rules to be in compliance, and to do
11 that, we'd like to get it to the Board by
12 November 15th.

13 MS. MYERS: With that in mind, I
14 would ask that the Council consider the one
15 word change in that part that the --
16 referring to the manifest that they shall
17 be in compliance and not may. One word,
18 a big difference.

19 MR. JOHNSON: And if I may
20 address the Council, as I said a while ago,
21 rules are designed to put requirements on
22 the regulated community. They are not
23 designed to put requirements on the DEQ.

24 This change that Sharon is
25 recommending puts a requirement upon the

1 DEQ. It's a mandate on the DEQ. It gives
2 no discretion, and I think the DEQ wants
3 that discretion.

4 MR. STOUT: I think we've heard
5 about all we need to hear. Any other
6 discussion by Council?

7 MR. RILEY: I had a question.
8 There was a point brought up about serving
9 all 77 counties, and I didn't hear any
10 discussion from the staff about enforcement
11 related to that. Is that a requirement
12 that is typically enforced and how is that
13 done?

14 MS. MARCH: Look at the 77
15 counties, the qualified applicants are
16 required to service all 77 counties at the
17 end of a quarter. So that's how we
18 determine that. At the end of the quarter,
19 if they've not serviced all 77 counties,
20 then they are not in compliance.

21 MR. THOMPSON: I think there have
22 been times in the past when people have
23 certified to us, they checked with their
24 dealers that they normally service in that
25 county, and none of them needed a pick up

1 yet. So, it may be that. It doesn't mean
2 they've physically been in every county and
3 everywhere.

4 MR. TORNETEN: So, if I'm
5 understanding this correctly, Sonny, if we
6 disapprove this or don't approve it today,
7 we necessarily have to have another special
8 session before November?

9 MR. JOHNSON: If you don't
10 approve it today, you can do one of two
11 things. You can either have another
12 meeting to get it to the Board before that
13 meeting, or if you do nothing, then there
14 won't be a rule package go to the Board on
15 this.

16 MR. TORNETEN: So how do you
17 implement the old rules if they're not in
18 compliance with the new statute?

19 MR. JOHNSON: We'll just have to
20 look at them individually; any of our rules
21 that are in conflict with the statute,
22 we'll just have to enforce the statute
23 without the benefit of rules.

24 MR. STOUT: I see no reason why
25 we can't approve it today. I haven't heard

1 anything that we can't - if we wish to
2 change, that we can't do it right now. We
3 need a motion to give us direction, and
4 carefully decide when you make the motion
5 because you've got several options in the
6 way that you make the motion that will
7 either approve, table, which I am not
8 recommending, or pull out a paragraph for
9 us to change. I sense that staff really
10 doesn't want any changes, so use your
11 judgment. You guys are the experts.

12 MR. TRIPLETT: I guess I have a
13 question. I don't understand this two
14 percent, five percent. I mean, two percent
15 is going to have to come from a landfill.
16 At least two percent is going to have to
17 come from a landfill, but aren't they going
18 to get paid for the number of tons that
19 they deliver no matter whether they come
20 from a landfill or a dealer? What am I
21 missing here?

22 MR. THOMPSON: Not from a
23 landfill, from a tire dump.

24 MR. TRIPLETT: Okay, tire dump.
25 But is it not --

1 MR. THOMPSON: Yeah, they get
2 reimbursed for the tires.

3 MR. TRIPLETT: No matter what
4 (inaudible)?

5 MR. THOMPSON: If the cost is are
6 more than the value of the tires, they
7 don't get reimbursed for that. They get
8 reimbursed for the tonnage of tires.

9 MR. TRIPLETT: And that doesn't
10 matter whether it's a dealer or a tire
11 dump?

12 MR. THOMPSON: Correct.

13 MR. TRIPLETT: Okay.

14 MS. MARCH: That's correct.

15 MR. BENNETT: Two percent I could
16 pick up, up here in Oklahoma City on their
17 community cleanup and get paid the same
18 amount of money.

19 MR. TRIPLETT: But you used to
20 have to pick up five.

21 MR. BENNETT: Right. And I wish
22 it was still that way. I brought this to
23 their attention; I found it.

24 MR. TRIPLETT: Okay.

25 MR. BENNETT: How it got put in

1 there, I don't know. But the two percent
2 right now, I can go to the Oklahoma City or
3 a community cleanup and they bring the
4 tires to me -

5 MR. TRIPLETT: Okay.

6 MR. BENNETT: -- or if I go do a
7 dump site that requires additional
8 equipment, then I have to pay that, but I
9 still only get paid the same amount, \$53 a
10 ton for transportation to move the tires.

11 MR. TRIPLETT: Thank you.

12 MR. LANDERS: Sonny, are you
13 saying you have discretion on how to
14 enforce the annual part of that, or you do
15 not?

16 MR. JOHNSON: I think we do.

17 MR. LANDERS: So if we said -- if
18 it's based on a 12-month rolling average,
19 you could enforce that?

20 MR. JOHNSON: That's what we did
21 administratively in the past year. I think
22 when the requirement went from five to two
23 percent, to say that the Executive Director
24 of the agency was incensed, is probably
25 putting it mildly. That was one reason we

1 have this language about the assignment of
2 dumps is because with that lesser
3 requirement, he is very concerned about
4 dumps not being picked up.

5 MR. LANDERS: Yeah. It seems
6 like a rolling 12-month percentage would
7 make it more equitable. Is that what I'm
8 hearing?

9 MR. THOMPSON: Well, one thing
10 you guys should be aware of is there's a
11 legislative task force on waste tires
12 that's meeting next week and so, I think a
13 lot of these topics will probably come up
14 in the context of that. We have tire bills
15 every year, even the years there's not
16 supposed to be any.

17 So I'm sure there will be a new bill
18 next year or multiple bills and multiple
19 discussions about a lot of these events and
20 how - whatever we decide today, may or not
21 be what the legislature decides to do with
22 the language next session.

23 And, you know, it might be simplest
24 just to vote on what we have today and then
25 if we want to get some comments, I think

1 they can take it up and reconsider it if
2 they wish to and amend it.

3 So, you know, we could vote on what
4 we have today and then you guys could
5 consider whether you want to come together
6 again in October and look at any
7 suggestions a little more closely and
8 actually add specific language, then we
9 might have some idea. Maybe some ideas
10 will come out of the Legislative Waste Tire
11 Task Force.

12 MR. LANDERS: Why could we not
13 insert the 12-month rolling percentage
14 then? I mean, we're doing it
15 administratively already anyway?

16 MS. MARCH: Mr. Landers, if I
17 could just clarify. I think what Mr.
18 Bennett was referring to is he wanted to -
19 and correct me if I'm wrong, Jimmy. I
20 think what he was referring to is he wanted
21 to use the percentage that he had from
22 prior to July 1, 2007, and carry that over
23 for this next year. And what we have
24 proposed as annual, is beginning new July
25 1, 2007 through June 30, 2008. Does that

1 clarify what Mr. Bennett was saying?

2 MR. LANDERS: Yeah, I think I
3 understand that part.

4 MS. MARCH: Okay.

5 MR. LANDERS: I'm just saying a
6 rolling 12-month average, I guess is the
7 best way to put it -- I don't know if you
8 do an average or require two percent
9 monthly --

10 MS. MARCH: Yep.

11 MR. LANDERS: -- towards that
12 month?

13 MS. MARCH: Well, that's what we
14 do currently actually. If we take a look
15 at it monthly -

16 MR. LANDERS: Well, why don't we
17 put that in the rule, I guess is what I'm
18 saying.

19 MR. JOHNSON: I think the
20 Executive Director would not like to see
21 that in the rule and if this Council
22 proposed that in the rule, I think he would
23 argue against that at the Board Meeting.

24 MR. LANDERS: But you're doing it
25 administratively already anyway?

1

2 MR. JOHNSON: I don't know what
3 we're doing administratively, that's the
4 program and what the direction we get.

5 MR. LANDERS: Okay.

6 MR. BENNETT: He implemented this
7 last year to solve the problem and now he
8 doesn't want it?

9 MR. T: Last year up to July 1st,
10 the requirement was five percent. After
11 July 1st, the statute requires two percent.
12 So we're going to get our two percent. We
13 want to see dumps continue to be cleaned
14 up. If it's five percent on a rolling
15 12-month average, then nobody has to clean
16 up any - if they're in compliance, nobody
17 has to clean any dumps up for a while
18 because they can carry that five percent or
19 six percent or seven percent that they did,
20 to meet the five percent over, for quite a
21 few months before they have to touch a dump
22 again.

23 And so I don't think we're in favor
24 at this point in time in putting that in
25 the rule.

1 MR. SHEPHERD: You're basically
2 making everybody start from zero again?

3 MR. T: Yeah.

4 MR. SHEPHERD: I got you. I got
5 you now.

6 MR. BENNETT: And I understand
7 that, but his other comment was we can
8 mandate you to go clean up a dump site now,
9 at my expense, and you can't carry it over.
10 Now, we've got to meet somewhere. Do you
11 understand what I'm saying?

12 MR. T: Oh, yeah, I understand
13 exactly.

14 MR. BENNETT: I mean, if I'm
15 going to be mandated to spend my money on
16 equipment with three months to go, or four
17 months to go in the fiscal year, and throw
18 it away, I need to be able to carry that
19 over.

20 MR. THOMPSON: Well, I
21 (inaudible) point out to us, there's a lot
22 of extra costs with a particular dump -

23 MR. BENNETT: Yeah.

24 MR. THOMPSON: -- and the time of
25 year, and whether that's going to go factor

1 in, and whether you would lose that. I
2 mean, it may be something we need to
3 schedule it in July, instead of June.

4 MR. BENNETT: Well, I mean, I've
5 done this particular dump in January and
6 February. Actually, under the same statute
7 annually five percent, and I've lost it
8 three months later, that's the point that
9 I'm trying to make.

10 And I don't want to do it again this
11 year at my expense. It could be mandated
12 to me now this year. It wasn't mandated, I
13 volunteered to do it last year to clean the
14 dump sites up. But under the new
15 legislation, it could be mandated that I do
16 it even though I've already gotten three or
17 four, or five percent, and lose it two
18 months later.

19 MR. STOUT: Well, we thank you
20 for your work.

21 MR. BENNETT: Thank you.

22 MR. STOUT: Last comment from the
23 public. We're not going to make a career
24 out of this.

25 MR. KELLOGG: Thank you, Mr.

1 Chairman, Members of the Councils, ladies
2 and gentlemen. My name is Bob Kellogg.
3 I'm an attorney with the firm of Boone &
4 Smith out of Tulsa and I have an office
5 here in Oklahoma City.

6 One of my clients is Buzzi Unicem.
7 That client is a processor. It doesn't
8 collect tires. It takes tires that are
9 collected by others and run them through
10 their cement kiln.

11 We, at Buzzi, are involved in a
12 protest at the Tax Commission that we
13 didn't start, and it involves a proration
14 of money that was allocated from the fund
15 sometime back a year ago.

16 What I want to suggest to the
17 Council is that all of the processors that
18 are involved in this program, this is
19 direct expenditure of money and a direct
20 recovery of money and that's a little bit
21 unusual for the types of regulations that
22 the DEQ is involved in.

23 Normally, the expenditure of money
24 comes indirect through compliance, but in
25 the Tire Program, it is a direct result.

1 Because of that, I implore you to see that
2 all of the requirements that may be put on
3 a processor are spelled out in writing in
4 advance and don't change things that have
5 happened in the past.

6 All the requirements that are here
7 should be forward-looking and they should
8 be spelled out so that all the processors
9 know what is expected of them. I didn't
10 see anything in here about how proration
11 would be accomplished if there is
12 insufficient money in the fund, to make all
13 of the payments that are requested in a
14 month.

15 And I noticed on Page 4, Paragraph
16 (d) at the top of the page, credit isn't
17 given towards the two percent requirement
18 until the DEQ approves the collection
19 efforts. But there isn't anything that
20 tells how the DEQ is going to approve those
21 collection efforts.

22 I didn't see anything in the rules
23 and maybe it's in there and I just missed
24 it, about the issue of what happens in July
25 or January or what annual means. None of

1 those things are addressed in these rules.
2 It doesn't say you shouldn't adopt what's
3 here or not adopt, but recommend it to go
4 forward, but I don't think that regardless
5 of what happens today your work is done.
6 There's a lot of ambiguity that needs to be
7 clarified to do justice for all of the
8 processors. That's my comment. Thank you
9 very much.

10 MR. STOUT: Thank you.

11 MR. MCCULLOUGH: I have a
12 question and I don't know if it would be
13 for staff or who it is, but someone has to
14 have an advantage from going from five
15 percent to two percent. My question is,
16 who would lobby for it to be reduced down
17 to two percent?

18 MR. SHANDY: My name is Don
19 Shandy. I'm legal counsel to Holcim,
20 Energis, Lafarge, and also Systec, who is
21 involved in litigation at the Tax
22 Commission and I'm not going to restate
23 what Bob just said.

24 There's a lot of the information
25 that you all probably aren't privy to or

1 aware of, and I do agree with Bob
2 completely that the Council has an
3 opportunity to look at some other issues
4 that have been problems with this program
5 through rule-making that probably could
6 alleviate a lot issues both for the
7 industry people as well as the staff, so I
8 would just say that I agree with Bob's
9 comments and to the extent that we can work
10 with Sonny or anybody else to try to help
11 improve the rule, we will certainly do
12 that.

13 I mean, obviously the Council can
14 make the decision it wants to make in terms
15 of the rules before you. But I've heard
16 enough concerns raised by several people
17 that, you know, I think at this point, it
18 would be best to take the rule, table it
19 and let everyone work on it and then bring
20 it back to you, you know, at some point in
21 the future.

22 I don't see any requirement that it
23 get before the Board immediately. It would
24 be nice, but it's not required. The
25 statute is out there and the DEQ can

1 interpret the statute in the meantime/

2 So I would just urge some element of
3 caution in terms of adopting this rule.

4 MR. STOUT: I'm ready to call for
5 the question?

6 MR. TORNETEN: What does that
7 mean?

8 MR. STOUT: That means somebody
9 needs to make a motion?

10 MR. FLETCHER: What motion is
11 that?

12 MR. TORNETEN: I'll make a motion
13 that we table this thing.

14 MR. STOUT: Is there a second?

15 MR. FLETCHER: I second it.

16 MR. STOUT: There will be no
17 further discussion. Roll call.

18 MS. BRUCE: Donald Fletcher.

19 MR. FLETCHER: Yes.

20 MS. BRUCE: Steve Landers.

21 MR. LANDERS: Yes.

22 MS. BRUCE: T.J. McCullough.

23 MR. MCCULLOUGH: Yes.

24 MS. BRUCE: Patrick Riley.

25 MR. RILEY: Yes.

1 MS. BRUCE: Jeff Shepherd.

2 MR. SHEPHERD: Yes.

3 MS. BRUCE: Bill Torneten.

4 MR. TORNETEN: Yes.

5 MS. BRUCE: Ralph Triplett.

6 MR. TRIPLETT: Yes.

7 MS. BRUCE: Jay Stout.

8 MR. STOUT: No.

9 MS. BRUCE: Motion passed.

10 MR. STOUT: All right. It's

11 tabled for our next meeting or a special
12 meeting depending on -- well, it would have
13 to be a special meeting because we wouldn't
14 be scheduled to have anything before
15 November.

16 MR. JOHNSON: You can either
17 continue this meeting to discuss this item,
18 or you could call a special meeting.

19 MR. TORNETEN: I think before we
20 meet, it would be extremely helpful if --
21 to the folks that spoke here today, could
22 make some specific recommendations of
23 changes they would like to see.

24 And, you know, they're the people
25 that are most familiar with the issues here

1 and really have some knowledge about what
2 might need to take place to improve this
3 thing.

4 I think we need to allow an
5 opportunity for that to happen and then we
6 would be able to get together and look at
7 what's, you know, what's been proposed and
8 what some of the comments and changes might
9 be and go from there with it. But to meet
10 with no more information or nothing
11 specific, I don't see any benefit in that.

12 MR. STOUT: Staff, had Sharon or
13 anyone from her company discussed anything
14 about this before today?

15 MS. MARCH: No. No, formal
16 discussion has been made regarding these
17 matters nor written comments.

18 MR. STOUT: Okay.

19 MR. FLETCHER: Did somebody
20 mention that there's going to be a meeting
21 for this prior?

22 MR. STOUT: Well, we're going to
23 have to.

24 MR. FLETCHER: No, I meant the
25 task force.

1 MR. STOUT: A legislative task
2 force.

3 MR. FLETCHER: And it's going to
4 meet in October?

5 UNIDENTIFIED MALE: It's going to
6 be meeting here next week. So there will
7 definitely be dialogue at the legislative
8 level about potential changes in the
9 statute.

10 MS. BRUCE: Excuse me. That
11 meeting is September 26th.

12 MR. STOUT: So --

13 MS. BRUCE: Here.

14 MR. STOUT: -- don't you think it
15 would be better if we didn't schedule it
16 until after that meeting?

17 MR. TORNETEN: Yeah.

18 MR. STOUT: Let's pick a date
19 now? You're the guys that voted to table
20 it.

21 MR. TORNETEN: At the very least,
22 we need to give people time to submit
23 written comments. You know, I don't think
24 a couple of weeks is adequate time to
25 prepare those comments. I would recommend

1 we give them at least 60 days.

2 MR. STOUT: That means we miss
3 the November meeting?

4 MR. TORNETEN: We would miss it
5 then. I mean, we don't have to meet before
6 then. There's no -

7 MR. STOUT: Maybe I
8 misunderstood. I thought you said it had
9 to go before them in November?

10 MR. JOHNSON: Well, if we want
11 the rules to be in place --

12 MR. STOUT: Oh, I see.

13 MR. JOHNSON: -- then it had to
14 be at that November meeting.

15 MR. STOUT: Oh.

16 MR. JOHNSON: Otherwise, it would
17 be in the next legislative session before
18 we can get anything done.

19 MR. SHEPHERD: But there may just
20 be a whole quagmire of rules come out of
21 the next legislative session.

22 UNIDENTIFIED MALE: All that
23 sounds like to me there might be a fairly
24 intense lobbying effort next spring.

25 MR. JOHNSON: And I might want to

1 point out that this has not been a surprise
2 today that this rules package was here.
3 There has been - the rule-making notice
4 was published some weeks and months ago.
5 The public has been aware. They could have
6 made written comments.

7 MR. STOUT: There's a motion to
8 second on the floor or just -

9 UNIDENTIFIED MALE: No, there's
10 no motion on it.

11 MR. STOUT: Oh, we haven't had a
12 motion on that yet?

13 MR. SHEPHERD: For a new meeting
14 date?

15 MR. STOUT: No. We've already
16 tabled it, haven't we?

17 MR. SHEPHERD: Right.

18 MR. STOUT: Yeah, okay. Now we
19 need a meeting date. Do you want it at the
20 regular scheduled meeting that we have or
21 do you want to have a special meeting,
22 after next week?

23 MR. SHEPHERD: I say we have it
24 our regularly scheduled First Quarter
25 Meeting of 2008.

1 MR. TORNETEN: I think that's
2 reasonable too.

3 MR. SHEPHERD: So I make a motion
4 that we meet -- do we have to make a motion
5 or do we just schedule the meeting?

6 MS. BRUCE: You don't have a
7 motion, just give me the dates.

8 MR. STOUT: We'll be scheduling.

9 MS. BRUCE: On the agenda.

10 MR. STOUT: Yeah, it's on the
11 agenda to schedule meetings. So this will
12 be an agenda item for the next meeting.
13 All right.

14 Another place for public forum.
15 Election of officers for 08. Each year at
16 this time, we elect officers for the coming
17 year and the floor is open for - and there
18 are only two that we elect, which is the
19 Chairman and the Vice Chairman.

20 MS. BRUCE: Right.

21 MR. TRIPLETT: Mr. Chairman, I
22 would recommend that we nominate our
23 present officers for another term by
24 acclamation.

25 MR. TORNETEN: I'll second that.

1 MR. STOUT: Motion has been made
2 and seconded to approve the Chairman and
3 Vice Chairman for '08? Is there any
4 further discussion? Roll call, please.
5 MS. BRUCE: Donald Fletcher.
6 MR. FLETCHER: Yes.
7 MS. BRUCE: Steve Landers.
8 MR. LANDERS: Yes.
9 MS. BRUCE: T.J. McCullough.
10 MR. MCCULLOUGH: Yes.
11 MS. BRUCE: Patrick Riley.
12 MR. RILEY: Yes.
13 MS. BRUCE: Jeff Shepherd.
14 MR. SHEPHERD: Yes.
15 MS. BRUCE: Bill Torneten.
16 MR. TORNETEN: Yes.
17 MS. BRUCE: Ralph Triplett.
18 MR. TRIPLETT: Yes.
19 MS. BRUCE: Jay Stout.
20 MR. STOUT: I humbly accept, yes.
21 MS. BRUCE: Thank you, motion
22 passed.
23 MR. STOUT: All right. Dates for
24 '08 Council meetings.
25

1 (Discussion of 2008 Council Meetings)

2

3 (January 10, 2008, Oklahoma City; May 8,
4 2008, Oklahoma City; September 11, 2008,
5 Oklahoma City; December 11, 2008, Oklahoma
6 City)

7

8 MR. SHEPHERD: I make a motion we
9 approve the dates and locations for the
10 next year's meetings.

11 MR. STOUT: Is there a second?

12 MR. FLETCHER: I'll second it.

13 MR. STOUT: Let's have a roll
14 call vote.

15 MS. BRUCE: Donald Fletcher.

16 MR. FLETCHER: Yes.

17 MS. BRUCE: Steve Landers.

18 MR. LANDERS: Yes.

19 MS. BRUCE: T.J. McCullough.

20 MR. MCCULLOUGH: Yes.

21 MS. BRUCE: Patrick Riley.

22 MR. RILEY: Yes.

23 MS. BRUCE: Jeff Shepherd.

24 MR. SHEPHERD: Yes.

25 MS. BRUCE: Bill Torneten.

1 MR. TORNETEN: Yes.

2 MS. BRUCE: Ralph Triplett.

3 MR. TRIPLETT: Yes.

4 MS. BRUCE: Jay Stout.

5 MR. STOUT: Yes.

6 MS. BRUCE: And to repeat those

7 dates; they're January 10, May 8, September

8 11, December 11, all here in this room at

9 the DEQ.

10 MR. STOUT: Thank you. The

11 meeting is adjourned.

12 (End of Council Meeting)

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3 E R T I F I C A T E

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5 STATE OF OKLAHOMA)

6) ss:

7 COUNTY OF OKLAHOMA)

8

9 I, CHRISTY A. MYERS, Certified

10 Shorthand Reporter in and for the State of

11 Oklahoma, do hereby certify that the above

12 proceeding is the truth, the whole truth,

13 and nothing but the truth, in the case

14 aforesaid; that the foregoing meeting was

15 taken in by me in shorthand on September

16 20th, 2007, and thereafter transcribed

17 under my direction; that said meeting was

18 taken in Oklahoma City, Oklahoma; and that

19 I am neither attorney for nor relative of

20 any of said parties, nor otherwise

21 interested in said action.

22 IN WITNESS WHEREOF, I have hereunto

23 set my hand and official seal on this, the

24 18th day of October, 2007.

25

CHRISTY A. MYERS, C.S.R.

1 reconvened meeting.

2 Myrna, would you do a roll call.

3 MS. BRUCE: Good morning. And

4 please remember to push the blue button to

5 talk, for all the new people that are here.

6 Mr. Anderson.

7 MR. ANDERSON: Here.

8 MS. BRUCE: Mr. Elwell.

9 MR. ELWELL: Here.

10 MS. BRUCE: Mr. Grater.

11 MR. GRATER: Here.

12 MS. BRUCE: Mr. Hagameier.

13 MR. HAGAMEIER: Here.

14 MS. BRUCE: Mr. Hatley.

15 MR. HATLEY: Here.

16 MS. BRUCE: Mr. Reaves.

17 MR. REAVES: Here.

18 MS. BRUCE: Mr. Riffel.

19 MR. RIFFEL: Here.

20 MS. BRUCE: And absent is

21 Mr. Graves. Mr. Kennedy.

22 MR. KENNEDY: Here.

23 MS. BRUCE: We do have a quorum.

24 MR. KENNEDY: Thank you. You

25 might also note that there's a red light on

when you have your -- when you're both at

the microphone, and down there above the

1 talk button, and when you're quiet for a
2 while it will automatically turn off, like
3 I just realized. So if you haven't spoken
4 in a while, you might look down there and
5 retouch your talk button prior to speaking
6 and that helps everyone here.

7 The Agenda Item Number 3 is the
8 Chairperson's Report. Really due to the
9 fact that we've had the last two meetings
10 cancel, there isn't a whole lot that I need
11 to report on. But as people can see, we've
12 had quite a turnover in our Council with
13 some peoples' terms expiring and other
14 people joining us. And so just by way of
15 reference: Earl Hatley has replaced Kathy
16 Martin, Ray Reaves has replaced Gerald
17 Ihler, Paul Hagameier has replaced David
18 Bradshaw, and Lee Grater has replaced Brian
19 Correa.

20 If I could ask each of you just to
21 give a brief background of yourself so that
22 the rest of the Council and others can know
23 a little more about you, I'd appreciate
24 that. We can start over here.

25 MR. REAVES: I'm a graduate civil
engineer from Auburn. I'm a professional
engineer, Board Certified by the State of

1 Oklahoma. I'm also a Board Certified
2 Environmental Engineer (inaudible).

3 My real introduction to
4 environmental came at Tinker Air Force Base
5 where I retired from there after 28 years.
6 In 1984 Mr. Mark Coleman and Mr. Synan came
7 in to deal me harm and was asked to form an
8 organization of 53 people to clean up
9 Tinker Air Force Base.

10 And after many sleepless nights and
11 many sessions with EPA, in about three to
12 four years we started that program out
13 there to clean it up.

14 After I left Tinker, I went to
15 Oklahoma County as an Environmental
16 Engineer. Then I became the County
17 Engineer of Oklahoma County. But during
18 that time I formed an organization in the
19 central region of Oklahoma to address the
20 solid waste and primary household waste.
21 We went to 43 City Councils, put together a
22 program of where 37 cities signed up and at
23 that time it was Metro City Solid Waste
24 Management Advisory Board which eventually
25 became COMEA, Central Oklahoma
Metropolitan Environmental Association,
which now is about 18 cities within the

1 central region of Oklahoma have signed up -
2 - we're primarily addressing household
3 hazardous waste. And I'll stop at that.

4 MR. KENNEDY: All right. Thank
5 you, and welcome to the Council. How about
6 you, Earl?

7 MR. HATLEY: I'm Earl Hatley and
8 I'm -- that was interesting to hear your
9 talk -- I'm an original member of Tinker
10 Restoration and Advisory Board and I still
11 remain on the Community Advisory Board
12 Council. Actually I'm very proud of what
13 Tinker has done, they've done a good job of
14 getting (inaudible).

15 I don't know where to start out. I
16 have a masters degree in political science
17 and 60 accredited hours in environmental
18 science. I've been an environmental
19 organizer most of my adult life. Right now
20 I'm a member of the Oklahoma Sustainability
21 Network, it's a statewide non-profit
22 organization. I also have a non-profit
23 group which I co-founded in northeast
24 Oklahoma. I live on a farm north of
25 Vinita. I serve as the Grand River Keeper
for the Grand River Watershed. My
organization signed a contract with Robert

1 F. Kennedy, Jr. to provide a river keeper
2 on our watershed. We're working on the Tar
3 Creek Superfund site and tri-state mining
4 district issues that impact Grand Lake and
5 the Hudson Lake. Those are some poultry
6 issues up there.

7 MR. KENNEDY: Thank you and
8 welcome to the Council.

9 MR. HATLEY: Thank you.

10 MR. KENNEDY: Paul.

11 MR. HAGAMEIER: Yes, I'm Paul
12 Hagameier and I graduated -- my degree is
13 in geology in Arkansas. So Oklahoma's not
14 too proud of that either, but I'm fine.
15 Did Master's work in Environmental Geology
16 and Hydro-geology at KU. I was a co-
17 founder and partner in an environmental
18 engineering and consulting group based out
19 of Wichita, Kansas for about 18 years,
20 managing several superfund sites,
21 environmental restoration projects at
22 Boeing of Learjets and Cessnas. So I'm
23 familiar with what you had to undergo at
24 Tinker.

25 I am currently the Vice-President of
Regulatory Compliance for Chesapeake
Energy. So there are a few challenges with

1 the firm that runs that hard and that fast
2 and as large as we are that -- are very
3 challenging on a daily basis. I manage all
4 of our regulatory compliance, our
5 environmental affairs and our safety
6 affairs as well. So that's where I am
7 currently, right here in town.

8 MR. KENNEDY: Thank you. And
9 we'll have to check to see whether or not
10 an Arkansas graduate can serve on this
11 Council.

12 MR. HATLEY: I should say that
13 all of my graduate work was done at
14 Oklahoma State which also may make enemies
15 there.

16 MR. KENNEDY: How about you, Lee?

17 MR. GRATER: My name is Lee
18 Grater. I'm originally from Colorado.
19 I've lived in Kansas and Wyoming and
20 Oklahoma. I'm currently employed by Clean
21 Harbors at the Wynoka Landfill Facility up
22 in Lone Grove Mountain; I'm the Facility
23 Compliance Manager for that facility. I
24 originally went to school at Colorado State
25 University, so my football season hinges on
whether or not CSU can beat CU; which means
it's over in early -- early September is

1 the first game of the win or lose.

2 My experience. I have a masters
3 degree in chemistry, and my primary
4 emphasis on my masters degree work was in
5 radio-chemistry. I have a good background
6 in environmental chemistry, mostly
7 self-taught, learned on the job.

8 I've worked in the aerospace
9 industry public utilities support, have
10 been in environmental consulting, mostly
11 closing petroleum related refinery sites.
12 However, the bulk of my work and my primary
13 interest is in hazardous waste management
14 I worked at the Coffeyville Incinerator for
15 Westinghouse for six years as a senior
16 waste acceptance coordinator and we had the
17 only dioxin disposal EPA ever issued. And
18 right now I'm back with Clean Harbors. I
19 truly enjoy the hazardous waste business, I
20 understand it and I know it; and I feel
21 very fortunate to be back in it at the
22 level that I'm at.

23 When I was in Coffeyville, I was the
24 Chairman of the Montgomery County Solid
25 Waste Committee, which is a public
municipal landfill working Board -- we
learned a lot about global politics. And

1 that's pretty much about the size of it.

2 MR. KENNEDY: All right. Thank
3 you. I appreciate everyone sharing. It
4 helps everyone to get a background of whose
5 on the Council.

6 So, we'll move to Agenda Item 4,
7 which is the discussion, amendment, and
8 roll call vote to approve the minutes of
9 the January 11, 2007 Hazardous Waste
10 Management Advisory Council minutes. Is
11 there any questions or discussions by the
12 Council? I can hardly remember back to
13 January, that's why we have -- appreciate
14 all of your work.

15 COURT REPORTER: Thank you.

16 MR. KENNEDY: Any questions or
17 discussion? Any questions or discussion by
18 the public? Is there a motion to approve?

19 MR. ELWELL: I'll move to approve
20 the minutes of the last meeting.

21 MR. KENNEDY: Okay. We have a
22 motion from Mr. Elwell.

23 MR. RIFFEL: I'll second the
24 motion.

25 MR. KENNEDY: Okay. Mr. Riffel,
second. Can we have a roll call vote for
approval of our minutes.

1 MS. BRUCE: Mr. Anderson.

2 MR. ANDERSON: Aye.

3 MS. BRUCE: Mr. Elwell.

4 MR. ELWELL: Yes.

5 MS. BRUCE: Mr. Grater.

6 MR. GRATER: Yes.

7 MS. BRUCE: Mr. Hagameier.

8 MR. HAGAMEIER: Yes.

9 MS. BRUCE: Mr. Hatley.

10 MR. HATLEY: I wasn't there, but

11 yes.

12 MS. BRUCE: Mr. Reaves.

13 MR. REAVES: I wasn't either, so

14 I guess I would say yes, they look okay.

15 MS. BRUCE: And we appreciate

16 that.

17 Mr. Riffel.

18 MR. RIFFEL: Yes.

19 MS. BRUCE: And Mr. Kennedy.

20 MR. KENNEDY: Yes.

21 MS. BRUCE: Motion did pass.

22 MR. KENNEDY: Okay. Historically

23 the minutes haven't been one of our more

24 controversial agenda items here.

25 Okay. Agenda Item Number 5,

rulemaking hearing for OAC 252:205-3-1 and

205-3-2. It says permanent rulemaking to

1 incorporate by reference the federal
2 hazardous waste regulations found in 40 CFR
3 Parts 124 and 260 through 279 revised as of
4 July 1, 2007. And we have a presentation
5 by Mike Edward.

6 MR. EDWARD: I'm Mike Edward with
7 the Department of Environmental Quality,
8 Manager of RCRA Compliance Group.

9 I'll start with the simplest one,
10 which is 3-2. That is literally just to
11 fix a typo and one word. Unfortunately the
12 typo was not discovered until after the
13 notice was published, so we won't be able
14 to vote on it. We'll have to put that off
15 until next year. Like I say, it's
16 literally one letter from one word in the
17 typo.

18 And similarly simple is 3-1, which
19 is, as you said, to incorporate by
20 reference the federal regulations
21 promulgated July 1, 2007, and there were no
22 actual new rules having any significant
23 impact on hazardous waste facilities in
24 Oklahoma. So that's all we're doing.

25 MR. KENNEDY: Okay. This will
happen at least on an annual basis. If
there is no reason for us to meet, we will

1 always meet to move one year ahead in
2 incorporation for this federal register
3 references.

4 Are there any questions by the
5 Council? I'm sorry, that one word is
6 November, right?

7 MR. EDWARDS: Correct.

8 MR. KENNEDY: And the reason it
9 is being delayed again is?

10 MR. EDWARDS: The typo wasn't
11 actually discovered until after the Notice
12 of Rulemaking was published so by then it
13 was too late to incorporate into the
14 notice.

15 MR. KENNEDY: Okay. So this was
16 given to us but wasn't available during the
17 original --

18 MR. EDWARDS: It wasn't
19 published. It wasn't available for public
20 comment, et cetera.

21 MR. KENNEDY: We'll have to
22 postpone on our changing of November to
23 November.

24 MR. HATLEY: If I may ask, for
25 the public, could you just quickly
summarized what these new rules are?

MR. EDWARDS: Like I said,

1 there's not any new rules that have any
2 significant impact on Oklahoma Hazardous
3 Waste facilities. So the various new rules
4 that we've put forth have had to do with
5 Air Quality, delisting, meeting notices and
6 that type of thing that literally have no
7 impact on Oklahoma facilities.

8 MR. HATLEY: Could you explain
9 the Air Quality part?

10 MR. EDWARDS: Well, that's really
11 kind of out of my area. I'm really
12 involved in Hazardous Waste so we don't
13 really -- I'm not really familiar with the
14 Air Quality regulations. I could probably
15 get back to you on that at a later date if
16 you want.

17 MR. HATLEY: But we're voting to
18 incorporate it.

19 MR. EDWARDS: Right. The Air
20 Quality regs are not necessarily
21 specifically related to the Hazardous Waste
22 regulations that Oklahoma facilities are
23 going to have to adhere to. So they're not
24 strictly relevant I think to the Hazardous
25 Waste Management Regulations. They may
have some slight overlap.

MR. HATLEY: Is this dealing with

1 mercury or SO2 emissions?

2 MR. EDWARDS: I think there were
3 multiple regulations promulgated governing
4 Air Quality. Since that's a different
5 division my division really doesn't get too
6 involved with that. So I think that's
7 probably the Air --

8 MR. KENNEDY: So there is an Air
9 Quality Council that will have the same
10 meeting here with their council members to
11 incorporate by reference?

12 MR. HATLEY: I know they're
13 having Air Quality Council meetings and I
14 know they're working on the Clean Air
15 Mercury Rule, for example, and I was just
16 wondering why this Council would be
17 incorporated in something like that. It's
18 my understanding that the Air Quality
19 Council is writing up different rules from
20 the Clean Air Mercury Rule that EPA has
21 written. So I don't -- without
22 clarification, it sounds like we'd be
23 incorporating what the other council is
24 working on.

25 MR. ROBERTS: If I may interject
for a minute, I'm Jon Roberts with the
Hazardous Waste group of DEQ. The --

1 typically what we'll do when we do these
2 annual incorporations by reference is we'll
3 get a notice from EPA of each federal
4 register action that comes up incorporating
5 new hazardous waste rules into the federal
6 system and then those are then -- each year
7 EPA publishes their new book of federal
8 regulations and that's what we adopt each
9 year at these council meetings is that
10 latest version. Typically what we will do
11 to help the council decide -- or understand
12 what the provisions were that changed, is
13 we'll include a summary with the council
14 package of the significant federal
15 regulations -- hazardous waste regulations
16 that are going to apply to Oklahoma
17 facilities. This year there really weren't
18 any. They didn't really make any
19 substantial changes to the main regulations
20 that Oklahoma facilities are subject to as
21 far as Hazardous Waste Management goes.
22 And so that's why we didn't incorporate --
23 or we didn't provide any information into
24 the council packages of the various federal
25 regulations that were adopted.

A lot of these this year had to do
with things like delisting petitions for

1 facilities that are outside of Oklahoma,
2 which won't have any bearing on any of our
3 facilities here. The Air regulations I
4 think Mike is referring to are regulations
5 that are not within the federal hazardous
6 waste regulations purview and therefore
7 they wouldn't be a subject that this
8 Council would take up. Could that not --

9 MR. HATLEY: Because we're not
10 incorporating that in this discussion or in
11 this rule?

12 (Inaudible comment)

13 MR. HATLEY: Oh, I'm sorry.

14 MR. ROBERTS: Yeah, any new
15 federal --

16 MR. HATLEY: That's not what
17 we're considering here. It's what the regs
18 of the Air Quality Council is (inaudible).

19 MR. ROBERTS: That's correct.

20 MR. KENNEDY: It's not the full
21 EPA regulations, since we're doing the
22 incorporation within Chapter 205 of the
23 state regulations. Those aren't just the
24 Hazardous Waste rules.

25 MR. HATLEY: I just wanted a
clarification on that.

MR. EDWARDS: Okay. We're not --

1 we don't -- the mercury emission rule, I
2 guess, that's an Air rule, that's not
3 within our purview on these.

4 MR. HATLEY: Thank you.

5 MR. KENNEDY: Any questions by
6 the public? Okay. With no further
7 questions and no questions from the public
8 is there then a motion to adopt this
9 incorporation by reference as stated?

10 MR. REAVES: I make a motion to
11 adopt.

12 MR. KENNEDY: Okay we have a --

13 MR. HATLEY: Second.

14 MR. KENNEDY: -- motion from
15 Mr. Reaves and a second by Mr. Hatley.

16 Roll call vote.

17 MS. BRUCE: Mr. Anderson.

18 MR. ANDERSON: Yes.

19 MS. BRUCE: Mr. Elwell.

20 MR. ELWELL: Yes.

21 MS. BRUCE: Mr. Grater.

22 MR. GRATER: Yes.

23 MS. BRUCE: Mr. Hagameier.

24 MR. HAGAMEIER: Yes.

25 MS. BRUCE: Mr. Hatley.

MR. HATLEY: Yes.

MS. BRUCE: Mr. Reaves.

1 MR. REAVES: Yes.

2 MS. BRUCE: Mr. Riffel.

3 MR. RIFFEL: Yes.

4 MS. BRUCE: Mr. Kennedy.

5 MR. KENNEDY: Yes.

6 MS. BRUCE: Thank you.

7 MR. KENNEDY: Agenda Item 6,
8 election of new officers for 2008. We use
9 to, I think, postpone this sometimes until
10 the January meetings and then due to some
11 past ice storms and not having enough
12 people here like to move this back to the
13 October meeting. I know we have some new
14 council members here, but we're now taking
15 nominations by the Council for the Chair
16 position and the Vice-Chair. I might say
17 to take a little pressure off anyone that
18 feels like they don't want to do this job,
19 which actually isn't all that bad since it
20 looks like this coming year we might not
21 even have many issues coming forth out of
22 the legislature that would concern us to
23 have very many meetings. But I have talked
24 with Mr. Graves who is not here, he's in
25 Europe right now on business and he did --
when I asked him if he wanted to serve as
either the Chair or the Vice-Chair, a

1 little arm twisting, he said either
2 position. So since he's not here to defend
3 himself and you just have to trust that we
4 had that conversation, I'd like to nominate
5 Michael Graves to be the Chairman of the
6 Council for this upcoming year.

7 Are there any other nominations that
8 anyone would want to put forward for the
9 Chairman position? Chairperson's position?
10 Hearing none, is there a second towards the
11 only nomination put forth?

12 MR. ANDERSON: I'll second that.

13 MR. KENNEDY: Okay. The other
14 position is the Vice-Chair. Are there any
15 nominations for that position?

16 MR. ELWELL: I'd like to nominate
17 Bob Kennedy for Vice-Chair.

18 MR. KENNEDY: That sounds like a
19 court marshal, doesn't it?

20 MR. HAGANMEIER: Second.

21 MR. KENNEDY: Well, I was going
22 to see if there's any other nominations to
23 be put forth. If not, I will accept that
24 second. Are there any other nominations?

25 MR. ELWELL: I'll move that
nominations cease on the election of the
Chair and the Vice-Chair by acclamation, if

1 that's appropriate.

2 MR. KENNEDY: Okay. So we have
3 Michael Graves as the Chairperson and
4 myself as Vice-Chair. Can we have a roll
5 call vote.

6 MS. BRUCE: Mr. Anderson.

7 MR. ANDERSON: Yes.

8 MS. BRUCE: Mr. Elwell.

9 MR. ELWELL: Yes.

10 MS. BRUCE: Mr. Grater.

11 MR. GRATER: Yes.

12 MS. BRUCE: Mr. Hagameier.

13 MR. HAGAMEIER: Yes.

14 MS. BRUCE: Mr. Hatley.

15 MR. HATLEY: Yes.

16 MS. BRUCE: Mr. Reaves.

17 MR. REAVES: Yes.

18 MS. BRUCE: Mr. Riffel.

19 MR. RIFFEL: Yes.

20 MS. BRUCE: Mr. Kennedy.

21 MR. KENNEDY: Yes.

22 Okay. Agenda Item 7. I knew this
23 was going to be a short meeting. This is
24 limited to any matter not known or which
25 could have been reasonably foreseen prior
to the time of the posting of the agenda 24
hours prior to the meeting.

1 Is there any new business that needs
2 to be discussed?

3 Anything from the public?

4 Hearing none, is there a motion to,
5 number 8, adjourn this meeting?

6 MR. RIFFEL: So moved.

7 MR. KENNEDY: Okay. And a
8 second?

9 MR. ANDERSON: Second that.

10 MR. KENNEDY: All right. I'd
11 like to thank you all for coming.

12 Actually, do we need to work on a schedule
13 then for --

14 UNIDENTIFIED MALE: Yes, this
15 last part is for members of the public if
16 they have anything that they want to bring
17 up to the Council, they can come up to the
18 podium and do that and then also the
19 Council needs to set meeting dates and
20 locations for 2008.

21 MR. KENNEDY: Okay. I guess
22 Agenda Item 9 rather than adjournment.

23 Would anyone like to speak during
24 the open forum session? If not, we can
25 look at our upcoming year.

(Discussion and setting dates for 2008
Meetings)

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(Adjournment)

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C E R T I F I C A T E

STATE OF OKLAHOMA)

) ss:

COUNTY OF OKLAHOMA)

I, CHRISTY A. MYERS, Certified
Shorthand Reporter in and for the State of
Oklahoma, do hereby certify that the above
proceedings is the truth, the whole truth,
and nothing but the truth; that the
foregoing proceedings was taken by me in
shorthand and thereafter transcribed under
my direction; that said proceedings were
taken on the 11th day of October, 2007, at
Oklahoma City, Oklahoma; and that I am
neither attorney for nor relative of any of
said parties, nor otherwise interested in
said action.

IN WITNESS WHEREOF, I have hereunto
set my hand and official seal on this, the
20th day of October, 2007.

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

Christy A. Myers

ified Shorthand Reporter

