

MINUTES
AIR QUALITY ADVISORY COUNCIL
October 17, 2024
Department of Environmental Quality
707 North Robinson Avenue
Oklahoma City, Oklahoma

**Official AQAC Approved
at July 30, 2025 Meeting**

Notice of Public Meeting – The Air Quality Advisory Council (AQAC) convened for its Regular Meeting at 9:00 a.m. on October 17, 2024. Notice of the meeting was forwarded to the Office of Secretary of State on July 24, 2024. The agenda was posted at the DEQ twenty-four hours prior to the meeting. Also, Ms. Beverly Botchlet-Smith acted as Protocol Officer and convened the hearings by the AQAC in compliance with the Oklahoma Administrative Procedures Act and Title 40 CFR Part 51 and Title 27A, Oklahoma Statutes, Sections 2-2-201 and 2-5-101 through 2-5-117. She entered the agenda and the Oklahoma Register Notice into the record and announced that if you wish to make a statement when it's time for public comments, complete the form at the registration table and you will be called upon at the appropriate time. Ms. Laura Lodes, Chair, called the meeting to order. Ms. Quiana Fields called roll and confirmed that a quorum was present. Ms. Lodes welcomed new Council members, Mr. Michael Thayer and Mr. Jefferson Wilber to the Council.

MEMBERS PRESENT

Matt Caves
Gregory Elliott
James Farrell
John Privrat
Jeffrey Taylor
Michael Thayer
Jefferson Wilber
Laura Lodes

MEMBERS ABSENT

Garry Keele

DEQ STAFF PRESENT

Kendal Stegmann
Beverly Botchlet-Smith
Jared Milano
Ryan Biggerstaff
Bryan Sims
Rick Groshong
Lee Warden
Austin Sides
Dan Ross
Camas Frey
Eli Klimek
Michelle Wynn
Jonathan Allen
Chris Robinson
Dan Melton
Natalie Cota
Layna Solorzano
Joe Daniel
Cheryl Bradley
Melanie Foster
Tom Richardson
Brooks Kirlin
Phillip Fielder
Travis Couch
Malcolm Zachariah
Quiana Fields

Approval of Minutes – Ms. Lodes called for a motion to approve the Minutes of the July 24, 2024 Regular Meeting. Mr. Taylor moved to approve and Mr. Farrell made the second.

See transcript page 3 - 4

Matt Caves	Yes	Jeffrey Taylor	Yes
Gregory Elliott	Yes	Michael Thayer	Yes
James Farrell	Yes	Jefferson Wilber	Yes
John Privrat	Yes	Laura Lodes	Yes

Meeting Schedule for Calendar Year 2025 – Ms. Lodes stated the proposed meeting scheduled dates are: April 30 in Oklahoma City, July 30 in Tulsa/Owasso and October 16 in Oklahoma City. Mr. Caves moved to approve and Mr. Elliott made the second.

See transcript page 4 – 6

Matt Caves	Yes	Jeffrey Taylor	Yes
Gregory Elliott	Yes	Michael Thayer	Yes
James Farrell	Yes	Jefferson Wilber	Yes
John Privrat	Yes	Laura Lodes	Yes

Public Rulemaking Hearing

Chapter 100. Air Pollution Control

Subchapter 2. Incorporation by Reference [AMENDED]

Appendix Q. Incorporation by Reference [AMENDED]

Mr. Jared Milano, EPS, Rules & Planning Section of the AQD, stated the Department is proposing to update OAC 252:100, Appendix Q, Incorporation by Reference. In addition, the Department is proposing to update language in Subchapter 2, Incorporation by Reference, to reflect the latest date of incorporation of EPA regulations in Appendix Q. Hearing no questions or comments by the Council and none by the public, Ms. Lodes called for a motion, Dr. Thayer moved to approve the rule and Mr. Caves made the second.

See transcript pages 6 - 10

Matt Caves	Yes	Jeffrey Taylor	Yes
Gregory Elliott	Yes	Michael Thayer	Yes
James Farrell	Yes	Jefferson Wilber	Yes
John Privrat	Yes	Laura Lodes	Yes

Subchapter 8. Permits for Part 70 Sources and Major New Source Review (NSR) Sources

Part 5. Permits for Part 70 Sources

252:100-8-6 [AMENDED]

Mr. Brooks Kirlin, P.E., Rules & Planning Section of the AQD, stated that the Department is proposing to amend existing rule language in OAC 252:100-8-6. Permit Content, in response to the U.S. Environmental Protection Agency's (EPA's) recently promulgated changes to program requirements pursuant to the Federal Register notice entitled "*Removal of Title V Emergency Affirmative Defense Provisions From State Operating Permit Programs and Federal Operating Permit Program*," 88 Fed. Reg. 47029 (July 21, 2023). The gist of this rule proposal and the underlying reason for the rulemaking is to comply with federal requirements by removing "affirmative defense" provisions in Oklahoma's Part 70 air quality permit program. Hearing questions and comments by the Council and by the public, Ms. Lodes called for a motion, Mr. Farrell moved to approve and Dr. Thayer made the second.

See transcript pages 10 - 25

Matt Caves	Yes	Jeffrey Taylor	Yes
Gregory Elliott	Yes	Michael Thayer	Yes
James Farrell	Yes	Jefferson Wilber	Yes
John Privrat	Yes	Laura Lodes	Yes

Subchapter 5. Registration, Emission Inventory and Annual Operating Fees

252:100-5-1.1. Definitions [AMENDED]

252:100-5-2.1. Emission inventory [AMENDED]

Subchapter 7. Permits for Minor Facilities

252:100-7-1.1. Definitions [AMENDED]

252:100-7-2.1. Minor permits for greenhouse gas (GHG) emitting facilities

252:100-7-15. Construction permit [AMENDED]

252:100-7-60.5 Oil and natural gas sector [AMENDED]

252:100-7-60.6. Emergency engine facilities [AMENDED]

252:100-7-60.7. Gasoline dispensing facilities and gasoline dispensing facilities with emergency engines [AMENDED]

Subchapter 8. Permits for Part 70 Sources and Major New Source Review (NSR) Sources

252:100-8-2. Definitions [AMENDED]

252:100-8-4. Requirements for construction and operating permits [AMENDED]

252:100-8-5. Permit applications [AMENDED]

252:100-8-31. Definitions [AMENDED]

252:100-8-33. Exemptions [AMENDED]

Mr. Tom Richardson, P.E., Rules & Planning Section of the AQD, stated that the Department is proposing to clarify source eligibility criteria for the oil and natural gas sector Permit By Rule (PBR) and ensure that the current PBR allows facilities potentially subject to NSPS Subpart OOOOb to take legally and practically enforceable (LPE) limits to avoid applicability of the federal requirements for certain equipment. The proposed permanent rule amendments would replace the currently effective emergency rule. Additional changes will ensure that greenhouse gases (GHGs) are exempt from various requirements except for the federal requirements for a BACT analysis under the (major source) PSD program where another pollutant (non-GHG) triggers the requirement for a PSD permit and GHG emissions will increase by 75,000 tons CO₂e. Lastly, proposed changes authorize electronic submission of applications and clarify requirements applicable to minor source facilities that are later required by federal rule to obtain major source (Title V) operating permits. Hearing questions and comments by the Council and by the public, Ms. Lodes called for a motion. Mr. Elliott moved to approve the presented revisions to Subchapter 5, 7 and 8 and Mr. Privrat made the second.

See transcript pages 25 - 83

Matt Caves	Yes	Jeffrey Taylor	Yes
Gregory Elliott	Yes	Michael Thayer	Yes
James Farrell	Yes	Jefferson Wilber	Yes
John Privrat	Yes	Laura Lodes	Yes

Subchapter 49. Oklahoma Emission Reduction Technology Rebate Program [AMENDED]

252:100-49-1 Purpose and Applicability [AMENDED]

252:100-49-3 Definitions [AMENDED]

252:100-49-5 Program criteria and qualification determination [AMENDED]

Mr. Kirlin stated that the Department is proposing to amend Subchapter 49, Oklahoma Emission Reduction Technology Rebate Program in OAC 252:100, to implement recent changes to applicable provisions of the Oklahoma Emission Reduction Technology Incentive Act, 68 O.S. § 55006, et. seq. DEQ and the Oklahoma Tax Commission jointly administer the “Oklahoma

Emission Reduction Technology Rebate Program” to provide an incentive for “Emission Reduction Projects” – implementation of new and innovative technologies to reduce air pollutant emissions from oil and gas facilities. The gist of this rule proposal and the underlying reason for the rulemaking is to implement the Department’s responsibilities under the recently revised Oklahoma Emission Reduction Technology Incentive Act. Hearing a question by the Council and none by the public, Ms. Lodes called for a motion. Mr. Caves moved to approve and Mr. Elliott made the second.

See transcript pages 84 - 92

Matt Caves	Yes	Jeffrey Taylor	Yes
Gregory Elliott	Yes	Michael Thayer	Yes
James Farrell	Yes	Jefferson Wilber	Yes
John Privrat	Yes	Laura Lodes	Yes

Ms. Botchlet-Smith announced the conclusion of the hearing portion of the meeting.

See transcript page 92

Presentation – Mr. Bryan Sims and Ryan Biggerstaff of the AQD gave a presentation/update on monitoring.

Presentation – Mr. Dan Melton, Comptroller of the ASD gave a presentation on the Fiscal Report.

Division Director's Report – Ms. Kendal Stegmann, Division Director of the AQD, provided an update on other Division activities.

New Business – None

Adjournment – The next regular meeting is scheduled for Wednesday, April 30, 2025 in Oklahoma City, Oklahoma. Ms. Lodes called for a motion to adjourn the meeting, Mr. Elliott moved to adjourn and Dr. Thayer made the second. Meeting adjourned at 11:32 a.m.

Matt Caves	Yes	Jeffrey Taylor	Yes
Gregory Elliott	Yes	Michael Thayer	Yes
James Farrell	Yes	Jefferson Wilber	Yes
John Privrat	Yes	Laura Lodes	Yes

Transcript and attendance sheet becomes an official part of these Minutes.

<p style="text-align: right;">Page 1</p> <p>1</p> <p>2</p> <p>3 REGULAR MEETING/HEARING</p> <p>4 AIR QUALITY ADVISORY COUNCIL</p> <p>5 OCTOBER 17, 2024, 9:00 AM</p> <p>6</p> <p>7 MEMBERS PRESENT</p> <p>8 Laura Lodes</p> <p>9 Matt Caves</p> <p>10 John Privrat</p> <p>11 James Farrell</p> <p>12 Jeffrey Taylor</p> <p>13 Michael Thayer</p> <p>14 Gregory Elliott</p> <p>15 Jefferson Wilber</p> <p>16</p> <p>17 MEMBERS ABSENT</p> <p>18 Garry Keele II</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25 REPORTED BY: Jenny Longley, CSR</p>	<p style="text-align: right;">Page 3</p> <p>1 we've added Mr. Wilber to our Air Quality Council.</p> <p>2 So I appreciate both of y'all joining, since I</p> <p>3 failed to mention it, I realized after the fact, in</p> <p>4 July.</p> <p>5 DR. THAYER: Well, thank you.</p> <p>6 MR. WILBER: Thank you.</p> <p>7 CHAIRWOMAN LODES: Our two newest members,</p> <p>8 so I do want to recognize that we've had two new</p> <p>9 additions to the council.</p> <p>10 The next item on today's agenda is</p> <p>11 approval of the minutes from the July 24th regular</p> <p>12 meeting. Do we have any comments or concerns</p> <p>13 regarding the minutes?</p> <p>14 Seeing and hearing none, do I have a</p> <p>15 motion to approve the minutes?</p> <p>16 MR. TAYLOR: I'll make a motion to approve</p> <p>17 the minutes.</p> <p>18 MR. FARRELL: Second.</p> <p>19 CHAIRWOMAN LODES: I have a motion and a</p> <p>20 second. Quiana, will you please call roll?</p> <p>21 MS. FIELDS: Mr. Caves?</p> <p>22 MR. CAVES: Yes.</p> <p>23 MS. FIELDS: Mr. Elliott?</p> <p>24 MR. ELLIOTT: Yes.</p> <p>25 MS. FIELDS: Mr. Farrell?</p>
<p style="text-align: right;">Page 2</p> <p>1 PROCEEDINGS</p> <p>2 CHAIRWOMAN LODES: I'd like to call to</p> <p>3 order today's meeting of the Air Quality Advisory</p> <p>4 Council. Quiana, will you please call roll?</p> <p>5 MS. FIELDS: Mr. Caves?</p> <p>6 MR. CAVES: Here.</p> <p>7 MS. FIELDS: Mr. Elliott?</p> <p>8 MR. ELLIOTT: Here.</p> <p>9 MS. FIELDS: Mr. Farrell?</p> <p>10 MR. FARRELL: Here.</p> <p>11 MS. FIELDS: Mr. Keele is absent.</p> <p>12 Mr. Privrat?</p> <p>13 MR. PRIVRAT: Here.</p> <p>14 MS. FIELDS: Mr. Taylor?</p> <p>15 MR. TAYLOR: Here.</p> <p>16 MS. FIELDS: Dr. Thayer?</p> <p>17 DR. THAYER: Here.</p> <p>18 MS. FIELDS: Mr. Wilber?</p> <p>19 MR. WILBER: Here.</p> <p>20 MS. FIELDS: Ms. Lodes?</p> <p>21 CHAIRWOMAN LODES: Here.</p> <p>22 MS. FIELDS: We have a quorum.</p> <p>23 CHAIRWOMAN LODES: Thank you.</p> <p>24 I do want to recognize, since I</p> <p>25 failed at the last one, we've added Dr. Thayer and</p>	<p style="text-align: right;">Page 4</p> <p>1 MR. FARRELL: Yes.</p> <p>2 MS. FIELDS: Mr. Privrat?</p> <p>3 MR. PRIVRAT: Yes.</p> <p>4 MS. FIELDS: Mr. Taylor?</p> <p>5 MR. TAYLOR: Yes.</p> <p>6 MS. FIELDS: Dr. Thayer?</p> <p>7 DR. THAYER: Yes.</p> <p>8 MS. FIELDS: Mr. Wilber?</p> <p>9 MR. WILBER: Yes.</p> <p>10 MS. FIELDS: Ms. Lodes?</p> <p>11 CHAIRWOMAN LODES: Yes.</p> <p>12 MS. FIELDS: Motion passed.</p> <p>13 CHAIRWOMAN LODES: The next item on</p> <p>14 today's agenda is the calendar schedule for --</p> <p>15 meeting calendar schedule for the year 2025. The</p> <p>16 agency has proposed the dates of Wednesday,</p> <p>17 April 30th, Wednesday, July 30th, they've proposed</p> <p>18 Wednesday October 15th, but we have already</p> <p>19 discussed that conflicts with next year's EFO; so I</p> <p>20 am proposing Thursday, October 16th and we'll do it</p> <p>21 the day after EFO, like we have this year.</p> <p>22 Do we have any other comments or</p> <p>23 concerns regarding the dates for next year? And by</p> <p>24 the way, we're not doing a January meeting because</p> <p>25 of the EQB schedule. We wouldn't be able to do our</p>

<p>1 rules and get anything -- if we did a January 2 meeting, it wouldn't make anything until their June 3 meeting anyway. 4 Correct? 5 MS. STEGMANN: Correct. 6 CHAIRWOMAN LODES: Yeah. 7 And so that's why we're foregoing a 8 January meeting, when we have the most issues with 9 weather and everything else, and just going for 10 April. Any other comments or concerns on these 11 dates? 12 Do I have a motion to approve the 13 dates of Wednesday, April 30, 2025, Wednesday, 14 July 30th of 2025, Thursday, October 16th of 2025? 15 MR. CAVES: I'll make that motion. 16 MR. ELLIOTT: I'll second. 17 CHAIRWOMAN LODES: I have a motion and a 18 second. Quiana, will you please call roll? 19 MS. FIELDS: Mr. Caves? 20 MR. CAVES: Yes. 21 MS. FIELDS: Mr. Elliott? 22 MR. ELLIOTT: Yes. 23 MS. FIELDS: Mr. Farrell? 24 MR. FARRELL: Yes. 25 MS. FIELDS: Mr. Privrat?</p>	<p>Page 5</p> <p>1 for the purpose of receiving comments pertaining to 2 the proposed OAC Title 252 Chapter 100 rules as 3 listed on the agenda and will be entered into each 4 record along with the Oklahoma Register filing. 5 Notice of the meeting was filed with the Secretary 6 of State on July 24, 2024. The agenda was posted 24 7 hours prior to the meeting here at DEQ. 8 If you wish to make a statement, it 9 is very important that you complete the form at the 10 registration table, and then you will be called upon 11 at the appropriate time. Audience members, please 12 come to the podium to make your comments and please 13 state your name prior to doing so. 14 At this time, we will proceed with 15 what's marked as Agenda Item 5A on the hearing 16 agenda. This is Chapter 100, Air Pollution Control; 17 Subchapter 2, Incorporation by Reference; and 18 Appendix Q, Incorporation by Reference. And the 19 presentation for this will be made by Jared Milano, 20 who is in our Rules & Planning Section. 21 Jared? 22 MR. MILANO: Okay. Good morning, my name 23 is Jared Milano, and I am an Environmental Programs 24 Specialist with AQD's Rules & Planning Section. 25 Today, I will be proposing changes to Oklahoma</p> <p>Page 7</p>
<p>1 MR. PRIVRAT: Yes. 2 MS. FIELDS: Mr. Taylor? 3 MR. TAYLOR: Yes. 4 MS. FIELDS: Dr. Thayer? 5 DR. THAYER: Yes. 6 MS. FIELDS: Mr. Wilber? 7 MR. WILBER: Yes. 8 MS. FIELDS: Ms. Lodes? 9 CHAIRWOMAN LODES: Yes. 10 MS. FIELDS: Motion passed. 11 CHAIRWOMAN LODES: We will now enter the 12 public rulemaking portion. 13 MS. BOTCHLET-SMITH: Good morning. I am 14 Beverly Botchlet-Smith, I'm the Assistant Director 15 of the Air Quality Division, and as such, I will 16 serve as the protocol officer for today's hearings. 17 The hearings will be convened by the 18 Air Quality Council in compliance with the Oklahoma 19 Administrative Procedures Act and Title 40 of the 20 Code of Federal Regulations, Part 51, as well as the 21 authority of Title 27A of the Oklahoma Statutes, 22 Section 2-2-201 and Sections 2-5-101 through 23 2-5-117. 24 Notice of the October 17, 2024 25 hearings were advertised in the Oklahoma Register</p> <p>Page 6</p>	<p>1 Administrative Code Title 252, Chapter 100, 2 Subchapter 2 and Appendix Q. 3 Those changes are to revise the date 4 of incorporation for Subchapter 2, Incorporation by 5 Reference, and to adopt the newly amended Appendix 6 Q. 7 The proposed changes to Appendix Q 8 are additions from 40 Code of Federal Regulations 9 Part 60. Additions would include updates to 10 existing subparts in Appendix Q, as well as Appendix 11 K and to subparts La, AAb, VVb, XXa, IIa, NNNa, 12 RRRa, to subparts OOOOb and TTTTa. More details on 13 those changes are found in your packet under "2024 14 List of Changes". 15 One written comment was received 16 during the public commenting period, September 3rd 17 to October 3rd. The full comment made is found in 18 your e-packets, and DEQ's response is found in your 19 folders. 20 I'll read the Comment Summary and our 21 Response. So the Comment Summary: "The commenters 22 expressed concerns regarding the sources, both 23 natural and manmade, and risks associated with 24 greenhouse gases in the environment, as well as the 25 difficulties of their regulation and further</p> <p>Page 8</p>

<p>1 complexities of carbon sequestration".</p> <p>2 Our Response: "The Department</p> <p>3 recognizes commenters' concerns; however, DEQ staff</p> <p>4 notes that the comments did not object to or suggest</p> <p>5 any specific changes to the proposed rule language.</p> <p>6 Therefore, DEQ staff recommends no revisions to the</p> <p>7 proposal based on these comments."</p> <p>8 So at this time, DEQ requests the Air</p> <p>9 Quality Advisory Council to recommend the proposed</p> <p>10 changes to Subchapter 2 and Appendix Q to the</p> <p>11 Environmental Quality Board for adoption.</p> <p>12 MS. BOTCHLET-SMITH: Thank you, Jared.</p> <p>13 At this point, we'd like to take</p> <p>14 comments and discussion from the council. Do we</p> <p>15 have any questions?</p> <p>16 I haven't received a notice from</p> <p>17 anyone in the audience wishing to comment, but if</p> <p>18 you do have a comment, would you please raise your</p> <p>19 hand so we can recognize you?</p> <p>20 Seeing none, another opportunity for</p> <p>21 the council or, Laura, I'll turn to you for a</p> <p>22 motion.</p> <p>23 CHAIRWOMAN LODES: Staff has recommended</p> <p>24 that we approve the proposed changes to Subchapter 2</p> <p>25 and Appendix Q. Do we have a motion?</p>	<p>Page 9</p> <p>1 for Part 70 Sources and Major New Source Review - or</p> <p>2 NSR - Sources and Part 5, Permits for Part 70</p> <p>3 Sources, and this is 252:100-8-6. Today's</p> <p>4 presentation will be given by Brooks Kirlin of our</p> <p>5 Rules & Planning Section.</p> <p>6 Brooks?</p> <p>7 MR. KIRLIN: Thank you, Bev.</p> <p>8 Good morning, Madam Chair, Members of</p> <p>9 the Council, Ladies and Gentlemen. I am Brooks</p> <p>10 Kirlin, an engineer with Air Quality's Rules &</p> <p>11 Planning Section. The Department is proposing to</p> <p>12 amend existing rule language in OAC 252:100-8-6,</p> <p>13 Permit Content, in response to the U.S.</p> <p>14 Environmental Protection Agency's recently</p> <p>15 promulgated changes to program requirements.</p> <p>16 The federal changes were published in</p> <p>17 the Federal Register notice entitled "Removal of</p> <p>18 Title V Emergency Affirmative Defense Provisions</p> <p>19 from State Operating Permit Programs and Federal</p> <p>20 Operating Permit Program".</p> <p>21 This "Affirmative Defense" notice</p> <p>22 removed emergency provisions from operating permit</p> <p>23 content requirements from 40 CFR Parts 70 and 71 and</p> <p>24 requires states to make corresponding changes as</p> <p>25 necessary to their Part 70 Operating Permit program</p>
<p>Page 10</p> <p>1 DR. THAYER: I make a motion to accept.</p> <p>2 CHAIRWOMAN LODES: Do we have a second?</p> <p>3 MR. CAVES: I'll second.</p> <p>4 CHAIRWOMAN LODES: Thank you.</p> <p>5 Quiana, will you please call roll?</p> <p>6 MS. FIELDS: Mr. Caves?</p> <p>7 MR. CAVES: Yes.</p> <p>8 MS. FIELDS: Mr. Elliott?</p> <p>9 MR. ELLIOTT: Yes.</p> <p>10 MS. FIELDS: Mr. Farrell?</p> <p>11 MR. FARRELL: Yes.</p> <p>12 MS. FIELDS: Mr. Privrat?</p> <p>13 MR. PRIVRAT: Yes.</p> <p>14 MS. FIELDS: Mr. Taylor?</p> <p>15 MR. TAYLOR: Yes.</p> <p>16 MS. FIELDS: Dr. Thayer?</p> <p>17 DR. THAYER: Yes.</p> <p>18 MS. FIELDS: Mr. Wilber?</p> <p>19 MR. WILBER: Yes.</p> <p>20 MS. FIELDS: Ms. Lodes?</p> <p>21 CHAIRWOMAN LODES: Yes.</p> <p>22 MS. FIELDS: Motion passed.</p> <p>23 CHAIRWOMAN LODES: Thank you.</p> <p>24 MS. BOTCHLET-SMITH: The next item on</p> <p>25 today's agenda is 5B. This is Subchapter 8, Permits</p>	<p>Page 11</p> <p>1 rules and submit those changes, along with a plan</p> <p>2 for updating operating permits that contain the old</p> <p>3 language. Within one year of the effective date of</p> <p>4 the change, that is, by August 21, 2024, the states</p> <p>5 were required to submit the changes or request a</p> <p>6 deadline extension.</p> <p>7 DEQ requested and received an</p> <p>8 extension of the deadline to October 31, 2025 to</p> <p>9 accommodate Oklahoma's rulemaking process. The</p> <p>10 extension approval does contain an alternative</p> <p>11 extension date in the event that the Department is</p> <p>12 unable to obtain approval of the rule changes in</p> <p>13 time for submittal to the Oklahoma Legislature by</p> <p>14 the deadline for the upcoming legislative session.</p> <p>15 However, we believe that it is in the best interest</p> <p>16 of the industry and the public to get a rule change</p> <p>17 in place to minimize any false assurance that the</p> <p>18 "affirmative defense" terminology may imply and then</p> <p>19 prepare and submit an operating permit program</p> <p>20 update for EPA to review and for approval on the</p> <p>21 shorter timeframe.</p> <p>22 I would direct you to the "Presented"</p> <p>23 version of the proposal that is provided in today's</p> <p>24 folder. As a result of internal staff discussions</p> <p>25 as well as continuing discussions with EPA staff, we</p>

<p>Page 13</p> <p>1 have made a few changes to the originally posted 2 version that is in your packet. I will point these 3 changes out as I go through the proposal.</p> <p>4 You may or may not recall the changes 5 that we made to the Excess Emission Reporting 6 Requirements of Subchapter 9 in response to the 7 Environmental Protection Agency national SIP Call. 8 I say might not recall because it's now been eight 9 years since that particular rule change took effect. 10 The change primarily targeted the portions of the 11 rule that referred to an "affirmative defense" 12 provided for instances of excess emissions that 13 result from startup, shutdown, and malfunction, or 14 "SSM". At the time, Oklahoma's State Implementation 15 Plan, or "SIP", still included an older version of 16 the rule and was subject to the SIP Call action EPA 17 issued in response to a court decision. The changes 18 to Subchapter 9 removed the "affirmative defense" 19 provisions, but allows for consideration of 20 mitigating factors for facilities requesting relief 21 in an administrative penalty action brought by the 22 Department for periods of excess emissions. By 23 withdrawing the old Subchapter 9 language from 24 Oklahoma's SIP and maintaining the 2016 "mitigating 25 factors" language as "state-only" provisions,</p>	<p>Page 15</p> <p>1 Permit Programs update occurs less frequently, 2 although changes to program rules are not 3 infrequent. Congress added Title V to the Clean Air 4 Act in 1990 to gather all ongoing facility emission 5 requirements into a single operating permit for each 6 major facility. These requirements include those 7 requirements established in NSR permits for new 8 construction and modifications; federal NSPS, or New 9 Source Performance Standards; and National Emission 10 Standards for Hazardous Air Pollutants, or NESHAPs; 11 plus some additional monitoring, recordkeeping, and 12 reporting requirements.</p> <p>13 Now to the operating permit 14 requirements, where the "affirmative defense" phrase 15 has remained in Section 100-8-6, "Permit content". 16 EPA has realized all along that the same phrase 17 lurking in emergency provisions in the 40 CFR Part 18 70 Operating Permit rules was problematic. 19 Therefore, EPA took action to remove the language 20 from their rules, to require state programs to 21 remove it from their state rules, and to make sure 22 state programs also delete corresponding language in 23 individual Title V permits. EPA's approach was to 24 remove the entire Subsection (g) of 40 CFR Section 25 70.6, which is entitled "Emergency provisions",</p>
<p>Page 14</p> <p>1 Oklahoma satisfied its obligations under the SIP 2 Call.</p> <p>3 This is probably a good time to 4 mention the little distinction between the State 5 Implementation Plan under Title I of the federal 6 Clean Air Act and Title V or Part 70, Operating 7 Permit Programs, for those who might not follow the 8 regulatory trails as closely as some of us do. The 9 SIP covers many aspects of the state's air pollution 10 control program in order to maintain or, if 11 necessary, to come into compliance with the National 12 Ambient Air Quality Standards, regional haze program 13 requirements, et cetera. Construction permits - or 14 New Source Review permits, including minor NSR and 15 PSD - play a central role in the SIP. The SIP is 16 frequently updated. Between annual SIP update 17 submittals, Infrastructure SIPs and Regional Haze 18 SIP submittals and certain special-issue SIP 19 submittals, there is a seemingly continuous supply 20 of SIP revisions at some stage of development, 21 submittal, review, proposed approval, or 22 finalization. The process is fairly 23 well-established and pretty well understood.</p> <p>24 By contrast, an actual, full formal 25 review and approval of a state's Part 70 Operating</p>	<p>Page 16</p> <p>1 including the definition of "emergency". Those 2 emergency provisions also included a requirement to 3 submit a notice of the emergency within two working 4 days if the facility planned to invoke the 5 affirmative defense of an emergency. EPA did not 6 change their "Standard permit requirements" in 7 Section 70.6, Subsection (a), which states that 8 Title V permits should require "prompt reporting of 9 deviations" -- I won't read that entire paragraph 10 that's there, but DEQ's analogous reporting 11 requirement provisions are in Section 12 100-8-6(a)(3)(C), which we'll be going through 13 shortly.</p> <p>14 While Section 100-8-6 of our rules is 15 structured a bit differently from 40 CFR Section 16 70.6, DEQ's language in Subsection (e) of it is 17 virtually identical to EPA's corresponding old 18 emergency language. Staff believes that it is 19 appropriate to retain the concept of emergency 20 provisions in Air Quality permits, and the 21 corresponding language. Therefore, we are proposing 22 to replace the offending "affirmative defense" 23 terminology with language that provides for 24 consideration of mitigating factors for excess 25 emissions, as authorized in Subchapter 9. It is our</p>

<p>Page 17</p> <p>1 intent that, like Subchapter 9, these provisions be 2 treated as state-only requirements, thereby 3 alleviating EPA concerns over how they could 4 otherwise interfere with EPA authority and citizens' 5 options under the Clean Air Act.</p> <p>6 Going through the proposed changes to 7 Subchapter 8, I'll start by pointing out something 8 that we do not intend to change. We do not propose 9 to delete or amend the definition of "emergency", 10 which is in Section 100-8-2. We looked at our 11 existing definition and believe its current language 12 fits our approach.</p> <p>13 The changes start in the reporting 14 requirements shown on the bottom third of page 2 in 15 Subsection (a)(3)(C)(ii). As I noted, this is where 16 our existing rule language and structure already 17 differed slightly from federal rules. We identified 18 a typo: the first phrase should reference '(C)(i)' 19 of this paragraph instead of "(C)(I)". In staff 20 discussions the last few weeks, it appeared 21 appropriate to clarify reporting of exceedances from 22 permit "limits" rather than "requirements", and any 23 "deviation" rather than "exceedances" from the 24 testing, monitoring, operating, recordkeeping and 25 reporting requirements under the permit. Note that</p>	<p>Page 19</p> <p>1 existing rules do include language in Subsection (b) 2 that deals with how federally enforceable versus 3 state-only requirements are designated within the 4 permits. No suggested changes there, I'm just 5 pointing that out.</p> <p>6 Now Subsection (e), our emergency 7 provision, appears on the bottom of page 6 and 8 contains what I would say is the meat of the 9 proposal. The next slide focuses better on where we 10 propose removing "affirmative defense" and inserting 11 "consideration of mitigating factors" language in 12 Paragraphs (1) and (2).</p> <p>13 And these are the last of today's 14 proposed changes to Section 100-8-6. If the 15 proposal is ultimately promulgated, DEQ will submit 16 them as a part of Oklahoma's Part 70 Operating 17 Permit Programs update and will proceed with 18 implementation as described in DEQ's June 20, 2024 19 deadline extension request, where we stated: 20 "Once the rule changes are in effect, 21 DEQ expects to implement the changes by updating the 22 corresponding language in the Major Source Air 23 Quality Permit Standard Conditions, thus the 24 removal of affirmative defense provisions from 25 permits should generally occur in the ordinary</p>
<p>Page 18</p> <p>1 "testing" and "operating" were inserted in the list, 2 that's one of the differences between the packet 3 version and the folder version.</p> <p>4 Next under reporting requirements, in 5 (a)(3)(C)(iii)(I) for an exceedance resulting from 6 an emergency, AQD rules require an initial report by 7 4:30 p.m. the next working day. If the facility 8 intended to assert affirmative defense, a follow-up 9 written report was due within 10 working days.</p> <p>10 These written report provisions have been clarified, 11 switched from "affirmative defense" to "mitigating 12 factors" language, and updated to better track with 13 corresponding Subchapter 9 requirements, which allow 14 30 days for the follow-up written report. The 15 proposal now explicitly says that these are 16 state-only.</p> <p>17 A bit further down in the same 18 subsection, (a)(3)(C)(iv) required certification by 19 a responsible official. We are proposing to allow 20 the certification by a designee, and the other 21 provisions become unnecessary, they were tied to 22 additional time allowed for the quick turnaround on 23 the affirmative defense follow-up report.</p> <p>24 Before jumping down to the next 25 change, I thought I would quickly point out that the</p>	<p>Page 20</p> <p>1 course of business" as operating permits for Part 70 2 sources are renewed, as contemplated in the 3 Supplementary Information" as I've quoted them in 4 the listing. "DEQ will review whether, as a 5 practice or individually, other instances of such 6 language occur in Part 70, Operating Permits, and if 7 so, will remove or replace it as appropriate."</p> <p>8 Notice of the proposed rule changes 9 was published in the Oklahoma Register on 10 September 3, 2024. Prior to the October Council 11 Meeting, we received emailed comments from one 12 party, which are identical to those described by 13 Jared in his proposal. Again, the commenters 14 expressed concern regarding the sources, both 15 natural and manmade, and the risks associated with 16 greenhouse gases in the environment, as well as the 17 difficulties of their regulation and further 18 complexities of carbon sequestration. The 19 Department recognizes the commenters' concerns; 20 however, DEQ staff notes that the comments did not 21 object to or suggest any specific changes to the 22 proposed rule language. Therefore, DEQ recommends 23 no revisions to the proposal based on these 24 comments.</p> <p>25 In order to ensure that we may move</p>

<p style="text-align: right;">Page 21</p> <p>1 forward to meet EPA's requirements as quickly as 2 possible, Staff requests that the Council recommend 3 the proposed changes to Section 100-8-6 as reflected 4 in today's folder version to the Environmental 5 Quality Board for adoption as permanent rules at its 6 next regular meeting on November 21st. 7 Thank you. Any questions? 8 MS. BOTCHLET-SMITH: Thank you, Brooks. 9 Do we have any questions from the council? Any 10 discussion? 11 MR. ELLIOTT: To make sure I understand, 12 you remove the 10-day requirement, so does that just 13 -- so then if you want to go for the emergency 14 provision, that would be -- the information would be 15 in the 30-day -- the routine - or, I mean, I say 16 routine - the one that's in Subchapter 9 already, 17 the 30-day -- 18 MR. KIRLIN: Right. 19 MR. ELLIOTT: -- report, just make sure 20 it's -- 21 MR. KIRLIN: Right. 22 MR. ELLIOTT: That's good, I like that. 23 MS. BOTCHLET-SMITH: Any other questions? 24 Comments? 25 Okay. We have received notice of a</p>	<p style="text-align: right;">Page 23</p> <p>1 please restate your name and affiliation. 2 MR. GROUND: I'm Bud Ground with the 3 Environmental Federation of Oklahoma, and for 4 someone that's been in the industry for a very long 5 time, I really hated to see the Affirmative Defense 6 be taken out by EPA; there's nothing we can do about 7 that. We really appreciate that you put in what you 8 considered the concept of that by considering the 9 mitigating factors, I hope it's not a lot of change. 10 My only question or comment is, it is 11 based on -- it says it may qualify for 12 considerations and it does list out a few issues, 13 contemporaneous logs, properly operated and such. I 14 didn't know if, through EPA's history of this for 15 the last six years, if they have any kind of an 16 operating -- that you've seen a pattern of what they 17 will consider or accept or what you might consider 18 or accept and if we could see any guidance on that. 19 You know, if we know what we need to 20 maintain in our records for sure that makes you 21 think that we've met this qualification, I think 22 that would help the industry. I hope that's clear. 23 MS. STEGMANN: Well, when people usually 24 fall into the emergency situation, it is usually 25 from an act of God type of situation, whether it's</p>
<p style="text-align: right;">Page 22</p> <p>1 couple from the audience that would like to comment. 2 Matt Grimes, could you step to the podium? And if 3 you'll remember to restate your name and your 4 affiliation. 5 MR. GRIMES: Yeah, my name is Matt Grimes, 6 I'm the manager of Air Quality for Oklahoma Gas & 7 Electric. I just had one quick, like, question or 8 -- and it's (3)(C)(iv), about the reporting by a 9 responsible official or designee. 10 I wanted clarification. What we're 11 concerned with is the immediate notice, the 24-hour. 12 If we -- if a responsible official was to have to do 13 that, then that would place some burden on us, so I 14 just wanted some clarification on whether or not the 15 24-hour reporting would be required to be certified 16 by a responsible official. 17 MR. KIRLIN: Well, from my understanding, 18 the 24 hours is typically a verbal, and I don't -- 19 and that's not -- I don't believe that's intended 20 for the responsible official, it's -- who knows who 21 they are, that would be the designee's job. 22 MR. GRIMES: Okay. Thank you. 23 MS. BOTCHLET-SMITH: Thank you. 24 We have another commenter. Bud 25 Ground, could you step to the podium? And then</p>	<p style="text-align: right;">Page 24</p> <p>1 the Uri snowstorm or tornadoes or things like that, 2 and we will get calls and ask for relief. And we 3 usually look at that from -- on a case-by-case basis 4 and it's not real formal. 5 MR. GROUND: So you think the past -- what 6 we've done in the past is going to be acceptable in 7 the future? 8 MS. STEGMANN: Yes. 9 MR. GROUND: Okay. That's -- 10 MS. STEGMANN: I don't expect us to change 11 the way we do business or how we handle emergency 12 situations. 13 MR. GROUND: Okay. Thank you very much. 14 MS. BOTCHLET-SMITH: Okay. Is there 15 anyone else in the public that wish to make a 16 comment on this particular rule, could you please 17 raise your hand? 18 Seeing none, this would be another 19 opportunity for the council for any further 20 questions or, if not, to go ahead and propose a 21 motion. 22 CHAIRWOMAN LODES: Seeing no further 23 questions from the council, I need a motion to 24 approve. 25 MR. FARRELL: I move to accept the</p>

<p>1 proposed changes.</p> <p>2 DR. THAYER: Second.</p> <p>3 CHAIRWOMAN LODES: Quiana, will you please</p> <p>4 call roll?</p> <p>5 MS. FIELDS: Mr. Caves?</p> <p>6 MR. CAVES: Yes.</p> <p>7 MS. FIELDS: Mr. Elliott?</p> <p>8 MR. ELLIOTT: Yes.</p> <p>9 MS. FIELDS: Mr. Farrell?</p> <p>10 MR. FARRELL: Yes.</p> <p>11 MS. FIELDS: Mr. Privrat?</p> <p>12 MR. PRIVRAT: Yes.</p> <p>13 MS. FIELDS: Mr. Taylor?</p> <p>14 MR. TAYLOR: Yes.</p> <p>15 MS. FIELDS: Dr. Thayer?</p> <p>16 DR. THAYER: Yes.</p> <p>17 MS. FIELDS: Mr. Wilber?</p> <p>18 MR. WILBER: Yes.</p> <p>19 MS. FIELDS: Ms. Lodes?</p> <p>20 CHAIRWOMAN LODES: Yes.</p> <p>21 MS. FIELDS: Motion passed.</p> <p>22 MS. BOTCHLET-SMITH: The next item on</p> <p>23 today's agenda is Item Number 5C, this is:</p> <p>24 Subchapter 5, "Registration, Emission</p> <p>25 Inventory and Annual Operating Fees"; 252:100-5-1.1,</p>	<p>Page 25</p> <p>1 Division's Rules & Planning Section. My purpose</p> <p>2 today is to present proposed changes to our state</p> <p>3 permitting rules, specifically permanent changes to</p> <p>4 the Oil and Natural Gas Permit By Rule or PBR in</p> <p>5 Subchapter 7 of Chapter 100, as well as additional</p> <p>6 changes to Subchapters 5, 7, and 8 to address</p> <p>7 Greenhouse Gases or GHGs. Next slide.</p> <p>8 Okay. This slide summarizes the</p> <p>9 topics I will cover. First, I will say a few words</p> <p>10 about EPA's New Source Performance Standard, or</p> <p>11 NSPS, Subpart OOOOb that addresses emissions from</p> <p>12 the oil and natural gas industry. The next bullet</p> <p>13 notes that the emergency changes to the Oil and</p> <p>14 Natural Gas Permit By Rule are now in effect. I</p> <p>15 will give a brief overview of the criteria EPA</p> <p>16 developed for establishing legally and practically</p> <p>17 enforceable limits, or LPE limits, on tank</p> <p>18 batteries. Then I will give an overview of the</p> <p>19 permanent rule language we are proposing today. And</p> <p>20 lastly, I will discuss comments submitted on the</p> <p>21 proposed rule language and our responses. Next</p> <p>22 slide.</p> <p>23 This slide shows the first page of</p> <p>24 the Final Rule Federal Register notice for NSPS</p> <p>25 Subpart OOOOb and the image of a table showing the</p>
<p>1 "Definitions"; and 252:100-5-2.1, "Emission</p> <p>2 inventory".</p> <p>3 Subchapter 7, "Permits for Minor</p> <p>4 Facilities"; 252:100-7-1.1, "Definitions";</p> <p>5 252:100-7-2.1, "Minor permits for greenhouse gas, or</p> <p>6 GHG, emitting facilities"; 252:100-7-15,</p> <p>7 "Construction permit"; 252:100-7-60.5, "Oil and</p> <p>8 natural gas sector"; 252:100-7-60.6, "Emergency</p> <p>9 engine facilities"; and 252:100-7-60.7, "Gasoline</p> <p>10 dispensing facilities and gasoline dispensing</p> <p>11 facilities with emergency engines".</p> <p>12 Also Subchapter 8, "Permits for Part</p> <p>13 70 Sources and Major New Source Review, or NSR,</p> <p>14 Sources"; 252:100-8-2, "Definitions"; 252:100-8-4,</p> <p>15 "Requirements for construction and operating</p> <p>16 permits"; 252:100-8-5, "Permit applications";</p> <p>17 252:100-8-31, "Definitions"; and 252:100-8-33,</p> <p>18 "Exemptions".</p> <p>19 Presenting this rule will be Tom</p> <p>20 Richardson from our Rules Section. Tom?</p> <p>21 MR. RICHARDSON: Thank you, Beverly. And</p> <p>22 can you confirm that you can hear me? Good.</p> <p>23 Good morning, Madam Chair, Members of</p> <p>24 the Council, Ladies and Gentlemen. I am Tom</p> <p>25 Richardson, an engineer in the Air Quality</p>	<p>Page 26</p> <p>1 emission units will be covered by that rule -- say,</p> <p>2 will be covered that have been covered by that rule.</p> <p>3 The Final Rule was published on March 8, 2024, and</p> <p>4 the rule became effective on May 7, 2024. Next</p> <p>5 slide.</p> <p>6 NSPS OOOOb covers a number of</p> <p>7 different types of sources and introduces a number</p> <p>8 of new requirements. We are adding a reference to</p> <p>9 NSPS OOOOb in our proposed permanent changes to the</p> <p>10 Oil and Gas PBR that mirror the emergency rule</p> <p>11 language approved by the Council in April with some</p> <p>12 changes that we will note. Next slide.</p> <p>13 Legally and practicably enforceable</p> <p>14 limits. This is a topic that will come up multiple</p> <p>15 times during my presentation. This is a citation</p> <p>16 from OOOOb, the MI subject to the subpart, and note</p> <p>17 that each storage vessel affected facility's tank</p> <p>18 battery and previously the storage vessel affected</p> <p>19 facilities were an individual tank basis; so this</p> <p>20 change has been a significant modification in the</p> <p>21 approach to regulating these emission units. Next</p> <p>22 slide.</p> <p>23 Legally and practicably enforceable</p> <p>24 limits, I'm going to say "LPE limits" or "legally</p> <p>25 and practicably enforceable" a lot. So this slide</p>
	<p>Page 27</p> <p>Page 28</p>

<p>Page 29</p> <p>1 shows the criteria the EPA developed, and this is 2 actually lifted from the rule language from the 3 electronic CFR, and that's at 40 CFR Part 60. So 4 the application of these criteria and their 5 incorporation into the rule language generated a 6 number of comments, which we'll discuss later. 7 Further, I'd like to note under (D), ongoing 8 monitoring of the parametric limits, that led us to 9 incorporate certain requirements into the PBR 10 language, and that language I think was an attempt 11 to incorporate these requirements to ensure that 12 these monitoring and parametric limits have been 13 established in a way that makes our limits both 14 legally and practicably enforceable under these new 15 criteria established by EPA. Next slide. 16 Goals for the permanent rulemaking. So 17 our goals are to adopt the emergency rule language 18 with some modifications, specifically the PBR 19 language in 60.5 in Subchapter 7. In addition, 20 we're going to be incorporating exemptions and 21 exclusions in the individual sections and 22 subsections where that language might be problematic 23 if we did not have those exclusions made explicitly. 24 So in Subchapter 5, we're going to discuss emissions 25 inventories and fees; Subchapter 7, minor source</p>	<p>Page 31</p> <p>1 permitting requirement. So a facility that's a 2 minor source, if they need to install new units and 3 those new units would make them subject to a Title V 4 permit, they need to go through the construction 5 permitting process. This is just a clarification. 6 We're also adding missing language defining a timely 7 application; we're formerly authorizing electronic 8 submission of applications for Subchapter 8 permits 9 -- we've been accepting those permits, but this 10 brings that language up to date; we're also 11 clarifying that existing facilities - and these are 12 facilities with minor source operating permits - 13 that become subject to the requirement to obtain a 14 Title V operating permit will need an NSR permit if 15 they wish to establish new limits, and we'll go into 16 that a little bit more when we get to that language. 17 Next slide. 18 Finally, additional changes unrelated 19 to the Oil and Natural Gas PBR. Under the 20 definition of "major stationary source" for XIV, 21 "municipal incinerators", we're changing the 22 charging capacity from 250 tons to 50 tons of refuse 23 per day, and this change brings our rules in 24 alignment with EPA's rules in Part 51. Next slide. 25 We'll start with Subchapter 5. So please</p>
<p>Page 30</p> <p>1 permitting rules; and then Subchapter 8, the Title V 2 operating permit and major source construction 3 permit requirements, we want to ensure that those 4 exemptions and exclusions for greenhouse gases are 5 retained throughout our program. Next slide. 6 Additional rule language cleanup. 7 Brooks Kirlin, who presented earlier, presented 8 proposed changes to Subchapter 8 during the July 9 council meeting. For procedural clarity, we only 10 present changes to our rules to a single section 11 once per year so that we're not overriding rules 12 that have been changed in a previous council 13 meeting, and so some of the proposals that Brooks 14 brought up back in July, those are sections that I'm 15 going to be discussing today, and so I'm combining 16 those areas with the areas I'm discussing today. In 17 addition to the Oil and Natural Gas PBR and changes 18 for exemptions to greenhouse gases, again, we'll be 19 folding in a handful of changes that Brooks 20 presented in July. Next slide. 21 And here's a summary of those 22 changes. So in 100-8-4, clarification that minor 23 facilities - facilities with Subchapter 7 permits - 24 will need a construction permit to install emission 25 units to make them subject to a Title V or Part 70</p>	<p>Page 32</p> <p>1 turn in your folder to the proposed amendments to 2 the rule text in Chapter 100, Subchapter 5. There 3 have been a few minor changes from the rules that 4 were originally posted on the web, and we'll be 5 discussing those when those come up. Those changes 6 have been updated on their website; so those of you 7 following on Zoom, feel free to look at our website, 8 and that would be the as-presented rules, and 9 there's a link on the website. Next slide. 10 Policy goals for Subchapter 5. The owners 11 and operators of facilities with Oklahoma DEQ Air 12 Quality permits are not required to include 13 greenhouse gases, whether as an aggregate or as 14 individual pollutants, in their annual emission 15 inventories. No fees will be charged for greenhouse 16 gases. Greenhouse gases will not be considered in 17 the determination of the frequency with which 18 facilities with permits by rule, or PBRs, need to 19 submit annual emissions inventories. And that's a 20 three-year or six-year cycle; so greenhouse gases 21 will not be factored into that determination. Next 22 slide. 23 So here's the rule language from 24 Subchapter 5. So again, today's presentation is 25 very similar to what was presented in July, new or</p>

<p>Page 33</p> <p>1 modified language will be identified. So under 2 "regulated air pollutant", for whatever reason, we 3 had inadvertently left the word "air" out of 4 "regulated air pollutant", this is just a cleanup 5 and a fix for that omission. Next slide. 6 So here, there has been a slight change in 7 language. So if you look under 5-2.1, "Emission 8 inventory", under Permit By Rule A and B, the 9 language in parentheses, "excluding greenhouse gases 10 as individual pollutants and as an aggregate", those 11 parenthetical exemptions appeared in slightly 12 different places previously. And Carrie Schroeder, 13 who's the manager of the Emissions Inventory 14 Section, pointed that out, and she prefers that this 15 language appear after "regulated air pollutant"; so 16 we've made that adjustment for clarification. So 17 the language is parallel now and there should be no 18 change in the content of that, the meaning would 19 have been the same, but this is just a clarification 20 and to keep them in parallel. Next slide. 21 So under "Content", we are rearranging 1 22 and 2 to emphasize our preference for actual 23 emissions of our permitted allowable emissions and 24 our emissions inventory. Again, when we establish 25 permit limits in a permit, those are the maximum</p>	<p>Page 35</p> <p>1 we're only showing the red text here up on the 2 slides. Next slide. 3 So, policy goals for Subchapter 7. 4 Again, greenhouse gases are not factored into the 5 determination whether a facility meets the 6 definition of de minimis or permit exempt facility, 7 that's just to maintain the status quo. Further, 8 greenhouse gases do not need to be included in a 9 minor facility permit unless the facility is subject 10 to a greenhouse gas limit under either NSPS or a 11 requirement based on emission guidelines, which 12 could be adopted in accordance with 40 CFR Part 60 - 13 that will be an upcoming discussion - or the 14 owner-operator requests a limit. So previously, the 15 greenhouse gases were excluded from our Subchapter 7 16 permits; with NSPS OOOOb, we need to include those. 17 Further, some facilities may choose to take a limit 18 to avoid otherwise applicable requirements. In 19 addition, greenhouse gases will not be considered in 20 the determination of whether a facility is eligible 21 for a minor source permit, a general permit, or a 22 PBR. And greenhouse gases will not be factored into 23 the determination of whether a construction permit 24 is required due to an emissions increase. In other 25 words, the emission increases will be calculated,</p>
<p>Page 34</p> <p>1 limits to achieve compliance, but typically for our 2 emissions inventories, the facilities have emissions 3 far lower than those. Our preference for emissions 4 inventory is to reflect actual emissions, not 5 permitted emissions, and so this shows that 6 preference. Further, under 2, we're exempting 7 greenhouse gases from the requirement for an annual 8 emissions inventory. Next slide. 9 Chapter 100, Subchapter 7 changes. So 10 again, please turn in your folder to the proposed 11 amendments to rule text in Chapter 100, Subchapter 12 7. And again, a version of the as-presented rules 13 have been presented on our web page, and those 14 should be present in the packets. 15 Melanie, is that right? 16 MS. FOSTER: Folders. 17 MR. RICHARDSON: Folders. Not packets, 18 folders. So the language in your folders should be 19 the updated language. In the -- the rule changes 20 compared to what was presented before and what was 21 in the -- initially updated on the web, those will 22 be highlighted in red on my slides; they are not 23 highlighted in red in your text. So if you're 24 looking for the red text, we're using our standard 25 protocol where we underline in strike-through, but</p>	<p>Page 36</p> <p>1 greenhouse gases will be exempted from that 2 calculation. Next slide. 3 Further policy goals for Subchapter 4 7. Greenhouse gases are not factored into a litany 5 of applicable requirements: one, the definition of 6 "major source", definition of "major stationary 7 source", definition of "major stationary source" for 8 facilities in nonattainment areas. All of that is 9 just to clarify that we're retaining the status quo. 10 Further, greenhouse gases are not factored into the 11 determination of whether a facility's project is a 12 major modification for facilities in attainment 13 areas or nonattainment areas. Next slide. 14 So here's the rule language shown on the 15 slide. Again, today's presentation will be very 16 similar to the presentation in July, but new or 17 modified language will be identified, and we'll go 18 through that in a little bit more detail. The 19 language shown before is exactly the same, at least 20 what's on this slide, as was presented in July. 21 This is the exemption of greenhouse gases for the 22 determination of a de minimis facility. Next slide. 23 And again, for permit exempt, that was the 24 same language that we showed previously. Next 25 slide.</p>

<p>1 This -- previously, this is the section</p> <p>2 that laid out the exemptions from greenhouse gases</p> <p>3 and was more of a blatant exclusion of greenhouse</p> <p>4 gases from our Subchapter 7 program. But the</p> <p>5 changes we're proposing will allow the greenhouse</p> <p>6 gas limits where required by: one, a federal NSPS or</p> <p>7 NESHAP; two, rules that are promulgated as required</p> <p>8 by federal emission guidelines; or, three, when</p> <p>9 requested by the owner-operator. In addition, we</p> <p>10 decided this would be a good location to provide a</p> <p>11 laundry list of all of the greenhouse gas</p> <p>12 exemptions. So those greenhouse gas exemptions will</p> <p>13 be populated within the specific programmatic</p> <p>14 requirements in the different sections, but we also</p> <p>15 thought it would be helpful to have a list of all of</p> <p>16 these exemptions in one place, we felt like this</p> <p>17 would be a good place for that to reside. So if you</p> <p>18 look through, you'll see the same sort of exemptions</p> <p>19 we've discussed previously and exemptions we'll</p> <p>20 discuss later. So again, just for clarity, we're</p> <p>21 retaining this laundry list here and then also</p> <p>22 within the individual sections with those</p> <p>23 programmatic requirements. Next slide.</p> <p>24 The laundry list continues. Next slide.</p> <p>25 So, construction permit. Here, the</p>	<p>Page 37</p> <p>1 follow the PBR even if they are subject to OOOOb.</p> <p>2 Limitations on emissions imposed by NSPS or NESHAP</p> <p>3 will be used to determine PTE. And this is an</p> <p>4 important modification because some facilities will</p> <p>5 need the NSPS limits to ensure that their potential</p> <p>6 to emit falls below the limits for either -- in this</p> <p>7 case for the PBR. We can discuss that if there are</p> <p>8 any questions, but I think this allows that</p> <p>9 mechanism, that mechanism allows you through the</p> <p>10 door. If you need to take the legally and</p> <p>11 practicably enforceable limits to exempt from some</p> <p>12 particular requirement, for example for the storage</p> <p>13 vessels, you're still through the door. So once</p> <p>14 you're through the door and eligible for the PBR,</p> <p>15 you're able to get those LPE limits and you're not</p> <p>16 looking at PTE in advance of accepting those limits.</p> <p>17 Next slide.</p> <p>18 The language here adds a reference to</p> <p>19 OOOOb and clarifies that all emission units</p> <p>20 addressed in that rule may be covered by the Oil and</p> <p>21 Gas PBR. Again, this clarification is not strictly</p> <p>22 necessary. Next slide.</p> <p>23 So the vast majority of the newer rule</p> <p>24 language is in Subsection (d). The subsection</p> <p>25 provides the mechanism for facilities to accept the</p>
<p>Page 38</p> <p>1 language shown shows that greenhouse gases will not</p> <p>2 be included in the determination of whether an</p> <p>3 addition or a modification of a piece of equipment</p> <p>4 or process exceeds the 5-ton-per-year limit for any</p> <p>5 regulated air pollutant. Next slide.</p> <p>6 Again, these are greenhouse gas</p> <p>7 exemptions; so you won't be determined whether</p> <p>8 you're eligible for a PBR or a general permit. Next</p> <p>9 slide.</p> <p>10 So this is the permit by rule for the oil</p> <p>11 and natural gas sector. The vast majority of these</p> <p>12 changes to the Oil and Natural Gas PBR are identical</p> <p>13 to those that were presented in April and adopted in</p> <p>14 the emergency rule and then were shared in July.</p> <p>15 And the -- again, the original language -- and I</p> <p>16 think this is an important point of clarification.</p> <p>17 The PBR -- the emergency PBR is in place now, but</p> <p>18 the PBR language that was previously in effect will</p> <p>19 cover facilities subject to OOOOb. So that is not</p> <p>20 something that needs to be changed, that was always</p> <p>21 in effect, but this new language clarifies that. So</p> <p>22 it's helpful for clarification, but it is not</p> <p>23 specifically necessary to ensure that facilities</p> <p>24 that may have obtained a PBR before that emergency</p> <p>25 language was passed, those facilities can still</p>	<p>Page 40</p> <p>1 legally and practicably enforceable limits, or LPE</p> <p>2 limits, on tank batteries to keep those tank</p> <p>3 batteries from becoming classified as storage vessel</p> <p>4 affected facilities under NSPS OOOOb. I would state</p> <p>5 here, we've also retained all the language that</p> <p>6 established the federally enforceable limits for</p> <p>7 OOOO and OOOOa. So those are still in place, but</p> <p>8 this is to address the OOOOb requirements. Again,</p> <p>9 note this language is identical to the emergency</p> <p>10 rule language, and changes will be highlighted on</p> <p>11 later slides. Next slide.</p> <p>12 The language here, again, is identical to</p> <p>13 the emergency rule language approved in April. Next</p> <p>14 slide.</p> <p>15 Here we do have some changes that are</p> <p>16 highlighted in red. So the changes that are shown</p> <p>17 in red are different from those that were adopted --</p> <p>18 different, rather, from the language adopted in</p> <p>19 April and approved and different from the version I</p> <p>20 presented to council in July. A number of comments</p> <p>21 were submitted on our proposal, and some of these</p> <p>22 changes reflect an attempt to clarify what we're</p> <p>23 doing and to respond to the comments. So here,</p> <p>24 under (C)(i)(III) is a requirement to perform an</p> <p>25 initial and semiannual determination of net heating</p>

<p>Page 41</p> <p>1 value. We added a clarification that if EPA removes 2 this requirement - because apparently there are some 3 negotiations going on between EPA and some 4 stakeholders and that EPA may be proposing a 5 reconsideration where they will remove this 6 requirement. If EPA removes this requirement, we 7 would also remove this requirement. Down in (V), 8 there's a requirement for net heating value as a 9 demonstration. So these are for enclosed flares, 10 and this is basically a demonstration that the net 11 heating value falls within the limits established by 12 a manufacturer for a manufacturer certified unit or 13 in a performance test if a facility performed a 14 performance test, to show that an enclosed combustor 15 meets the control requirements. Note, though, we 16 are not requiring performance tests if there's a 17 manufacturer certified unit. So if a facility is 18 using a unit that has been certified by the 19 manufacturer to meet a certain destruction 20 efficiency, that certification waives the 21 requirement for a performance test or a stack test. 22 However, if a facility is using a unit that does not 23 have that kind of certification, they would be 24 required to perform some sort of performance test to 25 demonstrate compliance. And again, this is with</p>	<p>Page 43</p> <p>1 have a stack test if you don't have a manufacturer 2 certified piece of equipment, the stack test records 3 would also be retained as a proof of compliance with 4 the LPE limits. Next slide. 5 So, (E). (E) is where we had the laundry 6 list that was specific to the PBR. So we were 7 basically trying to cabin or make a self-contained 8 exclusion of the PBR that we've developed for the 9 emergency rule from the other portions of our rule 10 so that the addition of limits on greenhouse gases 11 in the PBR didn't have the kind of domino effect of 12 bringing in the applicable requirements in other 13 parts of our rules. So we tried to seal off the PBR 14 in the emergency rulemaking. But now we're going 15 through each area and we're trying to correct that 16 and add those exemptions explicitly. So this 17 doesn't need to exist under the PBR, we've already 18 created those exemptions elsewhere; so we're 19 striking this language or at least this language 20 that was presented and we presented in the PBR, 21 there's no need to retain that language in the 22 permanent rulemaking. Next slide. 23 So now we're going to the PBR for 24 emergency engine facilities, and again, this is that 25 type of cleanup language; so we're excluding</p>
<p>Page 42</p> <p>1 regard to the enclosed combustors, the classic 2 candlestick flare is a different animal altogether. 3 So those are -- at least as far as I understand, you 4 cannot stack test them; so that would not be a 5 requirement under these rules. Next slide. 6 The language in (D) and (E) is identical 7 to the language that was approved in April in the 8 emergency rulemaking. We did receive comments on 9 the (vii), and that's the requirement to keep 10 records including equipment specifications, manuals, 11 and/or, if required, maintenance records as 12 appropriate. So one of the commenters asked why 13 we're retaining this particular recordkeeping 14 requirement, and that is specifically for certified 15 equipment. So if you purchase a certified piece of 16 equipment, those records would need to be retained 17 so that our compliance and enforcement can 18 determine, yes, it's a certified piece of equipment, 19 there's no need for a stack test. And if there are 20 requirements that are specified to guarantee that 21 level of destruction efficiency, whatever the 22 requirements that are established by the 23 manufacturer, those records would need to be 24 retained, as well. So again, this is for 25 manufacturer certified equipment. And again, if you</p>	<p>Page 44</p> <p>1 greenhouse gases from the determination of 2 eligibility. So when you determine if your facility 3 has actual emissions less than 40 tons per year, you 4 don't count greenhouse gases into that 5 determination. Next slide. 6 For gasoline dispensing facilities, the 7 same exemption is applied here. Next slide. 8 And that's all for Subchapter 7, now we're 9 moving to Subchapter 8. Again, please turn in your 10 folder to the proposed amendments, and there's an 11 as-presented version that is in the folders for the 12 council members - not in the packet, in the folders 13 - and also on the web in an as-presented -- the 14 link, I think, actually says "as-presented". Next 15 slide. 16 Policy goals. And I try to lay out policy 17 goals before we go into the rule language just to 18 show what our purpose is, and I hope that 19 clarification is helpful. First, the greenhouse 20 exemptions will not trigger the requirement for a 21 facility to obtain a Title V or Part 70 operating 22 permit. Second, greenhouse gas emissions will not 23 trigger a requirement for Minor New Source Review - 24 otherwise known as a Subchapter 8 construction 25 permit - for a facility with a Title V operating</p>

<p>Page 45</p> <p>1 permit. Specifically, greenhouse gases are not 2 evaluated against the 10-ton-per-year threshold for 3 projects considered minor modifications. So that 4 was part of the suite of rules we adopted in 2020 5 and 2021, we want to make sure that that triggering 6 limit on the requirement to get a construction 7 permit - which is a minor NSR permit - that that is 8 not triggered by greenhouse gases. Further, 9 greenhouse gases are not subject to state. And this 10 is non-PSD permitting, the BACT requirement, that 11 the state BACT does not get triggered by greenhouse 12 gases. It's different for the federal PSD BACT, 13 which we'll get to in a moment. Greenhouse gases 14 will not be subject to state. Again, non-PSD or 15 quality modeling requirements will also be exempt 16 from ambient impact analysis. Next slide.</p> <p>17 An increase of emissions of greenhouse 18 gases will not require the need for a PSD permit. 19 Greenhouse gases will only be subject to PSD BACT if 20 a facility's required to get a PSD permit due to a 21 significant emission increase and a significant 22 emission net increase of one or more non-greenhouse 23 gas pollutants and, in addition, the greenhouse gas 24 emissions increased by 75,000 tons per year of CO2 25 equivalent. So that's the only triggering</p>	<p>Page 47</p> <p>1 So we're adding this greenhouse gas 2 exemption. So if you're determining whether a 3 facility exceeds the 100-ton-per-year threshold, you 4 do not incorporate greenhouse gases into that 5 determination. And we're not showing the rest of 6 the definition of "major source" because that's the 7 key element, that greenhouse exemption. Next slide.</p> <p>8 So here we have the requirements for 9 construction and operating permits. The language in 10 red was included in the proposed rule changes that 11 Brooks Kirlin shared back in July. Again, because 12 he's covering this section and we're bringing this 13 section up today, we don't make changes in different 14 council meetings to the same section -- or, rather, 15 subsection because that is problematic, so I am 16 basically carrying forward Brooks' changes. And so 17 this language here is just a clarification that if 18 you make a modification to an existing minor source 19 facility and that modification would require that it 20 get a Part 70 operating permit that that 21 construction permit is a Subchapter 8 construction 22 permit. So if you're operating a minor source 23 facility, you want to make a change that's going to 24 bring it into Subchapter 8 and make it get a Title V 25 operating permit, it has to go through that</p>
<p>Page 46</p> <p>1 requirement that would establish a requirement for 2 BACT for greenhouse gases under the PSD program. 3 You trigger for a non-greenhouse pollutant, both 4 significant increase, significant net increase, and 5 further you have this greenhouse gas increase of 6 75,000 tons per year. Further, greenhouse gas 7 modeling will not be required for PSD permits. 8 Greenhouse gases are also exempt from any ambient 9 air analysis. Greenhouse gas BACT is only required, 10 again, when another pollutant triggers the 11 requirement for nonattainment NSR. We're luckily, 12 knock on wood, in an attainment of all of the air 13 quality standards. If we go nonattainment, then 14 this exemption would ensure the greenhouse gases 15 don't trigger a requirement if there's a 16 nonattainment NSR permit. Next slide.</p> <p>17 Now we're getting into the Subchapter 8 18 rules changes. Again, today's presentation is very 19 similar to what I presented in July. We'll identify 20 new or modified language. The first change we're 21 using is a change to the definition of "major 22 source". The definition of major source is critical 23 under Subchapter 8 because it establishes the 24 criteria which determine if a facility needs a Title 25 V permit. Next slide.</p>	<p>Page 48</p> <p>1 Subchapter 8 permitting process for the construction 2 permit. And then below, you see the greenhouse gas 3 exemption from determination if a project emission 4 increase for a project considered a minor 5 modification would exceed that 10-ton-per-year 6 threshold. So -- and again, this is the Tier 1 7 minor NSR construction permit requirement we created 8 back in 2020 and 2021. Next slide.</p> <p>9 So the language in red here was included 10 in the language that Brooks presented back in July. 11 So "timely application", the language in red is 12 basically doing two things. First, there was some 13 missing language, language that was present in the 14 version of our rules that we had on our web, but 15 was, for whatever reason, inadvertently excluded 16 from the version of the rules in the OAR, the 17 Oklahoma Administrative record. So we're not sure 18 how that didn't get married up, but now we're adding 19 that language back in. But further, and I think 20 more importantly, we're adding the formal 21 clarification that electronic submission of an 22 application is acceptable. Further language in (C) 23 clarifies that a facility that becomes subject to 24 the requirement for a Title V or Part 70 permit - 25 and this might be due to, say, a change in</p>

<p>Page 49</p> <p>1 attainment status - so when you go nonattainment for 2 a particular pollutant, it lowers the threshold for 3 emissions that require you to get a Title V 4 operating permit. So a facility that's been a minor 5 facility and has a minor source operating permit and 6 has been operating for years might, without any 7 emission increase or any change in operation, become 8 subject to Title V, not because they did anything 9 different, but because the county was determined to 10 be nonattainment. Under those circumstances, the 11 facility owner-operator needs to apply - and the 12 language here says by March 1999, we're striking 13 that, that's in the rearview mirror, but - within 12 14 months after the effective date on which that source 15 becomes subject. So they have to apply for a Title 16 V application not because they've done anything, but 17 because the county went into nonattainment. This is 18 one scenario, there are others. But if that happens 19 and a facility wants to change an emission limit -- 20 so they can retain the emission limits that are 21 already part of their minor source operating permit 22 when they move to Title V, but if they want to 23 change their emission limits and establish new 24 limits, they need to go through an NSR process, New 25 Source Review, or what we call a construction</p>	<p>Page 51</p> <p>1 earlier. And when I was going through my 2 presentation, I realized I had presented this back 3 in July, so this is the one thing that wasn't part 4 of the Oil and Gas PBR and greenhouse gas exemption 5 that I did present in July. So I guess I did that, 6 I'd forgotten, but there it is. So it's not in red 7 because it was presented before, but again, this is 8 just to bring our language in alignment with Part 9 51, and that's the change in the refuse charging 10 rate from 250 to 50 tons per year. And then down 11 below, in the (ii), the greenhouse gas exemption 12 from the 250-ton-per-year threshold for 13 classifications of major stationary source for PSD 14 purposes for the non-listed source types. Next 15 slide.</p> <p>16 And here again, clarification that 17 greenhouse gases are only subject to regulation -- 18 and really, the only area where they're subject to 19 PSD BACT would be, again - I think I've said this, 20 like, three times - you have a new facility that's 21 subject to PSD requirements for a non-greenhouse gas 22 pollutant and your greenhouse gas emissions are 23 75,000 tons of CO2 equivalent, or you have an 24 existing source that has a significant emission 25 increase and a significant net emission increase and</p>
<p>Page 50</p> <p>1 permit. Next slide. 2 So the greenhouse gas exemptions from 3 state - again, not PSD - BACT requirements are shown 4 here. And again, this is Oklahoma BACT. And there, 5 I think, is some confusion, and I know I was 6 confused about it when I first started as a permit 7 writer. But we have an Oklahoma BACT that has 8 somewhat different requirements from the BACT that 9 EPA requires for a PSD permit. So Oklahoma BACT is 10 triggered by an emission increase of 100 tons per 11 year -- and I'm speaking loosely, Phillip Fielder is 12 back and can clarify the details. But if you have 13 an emission increase of 100 tons per year, even 14 though you don't trigger PSD for particular changes, 15 you would trigger an Oklahoma BACT requirement, and 16 we are exempting the greenhouse gases from that 17 triggering event. And again, note, state BACT 18 requirement is not triggered by a greenhouse gas 19 emission increase. Next slide. 20 And greenhouse gas exemption -- or, 21 greenhouse gases are exempt from the 22 100-ton-per-year threshold for classifications of 23 major stationary source for PSD permits for those 26 24 listed source types. Next slide. 25 And again -- and this I referred to</p>	<p>Page 52</p> <p>1 has the 75,000-ton-per-year increase in CO2 2 equivalent. So those are the triggering events for 3 PSD BACT for greenhouse gases. Next slide. 4 And here, under exemptions, we're 5 clarifying greenhouse gases are exempt from air 6 quality modeling and the additional impact analysis, 7 and that's growth, visibility, et cetera. Next 8 slide. 9 And this is nonattainment NSR. So we 10 looked through our nonattainment NSR requirements 11 and we realized that we didn't actually need to make 12 any changes to our nonattainment NSR requirements 13 because the only requirements that would become 14 applicable end up being PSD requirements. So if you 15 have a nonattainment area and your emission increase 16 is for the nonattainment pollutant, you have to go 17 through -- there's not a modeling requirement 18 because you've already exceeded, but you have to do 19 the LAER, the Lowest Achievable Emission Rate, 20 there's some other requirements, but then you have 21 to go through a PSD analysis for the other 22 pollutants. So again, the PSD changes that we've 23 already proposed changes to, that would address 24 anything if there's a nonattainment situation and a 25 nonattainment NSR permit; so we needed to make no</p>

<p>1 changes to Part 9. Next slide.</p> <p>2 Summary of comments and DEQ responses. We</p> <p>3 received comments from three stakeholders, shown</p> <p>4 there, and we prepared a response to comments</p> <p>5 document. Apologies, I think that was only uploaded</p> <p>6 yesterday.</p> <p>7 Is that right, Melanie?</p> <p>8 So we tried to address all the comments,</p> <p>9 they are on the web. They were on the web I think</p> <p>10 late yesterday, but they're on the web today. And</p> <p>11 I'll go through the comments in a summary form, but</p> <p>12 I think the council has a complete printout of the</p> <p>13 response to comments and anyone that's following on</p> <p>14 Zoom can look at them on the website. Next slide.</p> <p>15 So the first comment is very similar to</p> <p>16 what was commented on the other rules. So this was</p> <p>17 more programmatic in nature, but it didn't request</p> <p>18 specific rule changes. So we've taken that under</p> <p>19 consideration and -- but there aren't any particular</p> <p>20 changes that they're recommending, and in fact, I</p> <p>21 think broadly, the comment is supportive of the</p> <p>22 greenhouse gas exemptions we're maintaining in our</p> <p>23 program. Next slide.</p> <p>24 Comment 2. Comment 2 is more about the</p> <p>25 nature of how we're crafting our PBR and</p>	<p>Page 53</p> <p>1 slide.</p> <p>2 The commenter also referenced and provided</p> <p>3 a helpful link to EPA's response to comments</p> <p>4 document. And we cited some of the language in that</p> <p>5 document, but again, in the document itself, EPA</p> <p>6 lays out why they've increased this rigor, and this</p> <p>7 is a minimum requirement to be legally and</p> <p>8 practicably enforceable. If we fail to meet those</p> <p>9 standards, our limits would actually fail to protect</p> <p>10 the facility from the applicability of these NSPS</p> <p>11 requirements; so we had to try to craft our rule</p> <p>12 following those criteria. Next slide.</p> <p>13 And it continues, this is a long response.</p> <p>14 If we fail to meet those EPA criteria, there's no</p> <p>15 consideration of legal and practical enforceability,</p> <p>16 then the NSPS requirements apply, and so we felt</p> <p>17 like we had to follow this criteria as a roadmap.</p> <p>18 And we discussed this internally, we never did a</p> <p>19 breakdown, like, side by side, like, what does NSPS</p> <p>20 OOOOb require for storage vessels versus our LPE</p> <p>21 limits, we didn't do that side by side. I think in</p> <p>22 a couple of things like reporting to CDX that maybe</p> <p>23 we're not requiring, but it may be that the rigor is</p> <p>24 so similar it's not maybe helpful for some</p> <p>25 owner-operators to use these LPE limits. That may</p>
<p>Page 54</p> <p>1 specifically the legally and practicably enforceable</p> <p>2 limits, and I think this merited a deeper dive on</p> <p>3 our part. So the idea of the LPE limits is to</p> <p>4 create a mechanism to avoid applicability of the</p> <p>5 NSPS requirements, and so the LPE limits really</p> <p>6 should be less burdensome. However, EPA -- and</p> <p>7 we're citing EPA's language in the Federal Register</p> <p>8 notice and the preamble, which I'm definitely not</p> <p>9 going to read; so if you'll go to the next slide</p> <p>10 because it goes on.</p> <p>11 It lays out their reason for making those</p> <p>12 requirements more rigorous. So the federally</p> <p>13 enforceable limits that have been in place for OOOO</p> <p>14 and OOOOa, EPA increased the rigor substantially.</p> <p>15 And in the next paragraph, we're citing language</p> <p>16 where EPA lays out these criteria. And we'll go to</p> <p>17 the next slide.</p> <p>18 And here are the limits from the rule</p> <p>19 proper. So this is a substantial increase in rigor,</p> <p>20 and we might want to come back and look at some of</p> <p>21 these in particular. I highlighted in an earlier</p> <p>22 slide the ongoing monitoring of the parametric</p> <p>23 limits, that's a substantial increase in rigor that</p> <p>24 EPA is requiring, and we used these criteria as</p> <p>25 basically a roadmap for developing our PBR. Next</p>	<p>Page 55</p> <p>1 be by design, but we wanted to make sure that our</p> <p>2 limits follow all of the criteria established by</p> <p>3 EPA, and that's how we developed our limits. Next</p> <p>4 slide.</p> <p>5 And then we're going into some specific</p> <p>6 comments on, for example, certified control devices.</p> <p>7 So -- and there's a clarification here, and I think</p> <p>8 it's just use of common language. I don't know</p> <p>9 whether EPA is certifying any of the control units</p> <p>10 themselves. If they are, I'm not aware of it, but I</p> <p>11 think we think of the manufacturer's guarantee, so a</p> <p>12 manufacturer will guarantee a certain destruction</p> <p>13 efficiency. So if a manufacturer guarantees a</p> <p>14 destruction deficiency, there's no need for a stack</p> <p>15 test, so -- or a performance test, so I think that</p> <p>16 is -- we wanted to clarify that. With regard to</p> <p>17 other requirements, there are other requirements</p> <p>18 that can be satisfied by the manufacturer's</p> <p>19 guarantee, and I think we've got language in our</p> <p>20 rule saying, you know, 'or otherwise approvable</p> <p>21 methods' or that sort of thing. Next slide.</p> <p>22 And again, air-assisted flares. So</p> <p>23 air-assisted and steam-assisted flares are</p> <p>24 compliance methods available in OOOOb, but those are</p> <p>25 more complicated, less widely used. For example, at</p>
	<p>Page 56</p>

<p>Page 57</p> <p>1 the oil and gas wellhead facilities, I've never seen 2 an air-assisted or a steam-assisted flare at a 3 wellsite, and they may exist, but they are -- 4 they're too complicated for the PBR. The PBR is 5 intended to be a simpler permitting vehicle, and so 6 a facility -- and I would say if you're subject to 7 the OOOOb requirements and you use your air or 8 steam-assisted flare to comply with that, that is 9 available under the PBR, but if you're looking for 10 the LPE limits, the air-assisted and steam-assisted 11 flares are more complicated than we wanted to craft 12 limits in the PBR. So those limits would need to be 13 crafted either in a general permit or an individual 14 facility permit, we felt like the PBR is not a 15 complicated-enough permitting vehicle to accommodate 16 those sorts of control devices. Next slide. 17 Comment 4, compliance requirements under 18 60.18. We lifted language out of 60.18 which is 19 typically thought of as applying to flares, but we 20 lifted out the pieces that could demonstrate that 21 ongoing compliance for enclosed combustors. And 22 some of it's just vanilla, like the existence of a 23 -- you know, you've got a pilot light there, you 24 have to have a pilot light in place or a way of 25 confirming that if there's -- in situations where</p>	<p>Page 59</p> <p>1 it, as well. But I think there was some confusion 2 about whether we were requiring performance tests. 3 Now, for a control device that is not certified by 4 the manufacturer we do require an initial 5 performance test, but there would be no additional 6 requirement for a performance test. Next slide. 7 And next slide. 8 Comment 7 raises questions about the 9 reporting, reporting of exceedances. So under the 10 EPA NSPS requirements, there's a requirement to 11 report ongoing compliance, not just failures to 12 comply, but ongoing compliance. And so we are, for 13 our LPE limits, relying on our Subchapter 9 rules 14 for excess emissions to demonstrate that in the 15 absence of an excess emission report that that is a 16 de facto determination of ongoing compliance. So 17 the answer is yes, Subchapter 9 does establish those 18 requirements, and that is how we're interpreting 19 that requirement. Next slide. 20 Monthly EI calculations. I know this has 21 been an area of contention from some of our 22 stakeholders, understandably so because it's more 23 challenging to compute ongoing compliance with an 24 emission limit if you're having to do the, in 25 effect, emissions calculations. We think there are</p>
<p>Page 58</p> <p>1 there's no flow, if flow comes, you get a pilot 2 light initiated, I think we're lifting that sort of 3 language out. So the other alternative would be to 4 kind of craft our own kind of state requirements, 5 and we felt like it was easier to point to those 6 60.18 requirements for enclosed combustors. Next 7 slide. 8 The net heating value requirement. And I 9 think there was a bit of confusion, and we tried to 10 address that confusion with changes to our proposed 11 rule language, but we would -- first of all, I think 12 the -- maybe the most helpful thing, if EPA does 13 waive that requirement, we've added language in our 14 rule that says we will waive that, as well, so it's 15 self-enforcing. Next slide. 16 Additional concerns about an enclosed 17 combustion device, a manufacturer's certification, 18 and this idea of initial and the semiannually 19 thereafter test. So again, we're only requiring a 20 performance test or stack test for a control device 21 not certified by the manufacturer. So if you've got 22 a certified control device, no need for a 23 performance test. Then that heating value test is 24 different, that would be required, initially and 25 semiannually, but if EPA waives it, we are waiving</p>	<p>Page 60</p> <p>1 ways to simplify this in terms of an ongoing 2 demonstration with a spreadsheet with certain 3 assumptions, but this is an issue I think that is 4 ongoing, it's under discussion, but we do not 5 believe that a throughput limit where you just 6 record the throughput is adequate to demonstrating 7 compliance with these legally and practicably 8 enforceable limits as written by EPA. Next slide. 9 Comment 9. So this is with regard to the 10 maintenance of records, I think there was just some 11 confusion here. So the records we're requiring to 12 be maintained are the records, for example, for a 13 control unit, a flare or an enclosed combustor. If 14 the manufacturer provides a guarantee, we need that 15 record to be maintained. Further, if the 16 manufacturer requires, certain -- and it depends on 17 the manufacturer. If they require certain 18 maintenance on a certain schedule, records of that 19 maintenance would be necessary to demonstrate 20 ongoing compliance. Next slide. 21 10. The comment in 10 pointed to some of 22 the requirements and said can't this be waived 23 except if you're complying within that 60.5417b, so 24 that's the NSPS requirement. And the answer is 25 we're sorry, but no, they can't be because these</p>

<p>Page 61</p> <p>1 requirements are set up to follow those criteria 2 established by EPA so the limits are legally and 3 practicably enforceable. So the OOOO limits are in 4 OOOO itself, the limits in the PBR for the legally 5 and practicably enforceable limits, those are 6 crafted to follow those criteria established by EPA. 7 So we can't exclude those because those are the only 8 ways we demonstrate that our limits are -- follow 9 those criteria. Next slide. 10 Again, a request for removal of some of 11 the language, and it's a similar response, that we 12 need that language in there to meet EPA's criteria. 13 Next slide. 14 And this is a really good concern because 15 there's a possibility that the courts could void 16 OOOOb altogether. So under those circumstances, we 17 would have a number of options. One, we would come 18 back to the council and request changes to the 19 rules. If OOOOb is overturned by the courts, we 20 would come back and request those changes. In the 21 interim, if OOOOb goes out of existence, we would 22 have the opportunity to use enforcement discretion, 23 we would be able to provide guidance. So there is a 24 strong possibility that the courts could overrule 25 OOOOb, we recognize that possibility, but we have a</p>	<p>Page 63</p> <p>1 comment. 2 So this concludes my presentation on our 3 proposed changes to Chapter 100, Subchapters 5, 7, 4 and 8. Thank you for your patience, I know that was 5 a lot. Staff is requesting that the council 6 recommend the proposed rule revisions to Subchapters 7 5, 7, and 8, as presented today, to the EQB for 8 adoption. 9 Thank you, and Beverly, I'll turn it back 10 to you. 11 MS. BOTCHLET-SMITH: Thank you, Tom. 12 So does anyone have any questions 13 about this rule? 14 CHAIRWOMAN LODS: Yes, I have a couple. 15 Okay. On (C)(V), when we're talking about the net 16 heating value and the -- for a closed combustion 17 device, perform an initial and semiannual thereafter 18 demonstration that the actual heat content of the 19 gases are combusted within the design value that 20 were established by the manufacturer. 21 So how are we -- I mean, we haven't 22 specified how to do that demonstration, right, that 23 they're established within the manufacturer should 24 the minimum -- or the minimum heat net value during 25 the initial performance test. So I guess I want to</p>
<p>Page 62</p> <p>1 plan to address that in a way that provides, you 2 know, adequate guidance and feedback to our 3 stakeholders. Next slide. 4 And this is a series of issues. One is 5 about the six-minute minimum requirement, and we 6 believe that under method 22, when we're using it in 7 this manner, that the six-minute minimum does, for 8 our purposes, establish that initial compliance. 9 Other -- some other concerns about the cost burden 10 -- and we recognize that OOOOb, whether you're 11 following OOOOb itself or these legally and 12 practicably enforceable limits, this is an 13 additional burden. This burden isn't a burden that 14 we've developed, this is a burden that was 15 established by EPA. Further, again, the idea of the 16 whole section being problematic, we don't really 17 have the luxury of deciding whether it's problematic 18 or not ourselves because EPA established this 19 criteria. So if we want to establish criteria that 20 are protective of our facilities, we need to follow 21 those criteria. However, if the courts overturn the 22 criteria or if EPA, in a reconsideration, removes 23 one of the criteria, we are more than happy to 24 follow suit. Next slide. 25 I think that's just continuing our</p>	<p>Page 64</p> <p>1 make sure it's clear with enforcement that we don't 2 necessarily have to performance test annually or 3 semiannually, a ProMax simulation based off of an 4 inlet gas analysis is sufficient? 5 MR. RICHARDSON: So I think that goes to 6 the -- if you'll -- the (III) establishes the 7 requirements. So we added that GPA method and then 8 had, I think, some language that basically says 9 'other approvable method'. 10 CHAIRWOMAN LODS: It says other -- "or 11 other approved method". 12 MR. RICHARDSON: So that would be the 13 method for establishing net heating value. So then, 14 if you go down to (V), the language you were looking 15 at, that's just like the manufacturer says, you have 16 to have a minimum net heating value of 300 Btu per 17 hour. I don't know if they ever established a 18 maximum, I just don't know that, but if they did, 19 they might establish a maximum. If your net heating 20 value falls between what the manufacturer 21 established or exceeds the minimum, then that would 22 be the demonstration. 23 CHAIRWOMAN LODS: Right. 24 MR. RICHARDSON: So it's basically a 25 paperwork exercise showing that you fall within the</p>

<p>Page 65</p> <p>1 range that your manufacturer has specified that they</p> <p>2 will meet that destruction efficiency.</p> <p>3 CHAIRWOMAN LODES: Okay. I think -- I</p> <p>4 thought we had some of the combustors certified by</p> <p>5 the EPA, am I wrong? Isn't the EPA doing some</p> <p>6 certification or is it just manufacturer</p> <p>7 certification? I'm asking my oil and gas people,</p> <p>8 who are looking at me blankly.</p> <p>9 MS. BOTCHLET-SMITH: If they're going to</p> <p>10 comment based on that, Laura, we'd like for them to</p> <p>11 --</p> <p>12 CHAIRWOMAN LODES: Okay.</p> <p>13 MS. BOTCHLET-SMITH: -- identify</p> <p>14 themselves.</p> <p>15 CHAIRWOMAN LODES: But they aren't -- none</p> <p>16 of them are giving me a response there, so we'll</p> <p>17 continue moving forward there.</p> <p>18 Okay. Then on -- just below that (E)</p> <p>19 --</p> <p>20 MS. STEGMANN: Was your question answered?</p> <p>21 CHAIRWOMAN LODES: Sure, or not at all,</p> <p>22 but we'll just go with that you're right and it's</p> <p>23 only manufacturer certification. Because I would</p> <p>24 have to go back and look if there was EPA</p> <p>25 certification, I was -- I know we've talked about it</p>	<p>Page 67</p> <p>1 talking about, which is a --</p> <p>2 CHAIRWOMAN LODES: That is --</p> <p>3 MR. RICHARDSON: -- certified piece of</p> <p>4 equipment?</p> <p>5 CHAIRWOMAN LODES: That is correct.</p> <p>6 MR. RICHARDSON: Okay. So that --</p> <p>7 CHAIRWOMAN LODES: And so I'm afraid it's</p> <p>8 a little bit broad the way it's worded here.</p> <p>9 MR. RICHARDSON: Okay.</p> <p>10 CHAIRWOMAN LODES: When we get four years</p> <p>11 down the road and we've got a green inspector come</p> <p>12 out - because we all know you guys have the turnover</p> <p>13 in inspectors - and then we're -- then we, as</p> <p>14 industry, are trying to respond and say, 'Now, wait</p> <p>15 a minute, that's not the intent', and then we have</p> <p>16 to have 75 emails exchanged before we get them to</p> <p>17 back off, so...</p> <p>18 MR. RICHARDSON: So I guess -- and this is</p> <p>19 sometimes that I sometimes get in trouble for</p> <p>20 suggesting, but I think sometimes guidance is</p> <p>21 helpful for that. Is that something we could</p> <p>22 address through guidance? Because sometimes when</p> <p>23 you put it in a rule, you end up with unanticipated</p> <p>24 consequences. So is that --</p> <p>25 CHAIRWOMAN LODES: Right.</p>
<p>Page 66</p> <p>1 being certified, but maybe it is only for the</p> <p>2 manufacturer.</p> <p>3 On (E)(vii), equipment</p> <p>4 specifications, manuals or maintenance records as</p> <p>5 appropriate, should we clarify that's for certified</p> <p>6 equipment? Because what I don't -- I mean, if it's</p> <p>7 not certified, do I have to maintain all of this?</p> <p>8 Again, I'm thinking about what inspectors are going</p> <p>9 to come up and ask me to provide.</p> <p>10 MR. RICHARDSON: I hadn't even thought</p> <p>11 about that, Laura, that's a really good question.</p> <p>12 So clearly we're targeting that, yeah, and that is</p> <p>13 under the LPE section.</p> <p>14 CHAIRWOMAN LODES: Right.</p> <p>15 MR. RICHARDSON: So I don't know. Let me</p> <p>16 -- let's talk through -- so what -- and I know</p> <p>17 Melanie is always concerned when we're talking about</p> <p>18 modifying rule language on the fly.</p> <p>19 CHAIRWOMAN LODES: I know.</p> <p>20 MR. RICHARDSON: So are you concerned that</p> <p>21 this language is too --</p> <p>22 CHAIRWOMAN LODES: Broad.</p> <p>23 MR. RICHARDSON: -- dangerous for an</p> <p>24 owner-operator that might be forced to come up with</p> <p>25 information that is not at all related to what we're</p>	<p>Page 68</p> <p>1 MR. RICHARDSON: Is that a possible remedy</p> <p>2 or do you think this is just a bridge too far as</p> <p>3 written?</p> <p>4 CHAIRWOMAN LODES: I mean, I guess that's</p> <p>5 where I would be curious as to others because that's</p> <p>6 -- to me, I think it's fairly broad with what it is.</p> <p>7 Because it just says, you know, equipment</p> <p>8 specifications, manuals and/or maintenance records</p> <p>9 as appropriate. Appropriate for what, I think is</p> <p>10 what is the broad term, what does that mean?</p> <p>11 MR. RICHARDSON: I mean, that was our</p> <p>12 attempt to actually give a little bit to the</p> <p>13 owner-operators --</p> <p>14 CHAIRWOMAN LODES: Right.</p> <p>15 MR. RICHARDSON: -- so they're not having</p> <p>16 to have -- there's so much when you buy a piece of</p> <p>17 equipment, you get a lot of paperwork, and some of</p> <p>18 that paperwork, there's no need to retain that for</p> <p>19 our purposes. So I think the "as appropriate", the</p> <p>20 intention was specifically with regard to things</p> <p>21 like manufacturer certification with whatever</p> <p>22 qualifications. So if they say, 'You need to</p> <p>23 replace this piece of equipment every' whatever --</p> <p>24 and I'm just speaking hypothetically, but in theory,</p> <p>25 they could say, 'You need to, you know, replace this</p>

<p style="text-align: right;">Page 69</p> <p>1 on this cycle', then those records that it was 2 replaced on that cycle to maintain the standard. 3 It's kind of like when your car has a warranty, you 4 have to do certain things, too. 5 So that is 100 percent the focus of 6 that language, so -- and the "as appropriate" is -- 7 was intended to protect the owner-operator, not give 8 us carte blanche to go out and find people in 9 violation for things having nothing to do with this. 10 So with that explanation and with guidance, would 11 that be enough or do you need more in the rule text 12 itself? 13 MR. CAVES: I have a question on the same 14 part. Because I took the "as appropriate" to allow 15 for enforcement discretion, but why is the "or" in 16 there? Because it's saying "and/or". Because if 17 someone only has maintenance records, by the plain 18 reading of that, that's enough. Should that be just 19 "and", and then the "as appropriate" gives that 20 discretion? 21 MR. RICHARDSON: I think our goal with 22 "and/or" was -- like, "and" seems like you have to 23 have everything; so "and/or" is, at least by our 24 intent, more open-ended. In other words, you don't 25 have to have every single item in that list if some</p>	<p style="text-align: right;">Page 71</p> <p>1 demonstrate compliance with which part, I think is 2 really what it comes down to. Are we talking about 3 for the certified equipment? Because if I don't 4 have certified equipment, I don't need the equipment 5 specifications, right? 6 MR. RICHARDSON: I can't think, right now, 7 of a counter-example, but I can't also rule out 8 there might be some other counter-example where you 9 would need, I don't know, something in the rest of 10 your equipment to -- I just -- I don't want to say 11 that categorically because I just think there are so 12 many different scenarios, which is why I think to a 13 degree, you have to -- and again, you have to build 14 in a certain amount of trust between, you know, your 15 stakeholders and your compliance enforcement people 16 and your management that we're going to be 17 exercising enforcement discretion so that we're 18 being realistic about expectations. And I mean, we 19 -- our rules can't account for every eventuality, 20 and so I think we just have to do our best and hope 21 that through guidance and maybe trust building that 22 we establish those relationships, but I'm certainly 23 open to other suggestions. 24 CHAIRWOMAN LODES: Bud, did you have any 25 thoughts on this?</p>
<p style="text-align: right;">Page 70</p> <p>1 of those items are irrelevant to your demonstration 2 of compliance. 3 MR. CAVES: See, and I'd read it contrary 4 to that, if it says "or" you only have to have one 5 of them. 6 MR. RICHARDSON: Well, but the "as 7 appropriate", I think, is doing a lot of work in 8 this, though. 9 MR. CAVES: Exactly. And that's where I 10 was going with that, so... 11 MR. RICHARDSON: This is the dilemma of 12 writing the rules because, you know, you think 13 you're writing them to satisfy a particular concern 14 and then sometimes, gosh, you have somebody else 15 read them, there might be a different concern. I 16 feel like guidance is super helpful, but again, 17 sometimes that creates problems with our permitting 18 management when I volunteer for them to write a 19 whole bunch of guidance. 20 CHAIRWOMAN LODES: And that's what I'm 21 almost wondering is equipment specifications, 22 manual, maintenance or -- as appropriate -- 23 MR. RICHARDSON: To demonstrate 24 compliance? 25 CHAIRWOMAN LODES: To -- I mean, but to</p>	<p style="text-align: right;">Page 72</p> <p>1 MS. BOTCHLET-SMITH: Well, we do -- we 2 haven't gotten to the public comment -- 3 CHAIRWOMAN LODES: Right, I know. 4 MS. BOTCHLET-SMITH: -- portion yet -- 5 CHAIRWOMAN LODES: Yeah, we'll get to that 6 in a second -- 7 MS. BOTCHLET-SMITH: -- so -- 8 CHAIRWOMAN LODES: -- but I need them to 9 think about it. 10 MS. BOTCHLET-SMITH: -- we would like to 11 continue discussion within the council, and then 12 we'll move to the public and then we'll throw it 13 back to you and then -- 14 CHAIRWOMAN LODES: Okay. Then any other 15 questions from the rest of y'all on that section 16 before I move on? 17 Okay. So the one question I had for 18 clarification was in -- we move on to 8, and it's 19 about the -- it's actually in the timely application 20 piece. Okay. So I want to make sure I understand 21 this. If we want to lower our emission limits to 22 avoid Title V, say we go nonattainment, even though 23 we're lowering emissions so we don't have an 24 increase we would elsewhere, here we're going to 25 have to actually get a construction permit? Am I</p>

<p>Page 73</p> <p>1 understanding that right?</p> <p>2 MR. RICHARDSON: So that's a good</p> <p>3 question. I think -- gosh, that's one of those</p> <p>4 inside baseball, like, if the guy's on first base</p> <p>5 and they throw to second. So let me just think this</p> <p>6 through. And again, not an attorney, not saying</p> <p>7 official policy, but if a facility obtains a limit</p> <p>8 before they're actually subject to Title V - so</p> <p>9 they're a minor source, not subject to Title V -</p> <p>10 that permit would go through a Subchapter 7</p> <p>11 permitting process. If the facility is subject to</p> <p>12 Title V, then it would go through Subchapter 8. So</p> <p>13 it's kind of like if you have a facility that's a</p> <p>14 Title V facility and you want to move to a minor --</p> <p>15 to, you know, become a synthetic minor, you would go</p> <p>16 through a Tier II process to move from Title V to a</p> <p>17 minor source operating permit.</p> <p>18 It may have to do with timing because</p> <p>19 if a facility becomes subject -- like, you're</p> <p>20 subject to Title V because these applicable</p> <p>21 requirements, pow, they've hit, at that point I</p> <p>22 think, in all likelihood, you would be interpreted</p> <p>23 as needing to go through a Tier II process to get</p> <p>24 your limits just like you would if you were already</p> <p>25 operating under a Title V operating permit.</p>	<p>Page 75</p> <p>1 makes sense, but I -- I don't know, does that make</p> <p>2 sense to you, Laura?</p> <p>3 CHAIRWOMAN LODES: Sort of. I mean, it's</p> <p>4 just like you said, the insider baseball. I could</p> <p>5 come up with some scenarios where we start dropping</p> <p>6 the levels because of nonattainment and that's going</p> <p>7 to change what is now a PSD trigger because now it's</p> <p>8 non-attainment New Source Review, and the rest of</p> <p>9 that, if I want to get a limit, so -- okay.</p> <p>10 I think that was it for my questions</p> <p>11 on my reading through this.</p> <p>12 MS. BOTCHLET-SMITH: Thank you, Laura.</p> <p>13 Are there any questions from the</p> <p>14 remainder of the council? Okay.</p> <p>15 Well, let's go to the public. We've</p> <p>16 had one individual indicating they would like to</p> <p>17 comment. Bud Ground, could you step up, please?</p> <p>18 MR. GROUND: Bud Ground with Environmental</p> <p>19 Federation of Oklahoma, and unfortunately, I do not</p> <p>20 have the answer. But what I bring forth is some of</p> <p>21 the concerns. And so I heard from industry, heard</p> <p>22 from several companies mostly what you saw up there,</p> <p>23 but we could not come to, like, a real answer.</p> <p>24 But what we have are some concerns,</p> <p>25 and Laura talked about some of those, and that is</p>
<p>Page 74</p> <p>1 But if you accomplish that before the</p> <p>2 applicable requirements come into place, then my</p> <p>3 thinking - again, I'm not guaranteeing anything or</p> <p>4 making policy - I think if you do that before the</p> <p>5 requirements are in place, you would be able to use</p> <p>6 a Subchapter 7 mechanism, which wouldn't be Tier II,</p> <p>7 which would be, you know, our standard Subchapter 7</p> <p>8 construction permitting process.</p> <p>9 But again, anytime you want to</p> <p>10 establish a limit, I think that's one of the things</p> <p>11 we learned with our interactions when our program</p> <p>12 was being looked at under a microscope -- I think I</p> <p>13 had a microscope on my slide talking about our</p> <p>14 program. But anytime you establish a limit, you've</p> <p>15 got to go through NSR. And I never said NSR until</p> <p>16 we went through that process, that was just a</p> <p>17 construction permit. But now, you know, we've been</p> <p>18 focused like a laser on New Source Review and the</p> <p>19 requirements for New Source Review. So I think</p> <p>20 anytime you establish a limit, it's got to be in an</p> <p>21 NSR permit.</p> <p>22 Under Subchapter 7, it's a little bit</p> <p>23 different because we have the FESOP program, which</p> <p>24 piggyback -- I'm not even going to go into that, I'm</p> <p>25 just going to say I think the process I'm outlining</p>	<p>Page 76</p> <p>1 the difference in interpretation between even one</p> <p>2 part of your department and another, one part that</p> <p>3 does the permit writing and one part that comes out</p> <p>4 and does enforcement, we've seen it many times.</p> <p>5 I'm all for guidance, I think -- you</p> <p>6 know, I love preambles, I think we could get out of</p> <p>7 a lot of problems if we put in plain language what</p> <p>8 we're really trying to do, and I think that's what</p> <p>9 guidance is. I'm not saying that's the answer, but</p> <p>10 what part of this is, you know, with potential</p> <p>11 changes from EPA very -- could be very soon, I think</p> <p>12 you've tried to address that.</p> <p>13 I don't know what else to even</p> <p>14 propose other than I appreciate you listening to</p> <p>15 what some in the industry have said, you've made</p> <p>16 some changes. I don't -- you know, I don't know</p> <p>17 that that's perfect, I don't know a way to get</p> <p>18 perfect, but I don't have any real language to give</p> <p>19 you today. So I don't have anything to make it</p> <p>20 better, and I appreciate you trying to make it</p> <p>21 better.</p> <p>22 CHAIRWOMAN LODES: So in the section -</p> <p>23 since I'm not supposed to talk to you before you're</p> <p>24 up here - where we say equipment specifications,</p> <p>25 manuals and/or maintenance records as appropriate,</p>

<p>Page 77</p> <p>1 do you all have any thoughts on that? Do we think 2 that covers it with guidance or should we try to 3 clarify that some more? 4 MR. GROUND: I think if Tom has an 5 understanding of what that means, that could be put 6 into guidance and used. And I think the way he 7 described it, I understood it. 8 CHAIRWOMAN LODES: Right. 9 MR. GROUND: It was very broad. Some can 10 interpret this as being much more narrow. I think 11 that's the type of guidance that we need, but I 12 don't have any specific language that I would change 13 it to. 14 MS. STEGMANN: Rick Groshong, our 15 compliance and enforcement manager, if you can come 16 forward, please? 17 CHAIRWOMAN LODES: We're going to pick on 18 the audience here. 19 MS. STEGMANN: I know. We can get the 20 inspector perspective on actually how they would 21 interpret this. Rick, do you have any initial 22 thoughts? Sorry I put you on the spot. 23 MR. GROSHONG: That's all right. 24 Rick Groshong, Compliance/Enforcement 25 Section Manager, Group Manager. I think it's if the</p>	<p>Page 79</p> <p>1 And I am seeing none at this time; so 2 I'll turn it back to the council for additional 3 questions, comments, discussion, or a motion. 4 CHAIRWOMAN LODES: Gentlemen, any more 5 questions, thoughts? 6 MR. ELLIOTT: So did we settle on a 7 guidance document to come out? Is that what I 8 heard? 9 CHAIRWOMAN LODES: Yes. 10 MR. ELLIOTT: Okay. 11 DR. THAYER: Do we get to review guidance 12 document language? 13 CHAIRWOMAN LODES: No. 14 DR. THAYER: No? They do it as 15 appropriate? 16 CHAIRWOMAN LODES: Yes, and we also have 17 no timeline for when said guidance will come out. 18 Hopefully sooner than later, sooner than that 19 effluent water separator I spent about 10 years 20 asking for. 21 MS. STEGMANN: Oh, shush. 22 CHAIRWOMAN LODES: So staff has asked that 23 we pass it today as is. If we have true heartburn 24 and we think there's something that would be 25 substantial that we could actually have a reason to</p>
<p>Page 78</p> <p>1 documentation that you have shows compliance that we 2 will accept that. 3 CHAIRWOMAN LODES: Because it just says 4 equipment, specifications, manuals and/or 5 maintenance records, as appropriate, which is pretty 6 vague. 7 MR. GROSHONG: Yeah. I think, like Tom 8 said, that it's meant to be more broad versus being 9 prescriptive. So I think we will give as much 10 latitude as we can on things like that. 11 MS. STEGMANN: Because we're also talking 12 -- these are PBR sources, they're very small 13 sources. 14 MR. GROSHONG: Yeah. 15 MS. STEGMANN: So I think we would be 16 giving as much discretion and latitude, like Rick 17 said, when it comes to that provision. 18 MR. GROSHONG: Yeah. Okay. 19 CHAIRWOMAN LODES: Thank you, Rick. 20 MS. BOTCHLET-SMITH: We only had one 21 commenter from the public, but as Laura indicated, 22 there may be some other oil and gas representatives 23 in the audience. If any of you would like to 24 comment on the rule, would you please raise your 25 hand so you can be recognized?</p>	<p>Page 80</p> <p>1 do it, we would have the option to do a special 2 meeting in December. 3 Now, we have to pass this rule with 4 -- enough in advance of the Environmental Quality 5 Board meeting in January so that this rule has the 6 opportunity to go final because we are under an 7 emergency rule, which is a limited time right now; 8 so we do have a distinct clock working against us 9 here with this regulation. 10 So are you as a council comfortable 11 enough with this rule, with the comments and the 12 response to comments, to pass it today or do we want 13 to -- in light of the comments and discussion this 14 morning, do we want to request a special meeting? 15 But I need some thoughts from you all on what you 16 think if we've got -- I know industry was late in 17 getting questions to the DEQ, so they didn't have 18 much time -- DEQ didn't have much time to respond, 19 and so that's why they haven't had a chance -- 20 industry hasn't had a chance to review the responses 21 back that the agency did, and I think a lot of us I 22 know were at EFO and such and so they went up, what, 23 yesterday? 24 MS. STEGMANN: Yes. 25 CHAIRWOMAN LODES: Yeah. So it is a tight</p>

<p>Page 81</p> <p>1 timeframe there with industry to have looked at what 2 the changes were made to see if they're comfortable 3 with it, and understand, but we are on a timeline 4 for them, at the same time, we need something done. 5 So our options are to either pass it 6 today or we carry it forward to a special meeting, 7 but if we're going to carry it forward to a special 8 meeting, before we spend everybody's time I want to 9 know that we think we're actually going to have 10 changes or there's more that needs to be done. 11 MS. STEGMANN: Exactly. 12 CHAIRWOMAN LODES: Okay. Is that fair? 13 MS. STEGMANN: Yes, that is very fair. 14 CHAIRWOMAN LODES: Okay. 15 MS. STEGMANN: Because right now, from 16 what I've heard, I have heard no requested language 17 changes or anything like that. So I don't -- if we 18 don't have any changes or any proposals, it's a 19 waste of time to have a special meeting in December, 20 we'll just be doing this as is again. 21 MR. FARRELL: Can we make a motion to 22 accept the proposed changes with the caveat that the 23 department's going to come forward with the guidance 24 that we've been talking about today, just to kind of 25 enshrine the flexibility that Tom was discussing?</p>	<p>Page 83</p> <p>1 approve as proposed today or continue. What would 2 you all like to do? 3 MR. ELLIOTT: I'll make a motion to 4 approve the presented revisions to Subchapters 5, 7, 5 and 8, as presented today, for adoption. 6 MR. PRIVRAT: I second it. 7 CHAIRWOMAN LODES: I have a motion and a 8 second. Quiana, please call roll. 9 MS. FIELDS: Mr. Caves? 10 MR. CAVES: Yes. 11 MS. FIELDS: Mr. Elliott? 12 MR. ELLIOTT: Yes. 13 MS. FIELDS: Mr. Farrell? 14 MR. FARRELL: Yes. 15 MS. FIELDS: Mr. Privrat? 16 MR. PRIVRAT: Yes. 17 MS. FIELDS: Mr. Taylor? 18 MR. TAYLOR: Yes. 19 MS. FIELDS: Dr. Thayer? 20 DR. THAYER: Yes. 21 MS. FIELDS: Mr. Wilber? 22 MR. WILBER: Yes. 23 MS. FIELDS: Ms. Lodes? 24 CHAIRWOMAN LODES: Yes. 25 MS. FIELDS: Motion passed.</p>
<p>Page 82</p> <p>1 MS. STEGMANN: I will say it is on the 2 record, this -- what we proposed from our Compliance 3 and Enforcement group. 4 CHAIRWOMAN LODES: It is. 5 MS. STEGMANN: It is on the record, and 6 that's how we will be dealing with it. 7 CHAIRWOMAN LODES: It'll be in the public 8 -- in the minutes for the meeting that will be 9 publicly available for people to go back from -- 10 MS. STEGMANN: Right. 11 CHAIRWOMAN LODES: -- and dig out. And I 12 know I have gone back and dug out minutes from a 13 meeting from eight years ago to pull it up to 14 enforcement before and say, 'This is what was said'. 15 MS. STEGMANN: Right. 16 MR. CAVES: Well, I didn't hear from staff 17 a lot of contrary statements, it seems like it's 18 very coherent what the intent was; so I'm 19 comfortable with that. 20 MR. ELLIOTT: I'm comfortable. 21 CHAIRWOMAN LODES: Like I said, my only 22 concern was did industry have any other major 23 concern - they have to live with it - but we're 24 hearing nothing from them. 25 Okay. So I need a motion to either</p>	<p>Page 84</p> <p>1 MS. BOTCHLET-SMITH: The next item on 2 today's agenda is Item Number 5D. This is 3 Subchapter 49, "Oklahoma Emission Reduction 4 Technology Rebate Program", 252:100-49-1, "Purpose 5 and Applicability"; 252:100-49-3, "Definitions"; and 6 252:100-49-5, "Program criteria and qualification 7 determination". 8 And once again, we welcome Brooks 9 Kirlin from our Rules section to present the rule. 10 MR. KIRLIN: Thank you, Bev. 11 Madam Chair, Members of the Council, 12 Ladies and Gentlemen, again, I'm Brooks Kirlin, an 13 engineer with the Rules & Planning Section. 14 The Department is proposing to amend 15 Subchapter 49, Oklahoma Emission Reduction 16 Technology Rebate Program in OAC 252:100 to 17 implement recent changes to applicable provisions of 18 the Oklahoma Emission Reduction Technology Incentive 19 Act, which is 68 O.S. 55006 and following sections. 20 As you may recall, the DEQ added a new Subchapter 49 21 to Chapter 100, effective September of 2023, to 22 implement the Department's responsibilities under 23 this new "Oklahoma Emissions Reduction Technology 24 Rebate Program". 25 The program was created during the</p>

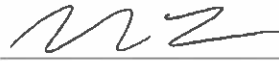
<p>Page 85</p> <p>1 2022 legislative session as an incentive to</p> <p>2 Oklahoma's oil and gas industry to apply new and</p> <p>3 innovative technologies to reduce emissions from</p> <p>4 various segments of the industry.</p> <p>5 The "Oklahoma Emission Reduction</p> <p>6 Technology Incentive Act", effective July 1, 2022,</p> <p>7 is codified in the Oklahoma Tax Code, which is Title</p> <p>8 68 of the Oklahoma Statutes.</p> <p>9 The act is intended to provide an</p> <p>10 incentive for "Emission Reduction Projects" in the</p> <p>11 form of a rebate of up to 25 percent of documented</p> <p>12 costs associated with the project. During this</p> <p>13 year's session, the Oklahoma Legislature enacted a</p> <p>14 number of revisions to the Act.</p> <p>15 The program is jointly administered</p> <p>16 by DEQ and the Oklahoma Tax Commission, or OTC.</p> <p>17 Claims are submitted to DEQ for review and approval</p> <p>18 or disapproval. We notify OTC of our decision and</p> <p>19 they pay claims from funds available in the</p> <p>20 corresponding revolving fund.</p> <p>21 The most substantive change included</p> <p>22 in this year's legislation was to add refining as</p> <p>23 well as distribution as activities that are</p> <p>24 potentially eligible for rebates under the program.</p> <p>25 To accommodate this change, the name of the existing</p>	<p>Page 87</p> <p>1 list in Section 55008, Subsection 2 of the statute</p> <p>2 and their corresponding SIC codes.</p> <p>3 The legislation amended the</p> <p>4 definition of "Emission Reduction Project" in</p> <p>5 Section 55008 of Title 68. This slide highlights</p> <p>6 the changes to its description of the types of</p> <p>7 facilities and activities eligible for the program</p> <p>8 and the types of projects that reduce emissions.</p> <p>9 Since Section 49-3, our definitions section, defers</p> <p>10 to the statutory definition of "Emission Reduction</p> <p>11 Project", this did not result in a rule change, per</p> <p>12 se.</p> <p>13 As a result, the only proposed change</p> <p>14 to Section 49-3 is to add the "ERP" abbreviation for</p> <p>15 Emission Reduction Project. We need another</p> <p>16 acronym.</p> <p>17 Section 49-5 lays out the program</p> <p>18 criteria and the qualification determination</p> <p>19 requirements, what information is required, and the</p> <p>20 steps DEQ will take in implementing the program.</p> <p>21 Under Subsection (a), "Applying for rebate</p> <p>22 eligibility", a new item, 3(E), has been added to</p> <p>23 the list of required project documentation. Now the</p> <p>24 applicant must state specifically whether or not the</p> <p>25 Emission Reduction Project pertains to refining</p>
<p>Page 86</p> <p>1 revolving fund was changed to the Oklahoma Emission</p> <p>2 Reduction Technology Upstream and Midstream</p> <p>3 Incentive Revolving Fund, and a second revolving</p> <p>4 fund was established, titled the "Oklahoma Emission</p> <p>5 Reduction Technology Downstream Incentive Revolving</p> <p>6 Fund". The latter fund is designed for emission</p> <p>7 reduction projects pertaining to refining</p> <p>8 activities.</p> <p>9 The statutory changes also require</p> <p>10 DEQ to establish a process for providing preliminary</p> <p>11 review and approval of projects prior to the</p> <p>12 applicant's expenditure of funds for that.</p> <p>13 Today's proposal includes a change to</p> <p>14 each of the sections in Subchapter 49 except for</p> <p>15 Section 7, which is the Sunset Provision.</p> <p>16 Besides summarizing the purpose and</p> <p>17 statutory basis for the rebate program, Section 49-1</p> <p>18 lays out our understanding of the scope of the</p> <p>19 facilities that the program applies to. The last</p> <p>20 sentence in Subsection (a) adds "on-site" to reflect</p> <p>21 a corresponding wording change in Section 55008(1)</p> <p>22 of the statute. Subsection (b) lists the activities</p> <p>23 included in the statutory language and lists</p> <p>24 corresponding Standard Industrial Classification or</p> <p>25 SIC codes. The proposal reflects changes to the</p>	<p>Page 88</p> <p>1 activities since that determines which revolving</p> <p>2 fund the project would draw from.</p> <p>3 Under Subsection (b) of that same</p> <p>4 section, "DEQ review of rebate claim", we've added</p> <p>5 wording acknowledging that our approval must specify</p> <p>6 which revolving fund applies for the project. We</p> <p>7 also changed the wording to "final approval or</p> <p>8 disapproval", which brings me to the next change.</p> <p>9 As I briefly mentioned earlier, the</p> <p>10 statutory changes require DEQ to establish a process</p> <p>11 that would allow applicants to submit documentation</p> <p>12 for a potential project and request that DEQ provide</p> <p>13 a preliminary review and approval of the project</p> <p>14 before the applicant expends funds on the project.</p> <p>15 Our rule proposal in new Subsection (c) of 49-5</p> <p>16 requires payment of the regular fee and provides</p> <p>17 that any resulting preliminary approval of the</p> <p>18 technical merits of the project will, as mentioned</p> <p>19 in the statutory language, be subject to final</p> <p>20 review and approval once the project is complete and</p> <p>21 prior to notifying OTC of a final determination.</p> <p>22 We anticipate from here -- that's the</p> <p>23 sum of the actual changes to Subchapter 49 that we</p> <p>24 proposed. We anticipate from here that the</p> <p>25 rulemaking would follow its normal process and</p>

<p>1 timing and, we hope, will be ready to take effect in 2 September. In the meantime, DEQ will, of course, 3 honor the statutory changes in our program. 4 A few other items I thought I'd touch 5 on. During last spring's session, the legislature 6 also - just to inform you - also provided \$50 7 million in funding for the upstream and midstream 8 revolving fund. We note that no funding was 9 provided this year for the downstream revolving 10 fund, the fund for refinery projects. Our 11 permitting staff are currently reviewing a number of 12 rebate claims for projects completed in the FY23 or 13 FY24 period. 14 Our Legal Staff and AQD Staff are 15 also working with the Tax Commission Staff on a 16 Memorandum of Agreement to clarify our different 17 roles in the program, timing, and how best work to 18 work together. 19 Notice of the proposed rule changes 20 was published in the Oklahoma Register on 21 September 3, 2024, and comments were requested from 22 members of the public. Prior to the October Council 23 Meeting, we received emailed comments from one 24 party, which are identical to the ones we've 25 discussed before. The commenters expressed concerns</p>	<p>1 public that they wish to comment, but as always, we 2 want to give you an opportunity to do so. Does 3 anyone have any comments or questions on this 4 particular rule? 5 Seeing none, I would turn it back to 6 you, Laura, for any other questions or a motion. 7 CHAIRWOMAN LODES: Any other questions or 8 comments from the council? 9 Seeing none, we need -- the staff has 10 recommended that we pass the rules as presented, I 11 need a motion. 12 MR. CAVES: I'll make that motion. 13 CHAIRWOMAN LODES: I need a second. 14 MR. ELLIOTT: I'll second. 15 CHAIRWOMAN LODES: I have a motion and a 16 second. Quiana, please call roll. 17 MS. FIELDS: Mr. Caves? 18 MR. CAVES: Yes. 19 MS. FIELDS: Mr. Elliott? 20 MR. ELLIOTT: Yes. 21 MS. FIELDS: Mr. Farrell? 22 MR. FARRELL: Yes. 23 MS. FIELDS: Mr. Privrat? 24 MR. PRIVRAT: Yes. 25 MS. FIELDS: Mr. Taylor?</p>
<p>1 regarding the sources, both natural and manmade, and 2 risks associated with greenhouse gases in the 3 environment, as well as the difficulties of their 4 regulation and further complexities of carbon 5 sequestration. The Department recognizes the 6 commenters' concerns; however, again, DEQ staff 7 notes that the comments did not object to or suggest 8 any specific changes to the proposed rule language. 9 Therefore, DEQ staff recommends no revisions to the 10 proposal based on these comments. 11 Staff is requesting that the Council 12 recommend the proposed amendments to Subchapter 49 13 to the Environmental Quality Board for adoption as 14 permanent rules at its next EQB meeting, scheduled 15 for November 21st. 16 MS. BOTCHLET-SMITH: Thank you, Brooks. 17 Do we have any questions from the council? 18 MR. WILBER: Question. This November 21st 19 meeting, where's it being held? 20 MS. STEGMANN: Oklahoma City. 21 MR. WILBER: Okay. 22 MS. BOTCHLET-SMITH: Any other questions 23 from the council, discussion points? I'm not seeing 24 any. 25 I didn't receive any notice from the</p>	<p>1 MR. TAYLOR: Yes. 2 MS. FIELDS: Dr. Thayer? 3 DR. THAYER: Yes. 4 MS. FIELDS: Mr. Wilber? 5 MR. WILBER: Yes. 6 MS. FIELDS: Ms. Lodes? 7 CHAIRWOMAN LODES: Yes. 8 MS. FIELDS: Motion passed. 9 MS. BOTCHLET-SMITH: And that concludes 10 the hearing portion of today's meeting. 11 (HEARING CONCLUDED AT 10:56 AM) 12 13 14 15 16 17 18 19 20 21 22 23 24 25</p>

1 CERTIFICATE

2 I, Jenny Longley, Certified Shorthand
3 Reporter within and for the State of Oklahoma, do
4 hereby certify that the above and foregoing meeting
5 was by me taken in shorthand and thereafter
6 transcribed; and that I am not an attorney for nor
7 relative of any of said parties or otherwise
8 interested in the event of said action.

9 IN WITNESS WHEREOF, I have hereunto
10 set my hand and official seal this 25th day of
11 October, 2024.

12 
13

14 Jenny Longley, CSR
15 CSR # 1903
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**OKLAHOMA
Environmental
Quality**

AIR QUALITY ADVISORY COUNCIL

Attendance Record
October 17, 2024
Oklahoma City, Oklahoma

NAME and/or AFFILIATION

Address and/or Phone and/or E-Mail

Jeff Taylor	AQAC
MELANIE FOSTER	DEQ
Janel Milano	DEQ
Kendal Stegmann	AQAD DEQ
Bad Groumel	EFO
Greg Elliott	AQAC
Cheryl Bradley	AQD
Matt Grimes	OG+E grimesmn@ogc.com
Jeff Everett	OG+E
MIKETAYLOR	AQAC
Ryan Bingerstaff	AQD
Beverly Botchlet-Smith	AQD
Jeff Wilson	Council Member
Travis Couch	DEQ
Quiana Fiddes	
Matt Caves	AQAC
Bryan Sines	AQD
RICK GROSHONG	AQD
LEE WARDEN	AQD
Jennifer Huffhines	Gulfport Energy
Malcolm Zachariah	DEQAQD
Austin Sides	DEQ
Shanda Caldwell	Gulfport Energy
John Priest	AQAC
Den Ross	AQD
Tom Richardson	AQD



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October 17, 2024

Oklahoma City, Oklahoma

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Address and/or Phone and/or E-Mail

<u>NAME</u> and/or <u>AFFILIATION</u>	<u>Address</u> and/or <u>Phone</u> and/or <u>E-Mail</u>
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Joe Daniel DEQ	—