

**MINUTES  
ENVIRONMENTAL QUALITY BOARD**

**DEQ Multipurpose Room**

**707 North Robinson**

**Oklahoma City, Oklahoma**

**February 29, 2008**

Approved EQB

August 19, 2008

**Notice of Public Meeting** The Environmental Quality Board convened for a regular meeting at 9:30 a.m. in the DEQ Multipurpose Room 707 North Robinson, Oklahoma City, Oklahoma. This meeting was held in accordance with 25 O.S. Sections 301-314, with notice of the meeting given to the Secretary of State on November 2, 2007. The agenda was mailed to interested parties on February 15, 2008 and was posted at the Department of Environmental Quality on February 29, 2008. Dr. Jennifer Galvin, Chair, called the meeting to order. Roll call was taken and a quorum was confirmed.

**MEMBERS PRESENT**

Brita Cantrell

Jack Coffman

Bob Drake

Jennifer Galvin

David Griesel

Jerry Johnston

Steve Mason

Sandra Rose

Terri Savage

Richard Wuerflein

**MEMBERS ABSENT**

Mike Cassidy

**DEQ STAFF PRESENT**

Steve Thompson, Executive Director

Jimmy Givens, General Counsel

Wendy Caperton, Executive Director's Office

Shellie Chard-McClary, Administrative Services

Eddie Terrill, Air Quality Division

Judy Duncan, Customer Service Division

Gary Collins, Env. Complaints & Local Services

Scott Thompson, Land Protection Division

Jon Craig, Water Quality Division

Ellen Bussert, Administrative Services

Skylar McElhaney, Executive Director's Office

Jamie Fannin, Administrative Services

Myrna Bruce, Secretary, Board & Councils

Tony Dark

Kerry Sublette

**OTHERS PRESENT**  
Ellen Phillips, Assistant Attorney General

Christy Myers, Court Reporter

ECLS Lone Grove Team

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

**Approval of Minutes** Ms. Cantrell called for a motion to approve the minutes of the November 15, 2007 Regular Meeting, Mr. Coffman made the motion to approve as presented and Mr. Johnston made the second. Roll call as follows with motion passing.

*transcript pages 6 - 7*

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

**Election of Officers** Mr. Drake nominated Jennifer Galvin to remain as Chair for this calendar year. Mr. Griesel made the second.

*transcript pages 7 - 8*

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

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

*transcript pages 9 - 10*

Brita Cantrell	Yes	Steve Mason	Yes
Jack Coffman	Yes	Sandra Rose	Yes

Bob Drake	Yes	Terri Savage	Yes
David Griesel	Yes	Richard Wuerflein	Yes
Jerry Johnston	Yes	Jennifer Galvin	Yes

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

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

*transcript pages10 - 18*

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

*transcript pages 18 - 32*

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

Mr. Branecky continued with Subchapter 24 dealing with particulate matter emissions from grain, feed, or seed operations. He identified three proposed amendments that would correct references and clarify language. Hearing no public comments, Dr. Galvin called for a motion for permanent adoption. Mr. Coffman made the motion and Mr. Drake made the second.

*transcript pages 32 - 34*

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

**Rulemaking – OAC 252:300 and 252:301 Laboratory Accreditation** Mr. Kenneth Crawford, Chair of the Laboratory Services Advisory Council, advised that amendments proposed would revoke Chapter 300 and replace it with a new Chapter 301. He mentioned that the Laboratory Accreditation Rule provides standards for accreditation of privately and publicly owned environmental laboratories for the performance of analysis of water and wastewater. He added that besides the reformatting, changes included updated proficiency testing rules, supplemental studies, a fee increase provision for an automatic fee adjustment for inflation. He advised that Council voted overwhelmingly to recommend the rule change and to bring it to the Board for adoption. Mr. Crawford and Ms. Judy Duncan fielded questions from the Board. Mr. Steve Mason moved approval including the suggested changes. Mr. Coffman made the second.

*transcript pages 34 - 41*

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

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

**Rulemaking – OAC 252:305 Laboratory Services** Mr. Kenneth Crawford, Chair of the Laboratory Services Advisory Council, advised that amendments proposed would establish fees for the Department of Environmental Quality State Environmental Laboratory. Mr. Crawford explained that the SEL provides laboratory services to public water supplies in the state, subdivisions of the DEQ, other state and federal agencies, Indian tribes and private citizens. He mentioned that these fees were

last reviewed in 2005 and adjusted in 2006. Since that time cost of laboratory supplies, equipment, maintenance and personnel have all risen. He added that the proposal would increase fees by 6 percent based upon increases of the Consumer Price Index for 2006 and 2007. An annual adjustment of the fees will then be made based upon the CPI on July 1st of every year, although the DEQ could wave collection of the automatic fees if other revenues have increased sufficiently to make the funds generated by the automatic adjustment unnecessary for that year. He conveyed that the Laboratory Services Advisory considered these rule changes at their regular meeting on January 31st, at which time they voted overwhelmingly to recommend the changes to the EQ Board for adoption. Hearing no comments from the public, Dr. Galvin called for a motion to adopt 305 Laboratory Services, as proposed. Ms. Cantrell moved to adopt and Mr. Coffman made the second.

*transcript pages 41 - 44*

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

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

*transcript pages 44 - 48*

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

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

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

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

*transcript pages 49 - 55*

Brita Cantrell	Yes	Steve Mason	No
Jack Coffman	Yes	Sandra Rose	Yes
Bob Drake	Yes	Terri Savage	Yes
David Griesel	Yes	Richard Wuerflein	Yes
Jerry Johnston	Yes	Jennifer Galvin	Yes

Dr. Galvin called for a motion to adopt as an emergency rule. Mr. Johnston moved adoption and Mr. Coffman made the second.

*transcript pages 55 - 56*

Brita Cantrell	Yes	Steve Mason	No
Jack Coffman	Yes	Sandra Rose	Yes

Bob Drake	Yes	Terri Savage	Yes
David Griesel	Yes	Richard Wuerflein	Yes
Jerry Johnston	Yes	Jennifer Galvin	Yes

Dr. Galvin then called for a motion to adopt as a permanent rule. Mr. Coffman made the motion and Mr. Drake made the second.

*transcript pages 56 - 58*

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

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

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

Following questions and comments from the Board and from the public, Dr. Galvin called for a motion for approval of the proposal as amended. Mr. David Griesel made the motion and Mr. Wuerflein made the second.

*transcript pages 58 - 66*

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

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

*transcript pages 66 - 68*

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

**Rulemaking – OAC 252:616 Industrial Wastewater Systems** Mr. Lowell Hobbs, Chair of the Water Quality Management Advisory Council, stated that this proposal would increase industrial wastewater annual fees by the rate of inflation since the effective date of the last fee modification and to provide for automatic fee adjustments for inflation. He added that this amendment would have increased non-discharging industrial wastewater system fees by the rate of inflation since the effective date of the last fee modification, which was on or about July 1, 1997 and the projected inflation rate over the next five years. Also, the Department proposed to have fees automatically increase every five years thereafter, pursuant to any increase in the Consumer Price Index over the previous five years.

Mr. Hobbs noted that the Council debated the proposed fee increase. The Department did not receive any written comments concerning the fee increase and there were no oral comments received during the Council meeting. Council proposed an amendment for the fee increase to be based on the rate of inflation, through the effective date of the last fee modification, through 2007, removing the fee increase that was projected for the next five years; and change the automatic increase in fees from once every five years to every year. The Council voted unanimously to recommend that the Board approve the changes to Chapter 616 as amended by the Council.

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

*transcript pages 68 - 71*

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

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

Mr. Hobbs pointed out that after the close of the public comment period, the Department received comments from the Oklahoma Municipal League concerning the rule changes. After debate, the Council, proposed an amendment that the fee increase be based on the rate of inflation, from the effective date of the last fee modification, through 2007, removing the fee increase that was projected for the next five years. Additionally, the proposed amendment would change the automatic increase

in fees from once every five years, to every year. The Council voted unanimously to recommend that the Board approve the changes to Chapter 621 as amended by the Council.

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

*transcript pages 71 - 75*

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

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

*transcript pages 75 - 77*

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

**Rulemaking – OAC 252:624 Minor Public Water Supply Systems** Mr. Lowell Hobbs, Chair of the Water Quality Management Advisory Council, advised that the proposed rulemaking clarifies and consolidates all construction, operation and maintenance rules applying to minor public water supply systems into one set of rules separate from the more complex rules that apply to other public water supply systems. Currently, the rules dealing with minor public water supply systems are in two separate Chapters. The proposed rules also require an individual permit for slow sand filters; modify pre-testing requirements; add property ownership criteria; reduce the frequency of certain VOC testing; allow DEQ to require additional testing; and impose closure requirements.

Mr. Hobbs noted that DEQ did not receive any comments from the public concerning the proposed rule modifications. Mr. Hobbs added that none of the recommended changes would make the rule less stringent but would make the system a little better for the regulated community, as well as staff. After debate, the Council voted unanimously to recommend that the Board approve Chapter 624 as amended by the Council.

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

*transcript pages 77 - 82*

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

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

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

*transcript pages 82 - 86*

Brita Cantrell	Yes	Steve Mason	Yes
Jack Coffman	Yes	Sandra Rose	Yes

Bob Drake	Yes	Terri Savage	Yes
David Griesel	Yes	Richard Wuerflein	Yes
Jerry Johnston	Yes	Jennifer Galvin	Yes

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

increases public water supply annual fees by the rate of inflation since the effective date of the last fee modification, which was on or about July 1, 1993 and the projected inflation rate over the next five years

fees would automatically increase every five years thereafter pursuant to any increase in the Consumer Price Index over the previous five years

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

revokes Subchapter 5 moving those requirements to OAC 252:624

updates language to meet EPA requirements and rule reference changes by EPA, requires 25 pounds per square inch throughout the entire distribution system, and adopts new requirements for source water development

corrects typographical errors, omissions of certain definitions and other construction requirements from the rules and recognizes what kind of testing will be required for new disinfection treatment techniques.

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

Mr. Hobbs related that the Council voted unanimously to recommend that the Board approve the changes to Chapter 631 as amended by the Council. Dr. Galvin called for a motion to adopt as presented. Mr. Coffman made the motion and Ms. Rose made the second.

*transcript pages 86 - 96*

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

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

*transcript pages 96 - 99*

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

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

- increases fees to compensate for the increased cost of operating the program
- adds low pressure dosing fields and drip irrigation fields as new options for the treatment and dispersal of wastewater
- increases the separation distance from the spray irrigation pattern to property lines from 5 feet to 15 feet
- requires that installers maintain aerobic systems they install for two years after the date of installation and delineate what maintenance installers shall perform
- requires the use of soil profile descriptions instead of percolation tests when designing systems in the Scenic River Corridors

establishes property ownership criteria that ensures all on-site sewage treatment systems are located on property that is owned by or dedicated in easement to the use of the system or is located on the property where the wastewater is generated  
increases the number of lots where subsurface systems can be used by reducing the vertical separation distance from limiting layers for soils with high clay content  
includes in the rules those systems that were previously categorized as standardized alternative systems

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

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

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

*transcript pages 100 - 142*

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

Dr. Galvin then called for the motion for adoption as amended. Ms. Cantrell moved approval and Mr. Coffman made that second.

*transcript pages 142 - 143*

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

**Rulemaking – OAC 252:656 Water Pollution Control Facility Construction** Mr. Lowell Hobbs, Chair of the Water Quality Management Advisory Council, advised that this proposal would have increased non-industrial flow-through and public water supply impoundment and system fees by the rate of inflation since the effective date of the last fee modification, which was on or about July 1, 1993 and the projected inflation rate over the next five years. Additionally, fees would automatically increase every five years thereafter pursuant to any increase in the Consumer Price Index over the previous five years.

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

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

*transcript pages 144 - 148*

Brita Cantrell	Yes	Steve Mason	Yes
Jack Coffman	Yes	Sandra Rose	Yes

Bob Drake	Yes	Terri Savage	Yes
David Griesel	Yes	Richard Wuerflein	Yes
Jerry Johnston	Yes	Jennifer Galvin	Yes

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

*transcript pages 148 - 150*

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

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

**Rulemaking – OAC 252:710 Waterworks and Wastewater Works Operator Certification** Mr. Arnold Miller, Chair of the Waterworks and Wastewater Works Advisory Council, advised that the proposal would amend OAC 252:710-1-12 to increase operator certification fees by the rate of inflation since the effective date of the last fee modification which was on or about July 1, 1994 and the proposed inflation rate over the next five years. Additionally, the proposal would have fees automatically increase every five years thereafter, pursuant to any increase in the Consumer Price Index over the previous five years. Mr. Miller related that the Council had vigorous debate concerning the proposed fee increases. No written comments were received concerning the fee increase during the comment period, but afterwards the Department received comments from the Oklahoma Municipal League.

Following debate, the Council proposed an amendment to the Department's proposed rule to have one-half of the fee increase go into effect on July 1, 2008 with the remaining fee increase effective July 1, 2009. Mr. Miller noted that Council's vote was 7 - 2 to recommend that the Board approve the changes to Chapter 710, as amended by the Council. Dr. Galvin called for a motion for permanent adoption as presented. Mr. Wuerflein made the motion and Mr. Coffman made the second.

*transcript pages 152 - 156*

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

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

New Business – None

Adjournment - The meeting was adjourned at 12:30 p.m. The Board's next meeting will be in Duncan on August 19.

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DEPARTMENT OF ENVIRONMENTAL QUALITY  
STATE OF OKLAHOMA

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TRANSCRIPT OF PROCEEDINGS  
OF THE  
ENVIRONMENTAL QUALITY BOARD  
HELD ON FEBRUARY 29, 2008, AT 9:30 A.M.  
IN OKLAHOMA CITY, OKLAHOMA

\* \* \* \* \*

MYERS REPORTING SERVICE  
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Oklahoma City, Oklahoma 73172-1532  
(405) 721-2882

## 1 MEMBERS OF THE BOARD

2

3 JENNIFER GALVIN - CHAIR, PRESENT

4 BRITA CANTRELL - VICE-CHAIR, PRESENT

5 JACK COFFMAN - PRESENT

6 BOB DRAKE - PRESENT

7 DAVID GRIESEL - PRESENT

8 JERRY JOHNSTON - PRESENT

9 STEVE MASON - PRESENT

10 SANDRA ROSE - PRESENT

11 TERRI SAVAGE - PRESENT

12 RICHARD WUERFLEIN - PRESENT

13 MIKE CASSIDY - ABSENT

14 TONY DARK - ABSENT

15 KERRY SUBLETTE - ABSENT

16

## 17 DEQ STAFF PRESENT

18 STEVE THOMPSON - EXECUTIVE DIRECTOR

19 ELLEN PHILLIPS - ASSISTANT AG

20 JIMMY GIVENS - GENERAL COUNSEL

21 DON MAISCH - ATTORNEY

22 MISTA TURNER-BURGESS - ATTORNEY

23 MYRNA BRUCE - SECRETARY

24 LOWELL HOBBS - CHAIRMAN OF WQ COUNCIL

25 GARY COLLINS - DIRECTOR OF ECLS

- 1 BILL KROPH - ECLS REGIONAL MANAGER
- 2 EDDIE TERRILL - DIRECTOR OF AQD
- 3 DAVID BRANECKY - CHAIRMAN OF AQ COUNCIL
- 4 JUDY DUNCAN - DIRECTOR OF LSAC
- 5 KENNETH CRAWFORD - CHAIRMAN OF LSAC
- 6 STEVE WOODS - CHAIRMAN OF RMAC
- 7 ARNOLD MILLER - CHAIRMAN OF WWWAC
- 8 JAY STOUT - CHAIRMAN OF SWMAC
- 9 ELLEN BUSSERT - ADMINISTRATIVE SERVICES

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## MEETING

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DR. GALVIN: Good morning. The

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February 29, 2008 Regular Meeting of the

5

Environmental Quality Board has been called

6

according to the Oklahoma Open Meeting Act,

7

Section 311 of Title 25 of the Oklahoma

8

Statutes. Notice was filed with the

9

Secretary of State on November 2, 2007.

10

Agendas were mailed to interested

11

parties on February 15, 2007 (sic) and

12

posted at the Department of Environmental

13

Quality, 707 North Robinson, Oklahoma City,

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on February 27, 2008. Only matters

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appearing on the posted agenda may be

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considered.

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If this meeting is continued or

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reconvened, we must announce today the

19

date, time and place of the continued

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meeting and the agenda for such

21

continuation will remain the same as

22

today's agenda.

23

Thank you. Let's get started.

24

Myrna, can I have the roll call please.

25

MS. BRUCE: Good morning. Ms.

1 Cantrell.

2 MS. CANTRELL: Here.

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

5 MR. COFFMAN: Here.

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

8 MR. DRAKE: Here.

9 MS. BRUCE: Dr. Galvin.

10 DR. GALVIN: Here.

11 MS. BRUCE: Mr. Griesel.

12 MR. GRIESEL: Here.

13 MS. BRUCE: Mr. Johnston.

14 MR. JOHNSTON: Here.

15 MS. BRUCE: Mr. Mason.

16 MR. MASON: Here.

17 MS. BRUCE: Ms. Rose.

18 MS. ROSE: Here.

19 MS. BRUCE: Ms. Savage.

20 MS. SAVAGE: Here.

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

23 MR. WUERFLEIN: Here.

24 MS. BRUCE: We do have a quorum.

25 I would like to remind us to push the blue

1 button to talk and pull your microphone  
2 toward your face. That would be a great  
3 aid. Thank you.

4 DR. GALVIN: Thank you, Myrna.

5 All right. The next Agenda Item is the  
6 Approval of the Minutes from the November  
7 15th Regular Meeting. Do I hear any  
8 comments or corrections from the Board on  
9 those minutes? They were included in your  
10 packet.

11 MR. COFFMAN: I move for  
12 approval.

13 MR. JOHNSTON: Second.

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

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

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

21 MS. BRUCE: Ms. Cantrell.

22 MS. CANTRELL: Yes.

23 MS. BRUCE: Mr. Coffman.

24 MR. COFFMAN: Yes.

25 MS. BRUCE: Mr. Drake.

1 MR. DRAKE: Yes.

2 MS. BRUCE: Dr. Galvin

3 DR. GALVIN: Yes.

4 MS. BRUCE: Mr. Griesel.

5 MR. GRIESEL: Yes.

6 MS. BRUCE: Mr. Johnston.

7 MR. JOHNSTON: Yes.

8 MS. BRUCE: Mr. Mason.

9 MR. MASON: Abstain.

10 MS. BRUCE: Ms. Rose.

11 MS. ROSE: Yes.

12 MS. BRUCE: Ms. Savage.

13 MS. SAVAGE: Yes.

14 MS. BRUCE: Mr. Wuerflein.

15 MR. WUERFLEIN: Yes.

16 MS. BRUCE: Motion passed.

17 DR. GALVIN: Thank you. The

18 next item we have on the Agenda is Election

19 of Officers. And at this time, I guess we

20 open the floor for election of the Chair.

21 MR. DRAKE: I move that we

22 re-elect Dr. Galvin as Chair, please.

23 MR. GRIESEL: Second.

24 DR. GALVIN: Any discussion on

25 that? No discussion, Myrna, will you give

1 us a roll call?

2 MS. BRUCE: Ms. Cantrell.

3 MS. CANTRELL: Yes.

4 MS. BRUCE: Mr. Coffman.

5 MR. COFFMAN: Yes.

6 MS. BRUCE: Mr. Drake.

7 MR. DRAKE: Yes.

8 MS. BRUCE: Dr. Galvin.

9 DR. GALVIN: Yes.

10 MS. BRUCE: Mr. Griesel.

11 MR. GRIESEL: Yes.

12 MS. BRUCE: Mr. Johnston.

13 MR. JOHNSTON: Yes.

14 MS. BRUCE: Mr. Mason.

15 MR. MASON: Yes.

16 MS. BRUCE: Ms. Rose.

17 MS. ROSE: Yes.

18 MS. BRUCE: Ms. Savage.

19 MS. SAVAGE: Yes.

20 MS. BRUCE: Mr. Wuerflein.

21 MR. WUERFLEIN: Yes.

22 MS. BRUCE: Motion passed.

23 DR. GALVIN: Thank you. The

24 floor is now open for election of

25 Vice-Chair for the Board.

1 MR. DRAKE: Madam Chairman, I  
2 move that we re-elect Brita as the  
3 Vice-Chair.

4 MR. GRIESEL: And I'll second.

5 MR. DRAKE: I move that all  
6 nominations cease and we re-elect by  
7 acclamation.

8 DR. GALVIN: Did everyone hear  
9 that motion? Myrna, will you take a roll  
10 call please?

11 MS. BRUCE: Ms. Cantrell.

12 MS. CANTRELL: Yes.

13 MS. BRUCE: Mr. Coffman.

14 MR. COFFMAN: Yes.

15 MS. BRUCE: Mr. Drake.

16 MR. DRAKE: Yes.

17 MS. BRUCE: Dr. Galvin.

18 DR. GALVIN: Yes.

19 MS. BRUCE: Mr. Griesel.

20 MR. GRIESEL: Yes.

21 MS. BRUCE: Mr. Johnston.

22 MR. JOHNSTON: Yes.

23 MS. BRUCE: Mr. Mason.

24 MR. MASON: Yes.

25 MS. BRUCE: Ms. Rose.

1 MS. ROSE: Yes.

2 MS. BRUCE: Ms. Savage.

3 MS. SAVAGE: Yes.

4 MS. BRUCE: Mr. Wuerflein.

5 MR. WUERFLEIN: Yes.

6 MS. BRUCE: Motion passed.

7 Welcome back ladies.

8 DR. GALVIN: Thank you. And

9 thanks to the Board for that vote of  
10 support.

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

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

20 The Department has unfortunately,  
21 over the last two or three years, dealt  
22 with a huge number of emergency issues.  
23 When you think about floods, and tornadoes,  
24 and ice storms, and oil spills from our  
25 friends in Kansas, our efforts relative to

1 emergency response are more refined than we  
2 think wished we were.

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

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

19           Now as you might expect when you cut  
20 people's water off, they are really anxious  
21 to get it back. And we knew when we did  
22 that that we were going to have to work  
23 very hard to efficiently and as quickly as  
24 possible return that public water supply  
25 system to full use.

1                   So we set about to do that, and it  
2 did in fact take a couple of weeks to do  
3 because this pesticide seemed particularly  
4 -- there was a lot of difficulty in  
5 removing the residues from the lines, the  
6 nature of this particular pesticide. So it  
7 took a huge amount of sampling, a huge  
8 amount of on-site effort, and a lot of work  
9 at nights and over weekends to get this  
10 problem solved as quickly as possible.

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

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

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

23                   Cara Williams, on-site sampling.  
24 Anthony Degear, sample analysis. Michael  
25 Denette, fairly did everything. Jennifer

1 Von Fennell, laboratory analysis. Skip  
2 Pierce, laboratory analysis. Don Winn,  
3 laboratory analysis. Rocky Amenett,  
4 coordination of sampling. Monty Elder, the  
5 Agencies mouthpiece in emergency issues for  
6 coordination of communications with not  
7 only Lone Grove, but with the county folks.  
8 Jeannette Couch, laboratory analysis.  
9 Richard McDaniel, stand up Richard. This  
10 is the first time that any of us knew that  
11 Richard owned a suit, we're proud of that.  
12 David Golden, technical assistance. Debbie  
13 Taylor, technical assistance. Kay Coffee,  
14 on-site sampling. Greg Carr. Mark  
15 Hildebrand. David Mercer, on-site. James  
16 Brandon Hall and Don Tullius, on-site  
17 sampling. Mike Harrell and David Pruett,  
18 coordination of response. Michelle Welch,  
19 coordination of analytical results. And  
20 again Mike Stickney, who did apparently  
21 everything.

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

25           Okay, Richard, you can go back to

1 rescuing small communities now. I hope we  
2 don't get to do that again for a while.

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

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

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

23 Early last fall, David Dyke, who is  
24 our Administrative Services Director,  
25 informed me that he believed that the

1 projected shortfall for the Agency in FY  
2 '09, which is the year beginning July 1st  
3 of this year, that the shortfall would be  
4 6.4 million dollars. And that we had --  
5 while we always have a couple of divisions  
6 that were struggling to meet their  
7 operational costs, we had a third rather  
8 large division that had joined them. David  
9 is sick today, I don't know if there is a  
10 relationship between that and this, but  
11 anyway Shelly is here. And that 6.4  
12 million dollar shortfall was caused by a  
13 number of things.

14           The first and probably one of the  
15 most important is increasing personnel  
16 costs to try to remain at least marginally  
17 competitive in an exploding job market in  
18 the state of Oklahoma. We have become  
19 aware that we are unfortunately paying  
20 professional engineers at the same rate  
21 that some people are paying interns.

22           We have over the last two years  
23 suffered a three point million dollar  
24 shortfall in legislatively mandated salary  
25 increases. We have increasing cost for the

1 Agency, for agency contributions, for both  
2 retirement and insurance benefits. And  
3 those have not stabilized, they continue to  
4 escalate. We have increasing federal  
5 mandates with flat or declining federal  
6 funding.

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

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

24 Now everybody kind of hold your  
25 breath, the cumulative fee increase that

1 you will be considering today, amounts to  
2 5.8 million dollars.

3           Now, I think that the Board,  
4 probably more than most, understands that  
5 the Councils do not take their  
6 responsibilities lightly. And I can tell  
7 you from personal experience that they were  
8 particularly diligent in reviewing the  
9 issues that the Agency brought before them  
10 and held the Department accountable to make  
11 those fee cases. These decisions were made  
12 after a lot of very long Council meetings  
13 and in some cases multiple Council  
14 meetings, to have these decisions made.  
15 But the Councils did ultimately pass the  
16 fees unanimously, if not joyously, in every  
17 case with the exception of one individual  
18 fee issue which received one dissenting  
19 vote.

20           So I wanted to set the stage for  
21 what you are going to hear today, and for  
22 your consideration. With that Madam  
23 Chairman, I'll hand it over to you.

24           DR. GALVIN: Thanks, Steve. And  
25 I know if you have looked at the Agenda,

1 that's certainly a lot of the things that  
2 we have to discuss -- discuss today  
3 involves fee increases and we're about to  
4 begin hearing about those.

5

6 ITEM NUMBER 5

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

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

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

22 MR. THOMPSON: I said you thought  
23 -- I may have misquoted -- I said you did  
24 it unanimously, but I didn't think it was  
25 very joyously.

1                   MR. BRANECKY:    The Air Quality  
2    Council recognized the need and certainly  
3    support the need for an Air Quality Program  
4    in Oklahoma.    But we felt that we wanted to  
5    fully fund it adequately, but at the same  
6    time we recognized the potential burden on  
7    the regulated community; both minor  
8    sources, the small businesses, and the  
9    major sources in Oklahoma.

10                  We have a lot of details in your  
11    Board packet.    I'm not going to go through  
12    all those details, I will go through some  
13    of the highlights of what we ended up with.

14                  We started this process last June,  
15    our last meeting February 5th, the fee  
16    increase was the only item on that agenda  
17    and we spent four hours discussing that fee  
18    increase.    We struggled with it but we  
19    eventually did pass it unanimously.

20                  One of the things that I think --  
21    one of the major things that came out of  
22    it, and it's also in your packet, is the  
23    Resolution from the Council, asking that  
24    DEQ pursue the concept of mobile source  
25    fees.    We've done that before in the past,

1 but mobile sources are a significant part  
2 of the air pollution in Oklahoma, if not  
3 the major portion. And we feel that  
4 industry pays its way. Mobile sources, if  
5 they contribute to the pollution in  
6 Oklahoma, should pay some part of funding  
7 of the program. So that's why we passed  
8 the Resolution asking the DEQ to pursue  
9 some type of funding through the  
10 Legislature for mobile source fees.

11 To help with that, in the language  
12 in the rules, we put language that said if  
13 DEQ was able to obtain additional funding,  
14 that the fees that are proposed in the rule  
15 -- the \$25.12 for minor sources, and the  
16 \$32.30 for major sources, would be reduced  
17 based on the amount of additional funding  
18 that was attained maybe through the  
19 Legislature. So we had that language put  
20 in there.

21 DEQ at the same time also agreed  
22 there was some concern from the Council and  
23 from industry and the regulated community  
24 that we would like to make sure that DEQ is  
25 spending their money properly. And so DEQ

1 agreed to a third-party audit that will be  
2 done sometime in the near future. The  
3 Council will be working with DEQ and its  
4 staff on some protocol and finding a  
5 consultant to do that. And the Finance  
6 Committee -- we have a subcommittee of the  
7 Council Finance Committee, which will be  
8 reviewing the Air Quality budget yearly, to  
9 make sure that the funding is adequate or  
10 the funding is more than adequate. We  
11 eventually did pass it unanimously. But we  
12 felt like we needed to have some controls  
13 to make sure that the regulated community  
14 would not be an over-burden, and at the  
15 same time the Division is getting the money  
16 that they needed.

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

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

1 the near future.

2           One minor correction relative to the  
3 third-party audit. What we will do is work  
4 with the Finance Committee and the Air  
5 Quality Council to develop the RFP, and we  
6 will provide the funding. The actual  
7 selection of the audit firm will be done by  
8 the Department of Central Services. So  
9 that's the way the typical state process  
10 is. So we will look to the Department of  
11 Central Services to determine the auditor,  
12 but we will work with the Council to guide  
13 the request for the proposal, that will  
14 guide DCSs decision.

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

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

24           MR. THOMPSON: Well, these are  
25 projections. When David came to me -- what

1 we're doing is projecting in the coming  
2 year. And what he was doing was projecting  
3 in the coming year.

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

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

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

21 MR. JOHNSTON: My name is Jerry  
22 Johnston, and I serve on the National  
23 Committee that meets directly with the EPA.  
24 And all the problem isn't right here. The  
25 Board meeting we had with the

1 Administrator, they openly admitted that  
2 there is a shortfall of something like over  
3 12 million dollars between the rules they  
4 hand down and the money it takes to do  
5 them. So those things come down with no  
6 money or very little money to the state.  
7 So it starts way up above us. It's not all  
8 here that the problem is.

9 DR. GALVIN: Steve.

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

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

25 MR. TERRILL: It's also possible

1 that we won't bill this full amount too.  
2 But one of the major things we've done is  
3 we've stopped billing before the end of the  
4 fiscal year. In other words, in the past  
5 what we've done, is we would bill in the  
6 March-April time frame. And then some of  
7 the money would come in before the end of  
8 the fiscal year, some would come in after.  
9 Some companies were paying on a quarterly  
10 basis. That can create a real confusion,  
11 because -- I'm not a government accountant,  
12 but it was apparent to us that we were  
13 having a real problem being able to balance  
14 the books, if you will, because we had  
15 money coming in in different fiscal years  
16 and it was just a mess.

17           What we are doing, starting with  
18 this fiscal year, we're not going to bill  
19 for this year until after July 1st or  
20 towards the end of June or maybe after July  
21 1st, depending on when the Legislature  
22 approves this. And that's what we're going  
23 to do in the future so we can get as close  
24 to the end of that fiscal year to know if  
25 we've got money that we're going to

1 carryover. If we are going to carryover  
2 money, then we will reduce what we would  
3 bill by that amount. Because I don't need  
4 to have a huge balance that I carryover at  
5 the end of every year. So that's part of  
6 the commitment we made to work with the  
7 finance committee, so they can see where we  
8 are. If we are not able to fill 10  
9 positions during the year and we have money  
10 at the end of the year, we would reduce  
11 what we would bill by that amount. And if  
12 we can get additional money from somewhere  
13 else, we will reduce for that. We've got  
14 an "up-to amount" that we will bill to, but  
15 it's got language in there that says we  
16 will reduce that if we have carryover money  
17 or if we have money from other sources. So  
18 we're mindful of that. But we are hopeful  
19 that this year, that we won't have to bill  
20 that full amount, because it doesn't look  
21 like we are going to get the cuts at the  
22 federal level that we thought we were going  
23 to get. And they also didn't roll in our  
24 PM 2.5 grant into the base, they have kept  
25 that separately, which they said they were

1 not going to do.

2           So we think there may be some things  
3 so we don't have a huge deficit bigger than  
4 we think that we may not have to bill that  
5 full amount. We're mindful of that too.  
6 We don't want it to be burdensome, but we  
7 hope that the message got out there enough  
8 so that folks can at least have some  
9 warning that this might happen. But we're  
10 hopeful that we won't have to bill that  
11 full amount this year.

12           DR. GALVIN: Any other comments  
13 from the Board?

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

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

23           MR. TERRILL: What we're doing --  
24 the base fee, which was the fee that we had  
25 in our rule that we calculated from the CPI

1 from -- I think the last time we did a fee  
2 case was 2002 or 2003 was \$22.28, what  
3 we're actually going to bill this year is  
4 \$25.12, if we had not gotten the fee  
5 increase. And that's what the minor  
6 sources will be billed at this year with no  
7 CPI addition in the future. So that will  
8 go to \$25.12 which is -- I don't know what  
9 we billed last year, but it's about 45 or  
10 50 cents higher than what we billed last  
11 year due to the CPI.

12           The major sources, in the worst-case  
13 scenario, would go from what we projected  
14 \$25.12 to \$32.30. And then from that point  
15 the CPI will be added on next year at it  
16 will be an "up-to amount". So it's about a  
17 \$7.18 increase.

18           How we compare to other states, it's  
19 kind of like comparing apples and oranges  
20 because some states have fees for doing  
21 inspections. Some FIP states have fees for  
22 -- a lot higher fees for writing permits.  
23 We didn't really want to do that in this  
24 case, because we felt like there needed to  
25 be a lot more thought given to what we

1 would move, say the Title V fee permit to,  
2 because of the Department of Commerce  
3 relies on that as part of their selling  
4 tool when people come in. And we do have a  
5 relatively low permitting system. So there  
6 is some room to do some adjustments there  
7 in the future, but we decided to just focus  
8 on the Title V fee because we did have just  
9 a demonstrative shortfall in our personnel  
10 costs. We are not adding any new  
11 personnel. We are not adding any new  
12 programs. It's just to make up the  
13 personnel costs and because we have been  
14 able to avoid Title V increases other than  
15 CPI, we felt like that's where it needed to  
16 hone in on for this particular exercise.

17           We did a -- I think it was in the  
18 Board packet, we did have a chart that we  
19 did show what some of the other states are  
20 charging. And it ranges from Arkansas at  
21 \$20.96. Colorado at \$22.90, but they have  
22 a hazardous air pollutant fee of \$152 per  
23 ton. Iowa is at \$35.20. We are -- by  
24 raising our fee we're a little bit higher  
25 than Kansas and Arkansas, but we are in

1 line with everybody else in the region or  
2 less. So we really should have done this a  
3 couple three years ago. By putting it off  
4 and by getting some money through the  
5 Legislature, we were able to avoid having  
6 to do this. And it just finally caught up  
7 with us.

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

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

14 MR. BRANECKY: Pass it as a  
15 permanent rule.

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

18 MR. JOHNSTON: I move to approve.

19 MR. MASON: I will second the  
20 motion.

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

24 MR. WUERFLEIN: Point of  
25 clarification, please?

1 DR GALVIN: Okay.

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

6 MR. BRANECKY: Just Subchapter 5.

7 MR. WUERFLEIN: Okay.

8 MS. BRUCE: Ms. Cantrell.

9 MS. CANTRELL: Yes.

10 MS. BRUCE: Mr. Coffman.

11 MR. COFFMAN: Yes.

12 MS. BRUCE: Mr. Drake.

13 MR. DRAKE: Yes.

14 MS. BRUCE: Mr. Griesel.

15 MR. GRIESEL: Yes.

16 MS. BRUCE: Mr. Johnston.

17 MR. JOHNSTON: Yes.

18 MS. BRUCE: Mr. Mason.

19 MR. MASON: Yes.

20 MS. BRUCE: Ms. Rose.

21 MS. ROSE: Yes.

22 MS. BRUCE: Ms. Savage.

23 MS. SAVAGE: Yes.

24 MS. BRUCE: Mr. Wuerflein.

25 MR. WUERFLEIN: Yes.

1 MS. BRUCE: Dr. Galvin.

2 DR. GALVIN: Yes.

3 MS. BRUCE: Thank you. Motion  
4 passed.

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

7 MR. BRANECKY: Yes. This one  
8 will be a little bit more simple. We're  
9 proposing to revise Subchapter 24 which  
10 deals with particulate matter emissions  
11 from grain, feed, or seed operations.  
12 There are really three changes.

13 The first one is they had a  
14 reference in there to Subchapter 41, which  
15 no longer exists, 41 was replaced with  
16 Subchapter 42 a while back. So we're  
17 making that change in this rule to  
18 reference Subchapter 42 instead of 41.

19 We are changing the word  
20 requirements to specifically say what the  
21 requirement is which is a 20 percent  
22 opacity limit.

23 And then on the back page, we're  
24 proposing to strike the words "at any  
25 time". Because the way that you measure

1 opacity is through an EPA records method  
2 number 9 and it has a set time. It's a six  
3 minute average, and you take it over 30  
4 minutes. By having the words "at any time"  
5 you could apply an instantaneous reading,  
6 which is inconsistent with the way the  
7 method should be done. So we're striking  
8 that and using EPA records method to  
9 measure the 10 percent opacity.

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

13 MR. COFFMAN: I move to adopt.

14 MR. DRAKE: I second.

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

18 MS. BRUCE: Ms. Cantrell.

19 MS. CANTRELL: Yes.

20 MS. BRUCE: Mr. Coffman.

21 MR. COFFMAN: Yes.

22 MS. BRUCE: Mr. Drake.

23 MR. DRAKE: Yes.

24 MS. BRUCE: Mr. Griesel.

25 MR. GRIESEL: Yes.

1 MS. BRUCE: Mr. Johnston.

2 MR. JOHNSTON: Yes.

3 MS. BRUCE: Mr. Mason.

4 MR. MASON: Yes.

5 MS. BRUCE: Ms. Rose.

6 MS. ROSE: Yes.

7 MS. BRUCE: Ms. Savage.

8 MS. SAVAGE: Yes.

9 MS. BRUCE: Mr. Wuerflein.

10 MR. WUERFLEIN: Yes.

11 MS. BRUCE: Dr. Galvin.

12 DR. GALVIN: Yes.

13 MS. BRUCE: Motion passed.

14 DR. GALVIN: Thanks, David.

15

16 ITEM NUMBER 6

17 DR. GALVIN: Moving on to the

18 next Agenda Item, which are proposed

19 changes to Laboratory Accreditation, and we

20 have a presentation by Kenneth Crawford.

21 MR. CRAWFORD: Good morning,

22 everyone. I'm Kenneth Crawford, Chair of

23 the Laboratory Advisory Council.

24 We would like to revoke a chapter

25 and put a new one in place.

1           The    Laboratory Accreditation Rule  
2   provides standards for accreditation of  
3   privately and publicly owned environmental  
4   laboratories for the performance of  
5   analysis of water and wastewater.   The DEQ  
6   proposes to revoke Chapter 300 and replace  
7   it with a new Chapter 301.   Besides the  
8   reformatting, changes include updated  
9   proficiency testing rules, supplemental  
10  studies, a fee increase provision for an  
11  automatic fee adjustment for inflation.  
12  The Laboratory Service Advisory Council  
13  discussed the need for these rule changes  
14  at meetings on September 26 and December  
15  20.   The proposed rules were drafted and  
16  brought before the Council for a vote at  
17  our regular meeting this January 30th, at  
18  which time the Council voted overwhelmingly  
19  to recommend the rule change and to bring  
20  it to the Board for adoption.

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

25           It's in Section 252, Chapter 301-1-

1 9(d) -- it's on the top of Page 4. The  
2 second line of the first sentence of this  
3 section refers to laboratory "services"  
4 program, okay. We request that this  
5 reference be changed to the laboratory  
6 "accreditation" program.

7           The laboratory accreditation program  
8 is supported solely by fees which have not  
9 been adjusted since 1994. The DEQ has  
10 functioned the last few years with only one  
11 laboratory accreditation inspector and has  
12 been unable to provide timely and effective  
13 inspections at this staffing level. The  
14 program is vulnerable to failure should  
15 that one individual leave or be unavailable  
16 for any reason. A second staff person will  
17 allow the program to provide better service  
18 and also provide greater stability to the  
19 program in the future. This proposal will  
20 increase fees by 34.2 percent and it's  
21 based upon increases in the Consumer Price  
22 Index for the time period since fees were  
23 last adjusted and established a process for  
24 annual adjustment of fees based upon the  
25 changes in the CPI.

1                   Judy Duncan or myself will be happy  
2 to entertain any questions that the Board  
3 may have.

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

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

16                   Mr. Crawford:   The acceptable  
17 results as the program has stated, we, the  
18 laboratories, perform evaluation samples at  
19 least twice a year with the vendors that we  
20 purchase these studies from -- materials  
21 from.   They have established a passing  
22 criteria on these analytes that we analyze.  
23 Those are based upon NELAC standards,  
24 calculations, and stuff like that, that the  
25 program takes care of.

1           The DEQ reviews our analytical  
2 results from these tests, and it will be  
3 when we are evaluated by passing or  
4 failing. And that's based upon percent  
5 recoveries on these analytes and that  
6 ranges like I said, done statistically  
7 based upon NELAC rules and regulations.  
8 And DEQ just makes sure, verifies that we  
9 are passing in those analyte ranges --  
10 those passing ranges.

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

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

19           MS. DUNCAN: Not as such. What  
20 we do is we follow the consistent standards  
21 that have been developed by, as Ken  
22 mentioned, NELAC -- the National  
23 Environment Laboratory Accreditation  
24 Conference. And that is the -- in the past  
25 it's been a voluntary conference of the

1 creditors of environmental laboratories.  
2 Within the last two years that has  
3 transitioned to a not-for-profit agency --  
4 or not-for-profit organization that  
5 oversees this, which is the NELAC Institute  
6 or TNI. TNI has a set of rules that are  
7 the NELAC standards that they follow for  
8 oversight of -- to establish an oversight  
9 system for people to produce proficiency  
10 exams. And part of that oversight is to  
11 look at how and establish how the  
12 acceptable limits are set. And the  
13 proficiency testing providers must then  
14 follow those procedures. And all of that  
15 can be found on the website for the TNI  
16 Institute, all of that is right there. And  
17 we have over the years, gradually changed  
18 our laboratory accreditation standards so  
19 that they conform with these voluntary  
20 proficiency procedures -- or voluntary  
21 standardized procedures.

22 MS. CANTRELL: Thank you.

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

1 from the Board?

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

4 DR. GALVIN: Do I hear a second?

5 MR. COFFMAN: Second.

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

8 Myrna, will you give us a roll call.

9 MS. BRUCE: Ms. Cantrell.

10 MS. CANTRELL: Yes.

11 MS. BRUCE: Mr. Coffman.

12 MR. COFFMAN: Yes.

13 MS. BRUCE: Mr. Drake.

14 MR. DRAKE: Yes.

15 MS. BRUCE: Mr. Griesel.

16 MR. GRIESEL: Yes.

17 MS. BRUCE: Mr. Johnston.

18 MR. JOHNSTON: Yes.

19 MS. BRUCE: Mr. Mason.

20 MR. MASON: Yes.

21 MS. BRUCE: Ms. Rose.

22 MS. ROSE: Yes.

23 MS. BRUCE: Ms. Savage.

24 MS. SAVAGE: Yes.

25 MS. BRUCE: Mr. Wuerflein.

1 MR. WUERFLEIN: Yes.

2 MS. BRUCE: Dr. Galvin.

3 DR. GALVIN: Yes.

4 MS. BRUCE: Motion passed.

5 DR. GALVIN: Thank you.

6

7

ITEM NUMBER 7

8

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

12

MR. CRAWFORD: Thank you very  
13 much. Amendments are proposed to OAC 252,  
14 Chapter 305 regs, the Laboratory Service  
15 rule. The purpose of this rule is to  
16 establish fees for the Department of  
17 Environmental Quality State Environmental  
18 Laboratory. The SEL provides laboratory  
19 services to public water supplies in the  
20 state, subdivisions of the DEQ, other state  
21 and federal agencies, Indian tribes and  
22 private citizens. These fees were last  
23 reviewed in 2005 and adjusted in 2006.  
24 Since that time cost of laboratory  
25 supplies, equipment, maintenance and

1 personnel have all risen.

2           This proposal would increase fees by  
3 6 percent based upon increases of the  
4 Consumer Price Index for 2006 and 2007. An  
5 annual adjustment of the fees will then be  
6 made based upon the CPI on July 1st of  
7 every year, although the DEQ could wave  
8 collection of the automatic fees if other  
9 revenues have increased sufficiently to  
10 make the funds generated by the automatic  
11 adjustment unnecessary for that year.

12           There are over 250 individual fees  
13 in this rule, ranging amounts from \$8 to  
14 \$450. Each individual fee will be  
15 increased at 6 percent. The increased fees  
16 will range from \$8 then to \$477 each. The  
17 fee increase is expected to generate  
18 \$120,000 in new income for a total of  
19 \$2,136,000.

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

25           Once again, Judy Duncan and I will

1 be happy to entertain any questions  
2 concerning these changes.

3 DR. GALVIN: Thanks, Kenneth.

4 Any questions from the Board? Any  
5 comments?

6 Any questions or comments from the  
7 public?

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

11 MS. CANTRELL: I move to adopt.

12 DR. GALVIN: Do I hear a second?

13 MR. COFFMAN: Second.

14 DR. GALVIN: We have a motion on  
15 the floor to adopt Laboratory Services OAC  
16 252 Subchapter 305.

17 Myrna, will you please take the roll  
18 call.

19 MS. BRUCE: Ms. Cantrell.

20 MS. CANTRELL: Yes.

21 MS. BRUCE: Mr. Coffman.

22 MR. COFFMAN: Yes.

23 MS. BRUCE: Mr. Drake.

24 MR. DRAKE: Yes.

25 MS. BRUCE: Mr. Griesel.

1 MR. GRIESEL: Yes.

2 MS. BRUCE: Mr. Johnston.

3 MR. JOHNSTON: Yes.

4 MS. BRUCE: Mr. Mason.

5 MR. MASON: Yes.

6 MS. BRUCE: Ms. Rose.

7 MS. ROSE: Yes.

8 MS. BRUCE: Ms. Savage.

9 MS. SAVAGE: Yes.

10 MS. BRUCE: Mr. Wuerflein.

11 MR. WUERFLEIN: Yes.

12 MS. BRUCE: Dr. Galvin.

13 DR. GALVIN: Yes.

14 MS. BRUCE: Motion passed.

15 DR. GALVIN: Thank you, Myrna.

16 Thank you, Kenneth.

17

18 ITEM NUMBER 8

19 DR. GALVIN: Moving on to Agenda

20 Item Number 8, we are going to hear about

21 proposed changes in the Radiation

22 Management Standard. And our presentation

23 will be by Steve Woods.

24 MR. WOODS: Thank you, Madam

25 Chair, Members of the Board. Good morning.

1 I'm Steve Woods, Chairman of the Radiation  
2 Management Advisory Council. The Council  
3 request that the Board approve rule changes  
4 to our x-ray rules. These proposed changes  
5 do not modify any fees, but clarify the  
6 rules by using standardized language. The  
7 change also attempts to clarify some  
8 language on calculating fees for radiation  
9 producing machines that has proven  
10 confusing to some users and an example is  
11 given at the bottom of Appendix A. These  
12 proposed changes have not caused any  
13 adverse effect or any adverse comment and  
14 we do not believe there is any negative  
15 effect on any person or entity in the  
16 state.

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

22 DR. GALVIN: Any questions from  
23 the Board?

24 Steve, I have one. In our packet we  
25 have Appendix A marked revoked, and then we

1 have an Appendix A new; is that what we'll  
2 be voting on?

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

5 DR. GALVIN: Any other questions  
6 from the Board?

7 Any questions from the public?

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

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

16 MR. JOHNSTON: I enthusiastically  
17 second that.

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

22 MS. BRUCE: We need to call the  
23 roll.

24 DR. GALVIN: Yes. I was going to  
25 recite that.

1 MS. BRUCE: Oh, I'm sorry.

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

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

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

9 Ms. Cantrell.

10 MS. CANTRELL: Yes.

11 MS. BRUCE: Mr. Coffman.

12 MR. COFFMAN: Yes.

13 MS. BRUCE: Mr. Drake.

14 MR. DRAKE: Yes.

15 MS. BRUCE: Mr. Griesel.

16 MR. GRIESEL: Yes.

17 MS. BRUCE: Mr. Johnston.

18 MR. JOHNSTON: Yes.

19 MS. BRUCE: Mr. Mason.

20 MR. MASON: Yes.

21 MS. BRUCE: Ms. Rose.

22 MS. ROSE: Yes.

23 MS. BRUCE: Ms. Savage.

24 MS. SAVAGE: Yes.

25 MS. BRUCE: Mr. Wuerflein.

1 MR. WUERFLEIN: Yes.

2 MS. BRUCE: Dr. Galvin.

3 DR. GALVIN: Yes.

4 MS. BRUCE: Motion did pass,  
5 enthusiastically.

6 DR. GALVIN: Thank you.

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

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

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

18 DR. GALVIN: Jimmy, thanks for  
19 bringing that up. Is that the sense of the  
20 Board and should we bring that to another  
21 vote; or is that the sense of the Board,  
22 that we were revoking 300 and approving  
23 301?

24 MR. MASON: That was my motion.

25 DR. GALVIN: It was your motion.

1 Hearing no concern from the Board -- Jimmy,  
2 does that take care of your concern?

3 MR. GIVENS: Yes. Thank you.

4

5 ITEM NUMBER 9

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

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

1 5 percent.

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

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

14           Are there any questions?

15           Hearing none, thank you.

16           DR. GALVIN: Thank you, Jay. I  
17 would just like to clarify for the Board  
18 before I ask for comments, that we will  
19 have to have three votes. The reason  
20 being, this is a request for an emergency  
21 need. So we will have to agree that first  
22 of all that there is an emergency need;  
23 then we will have to vote on the emergency  
24 rule; and then adopt a permanent rule. So  
25 I wanted to make that clear up-front so

1 that there's not a whole lot of confusion.

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

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

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

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

22 There is about 350,000 tires in  
23 dumps now, which is pretty good. But at 2  
24 percent, we can mandate 60,000 tires -- 60  
25 or 70. That means that those existing

1 tires are going to take five years to clean  
2 up. And that doesn't anticipate additional  
3 tires in dumps, which we certainly believe  
4 will occur. So we're going to watch it.

5 MR. COFFMAN: Thank you.

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

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

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

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

23 One is that this 2 percent thing,  
24 there has been discussion about the nature  
25 of whether this means 2 percent per year or

1 whether this is a rolling average and we  
2 really need to get that clarified if we're  
3 going to at least get the 2 percent picked  
4 up.

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

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

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

25           MR. JOHNSTON: I so move whatever

1 that wording needs to be.

2 MR. DRAKE: Second.

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

9 MS. BRUCE: Ms. Cantrell.

10 MS. CANTRELL: Yes.

11 MS. BRUCE: Mr. Coffman.

12 MR. COFFMAN: Yes.

13 MS. BRUCE: Mr. Drake.

14 MR. DRAKE: Yes.

15 MS. BRUCE: Mr. Griesel.

16 MR. GRIESEL: Yes.

17 MS. BRUCE: Mr. Johnston.

18 MR. JOHNSTON: Yes.

19 MS. BRUCE: Mr. Mason.

20 MR. MASON: No.

21 MS. BRUCE: Ms. Rose.

22 MS. ROSE: Yes.

23 MS. BRUCE: Ms. Savage.

24 MS. SAVAGE: Yes.

25 MS. BRUCE: Mr. Wuerflein.

1 MR. WUERFLEIN: Yes.

2 MS. BRUCE: Dr. Galvin.

3 DR. GALVIN: Yes.

4 MS. BRUCE: Motion passed.

5 DR. GALVIN: Thank you. Now as I

6 say, we will move to -- we will ask the

7 Board -- is there any further discussion on

8 this, either from the Board or the public?

9 We will now have to move to adopt this as

10 an emergency rule. Are there any further

11 questions?

12 MR. JOHNSTON: I so move we adopt

13 it as an emergency rule.

14 MR. COFFMAN: Second.

15 DR. GALVIN: I have a motion from

16 Jerry Johnston and a second from Jack

17 Coffman, that we adopt 252:515 as an

18 emergency rule.

19 Myrna, will you take the roll call.

20 MS. BRUCE: Ms. Cantrell.

21 MS. CANTRELL: Yes.

22 MS. BRUCE: Mr. Coffman.

23 MR. COFFMAN: Yes.

24 MS. BRUCE: Mr. Drake.

25 MR. DRAKE: Yes.

1 MS. BRUCE: Mr. Griesel.

2 MR. GRIESEL: Yes.

3 MS. BRUCE: Mr. Johnston.

4 MR. JOHNSTON: Yes.

5 MS. BRUCE: Mr. Mason.

6 MR. MASON: No.

7 MS. BRUCE: Ms. Rose.

8 MS. ROSE: Yes.

9 MS. BRUCE: Ms. Savage.

10 MS. SAVAGE: Yes.

11 MS. BRUCE: Mr. Wuerflein.

12 MR. WUERFLEIN: Yes.

13 MS. BRUCE: Dr. Galvin.

14 DR. GALVIN: Yes.

15 MS. BRUCE: Motion passed.

16 DR. GALVIN: Thank you. Now as

17 indicated to me by counsel, we need to take

18 a vote and adopt this as a permanent rule.

19 Are there any comments or questions from

20 either the Board or the public on that

21 issue?

22 All right. Hearing none.

23 MR. COFFMAN: I move for

24 permanent adoption.

25 MR. DRAKE: And I second based on

1 what Mr. Thompson said, that they would be  
2 continuing to look at this, because we know  
3 this is probably not good. So I second.

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

8 Myrna, please take the roll.

9 MS. BRUCE: Ms. Cantrell.

10 MS. CANTRELL: Yes.

11 MS. BRUCE: Mr. Coffman.

12 MR. COFFMAN: Yes.

13 MS. BRUCE: Mr. Drake.

14 MR. DRAKE: Yes.

15 MS. BRUCE: Mr. Griesel.

16 MR. GRIESEL: Yes.

17 MS. BRUCE: Mr. Johnston.

18 MR. JOHNSTON: Yes.

19 MS. BRUCE: Mr. Mason.

20 MR. MASON: Yes.

21 MS. BRUCE: Ms. Rose.

22 MS. ROSE: Yes.

23 MS. BRUCE: Ms. Savage.

24 MS. SAVAGE: Yes.

25 MS. BRUCE: Mr. Wuerflein.

1 MR. WUERFLEIN: Yes.

2 MS. BRUCE: Dr. Galvin.

3 DR. GALVIN: Yes.

4 MS. BRUCE: Motion passed.

5 DR. GALVIN: Thank you.

6 MR. STOUT: Thank you.

7 DR. GALVIN: Thanks, Jay.

8

9 ITEM NUMBER 10

10 DR. GALVIN: Moving on to Agenda

11 Item Number 10, we are going to have a

12 presentation on Oklahoma Pollution

13 Discharge Elimination System Standards.

14 And that will be presented by Lowell Hobbs,

15 who is Chair of our Water Quality

16 Management Advisory Council.

17 MR. HOBBS: Thank you. I want to

18 tell you right off that I appreciate the

19 magnitude of your responsibility as Board

20 Members of this Board. If you look at the

21 Agenda, the spaces that our Water Quality

22 takes up, you'll know that we've had a

23 pretty busy year.

24 I'm an original member of the Water

25 Quality Management Advisory Council, when

1 it was first incepted. When I was first  
2 appointed to this Council, I also started  
3 serving as a member of the National Beef  
4 Promotion and Research Committee.

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

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

1 act on it very seriously and very  
2 thoroughly.

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

10           Now on with the business at hand.  
11 Our first presentation to you has to do  
12 with Oklahoma Pollution Discharge  
13 Elimination System Standards, Chapter 606.  
14 Now I'm going to read this to you and I  
15 know that you've had a chance to look at  
16 this. But I hope that as we review this,  
17 you will have a chance to reflect on what  
18 you've read and what you understand was our  
19 decisions as the Water Quality Council.

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

23           The Department proposed to change  
24 the date of the incorporation by reference  
25 of certain federal regulations by changing

1 the publication date of the federal rules  
2 from July 1, 2006 to July 1, 2007 in OAC  
3 252:606-1-4.

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

9 The Department proposed each new  
10 appendix would have increased OPDES permit  
11 and annual fees by the rate of inflation  
12 since the effective date of the last fee  
13 modification, which was on or about July 1,  
14 1999 and the projected inflation rate over  
15 the next five years.

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

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

25 I might mention that we don't have

1 the treats but I'm -- Myrna, think about us  
2 next time when we have these meetings.

3 (Response)

4 MR. HOBBS: The Department  
5 received written comments concerning the  
6 fee increase, and oral comments were  
7 received during the Council meeting. These  
8 comments and the Department's responses are  
9 reflected in Executive Summary for Chapter  
10 606.

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

21 After receiving the comments and  
22 debate by the Council, the Council proposed  
23 an amendment to the Department's proposed  
24 rule changes concerning the fee increases.  
25 The amendment was for the fee increase to

1 be based on the rate of inflation, from the  
2 effective date of the last fee modification  
3 through 2007, removing the fee increase  
4 that was projected for the next five years.  
5 Additionally, the proposed amendment would  
6 change the automatic fee increase in fees  
7 from once every five years to once every  
8 year.

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

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

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

19           MR. COFFMAN: I have a question.  
20 Can you give me a flavor of why you are  
21 recommending annual increases on the CPI  
22 from here on instead of the five-year? Was  
23 it because the jump was so large?

24           MR. HOBBS: Yes, that is correct.  
25 We were concerned -- a lot of the debate

1 was over whether you take a hit -- a big  
2 hit every five years or take a little hit  
3 each year. And we unanimously decided to  
4 do it incrementally, rather than once every  
5 five years.

6 MR. HOFFMAN: Thank you.

7 DR. GALVIN: Any other questions  
8 from the Board?

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

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

14 MR. WUERFLEIN: I missed that on  
15 purpose.

16 MR. HOBBS: I got to go home in  
17 time for breakfast the next morning.  
18 You're glad you missed it. We had some  
19 spirited debate, I can tell you. It was a  
20 lively time.

21 DR. GALVIN: Any questions or  
22 comments from the public? All right, I'll  
23 bring it back to the Board. Have you  
24 thought of any other comments or questions?  
25 If not, I'm looking for a motion on OAC

1 252:606 as amended; and Appendices A, B, C,  
2 D, E, and F, are revoked. And those are  
3 provided new in your packet. Do I hear a  
4 motion from the Board?

5 MR. GRIESEL: So moved.

6 DR. GALVIN: Do I hear a second?

7 Mr. Wuerflein: I second.

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

10 MS. BRUCE: Ms. Cantrell.

11 MS. CANTRELL: Yes.

12 MS. BRUCE: Mr. Coffman.

13 MR. COFFMAN: Yes.

14 MS. BRUCE: Mr. Drake.

15 MR. DRAKE: Yes.

16 MS. BRUCE: Mr. Griesel.

17 MR. GRIESEL: Yes.

18 MS. BRUCE: Mr. Johnston.

19 MR. JOHNSTON: Yes.

20 MS. BRUCE: Mr. Mason.

21 MR. MASON: Yes.

22 MS. BRUCE: Ms. Rose.

23 MS. ROSE: Yes.

24 MS. BRUCE: Ms. Savage.

25 MS. SAVAGE: Yes.

1 MS. BRUCE: Mr. Wuerflein.

2 MR. WUERFLEIN: Yes.

3 MS. BRUCE: Dr. Galvin.

4 DR. GALVIN: Yes.

5 MS. BRUCE: Motion approved.

6 DR. GALVIN: Thank you.

7

8 ITEM NUMBER 11

9 DR. GALVIN: Moving on to Agenda

10 Item Number 11, General Water Quality.

11 Lowell Hobbs is up again.

12 MR. HOBBS: This is Title 252,

13 Chapter 611. The Department proposed to

14 the Council to update its rules concerning

15 the date of incorporation by reference of

16 certain federal regulations. The change

17 updates the publication date of the federal

18 rules from July 1, 2006 to July 1, 2007 in

19 the Oklahoma Administrative Code

20 252:611-1-3.

21 There were no comments received

22 during the comment period or at the Council

23 meeting. The Council voted unanimously to

24 recommend that the Board approve the

25 changes to Chapter 611.

1 DR. GALVIN: Thanks, Lowell. Do  
2 I have any comments or questions from the  
3 Board? Seeing none, are there any  
4 questions or comments from the public?

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

8 MR. WUERFLEIN: I move to adopt  
9 Chapter 611.

10 MS. CANTRELL: I second.

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

13 MS. BRUCE: Ms. Cantrell.

14 MS. CANTRELL: Yes.

15 MS. BRUCE: Mr. Coffman.

16 MR. COFFMAN: Yes.

17 MS. BRUCE: Mr. Drake.

18 MR. DRAKE: Yes.

19 MS. BRUCE: Mr. Griesel.

20 MR. GRIESEL: Yes.

21 MS. BRUCE: Mr. Johnston.

22 MR. JOHNSTON: Yes.

23 MS. BRUCE: Mr. Mason.

24 MR. MASON: Yes.

25 MS. BRUCE: Ms. Rose.

1 MS. ROSE: Yes.  
2 MS. BRUCE: Ms. Savage.  
3 MS. SAVAGE: Yes.  
4 MS. BRUCE: Mr. Wuerflein.  
5 MR. WUERFLEIN: Yes.  
6 MS. BRUCE: Dr. Galvin.  
7 DR. GALVIN: Yes.  
8 MS. BRUCE: Motion approved.  
9 DR. GALVIN: Thank you.

10

11

## ITEM NUMBER 12

12

13 DR. GALVIN: Agenda Item Number  
14 12, Industrial Wastewater Systems. This is  
15 a fee increase proposal and Lowell Hobbs  
16 the Chair of the Water Quality Management  
17 Advisory Council will give us that  
18 proposal.

18

19 MR. HOBBS: Thank you, again.  
20 This is Title 252 still, in Chapter 616.  
21 The Department proposed to amend OAC  
22 252:616-3-3.

22

23 The amendment would have increased  
24 non-discharging industrial wastewater  
25 system fees by the rate of inflation since  
the effective date of the last fee

1 modification, which was on or about July 1,  
2 1997 and the projected inflation rate over  
3 the next five years.

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

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

17           After debate by the Council, the  
18 Council proposed an amendment to the  
19 Department's proposed rule changes  
20 concerning the fee increases. The  
21 amendment was for the fee increase to be  
22 based on the rate of inflation, through the  
23 effective date of the last fee  
24 modification, through 2007, removing the  
25 fee increase that was projected for the

1 next five years.

2 Additionally, the proposed amendment would  
3 change the automatic increase in fees from  
4 once every five years to every year. The  
5 Council voted unanimously to recommend that  
6 the Board approve the changes to Chapter  
7 616 as amended by the Council.

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

14 MR. JOHNSTON: So moved.

15 MR. GRIESEL: I'll second.

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

19 MS. BRUCE: Ms. Cantrell.

20 MS. CANTRELL: Yes.

21 MS. BRUCE: Mr. Coffman.

22 MR. COFFMAN: Yes.

23 MS. BRUCE: Mr. Drake.

24 MR. DRAKE: Yes.

25 MS. BRUCE: Mr. Griesel.

1 MR. GRIESEL: Yes.

2 MS. BRUCE: Mr. Johnston.

3 MR. JOHNSTON: Yes.

4 MS. BRUCE: Mr. Mason.

5 MR. MASON: Yes.

6 MS. BRUCE: Ms. Rose.

7 MS. ROSE: Yes.

8 MS. BRUCE: Ms. Savage.

9 MS. SAVAGE: Yes.

10 MS. BRUCE: Mr. Wuerflein.

11 MR. WUERFLEIN: Yes.

12 MS. BRUCE: Dr. Galvin.

13 DR. GALVIN: Yes.

14 MS. BRUCE: Motion passed.

15

16 ITEM NUMBER 13

17 DR. GALVIN: All right. We don't

18 want Lowell to have to stand up there any

19 longer than necessary. Moving on to Agenda

20 Item Number 13, Non-industrial Flow-through

21 and Public Water Supply Impoundments

22 Including Land Application. Lowell Hobbs

23 will give us the presentation.

24 MR. HOBBS: Okay, this is Chapter

25 621. Again, the Department proposed to

1 amend OAC 252:621-3-3. The amendment would  
2 have increased non-industrial flow-through  
3 and public water supply impoundment system  
4 fees by the rate of inflation since the  
5 effective date of the last fee  
6 modification, which was on or about July 1,  
7 1999 and the projected inflation rate over  
8 the next five years. Additionally, the  
9 Department proposed to have fees  
10 automatically increased every five years  
11 thereafter, pursuant to any increase in the  
12 Consumer Price Index over the previous five  
13 years.

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

22           After the close of the public  
23 comment period, and after the Council took  
24 action on the proposed rules, and after the  
25 completion of the documents for this Board

1 meeting by the Department, the Department  
2 received comments from the Oklahoma  
3 Municipal League concerning the rule  
4 changes. A copy of the comments are  
5 contained in your documents provided by the  
6 Department.

7           After debate by the Council, the  
8 Council proposed an amendment to the  
9 Department proposed rule changes concerning  
10 the fee increases. The amendment was for  
11 the fee increase to be based on the rate of  
12 inflation, from the effective date of the  
13 last fee modification, through 2007,  
14 removing the fee increase that was  
15 projected for the next five years.  
16 Additionally, the proposed amendment would  
17 change the automatic increase in fees from  
18 once every five years, to every year. The  
19 Council voted unanimously to recommend that  
20 the Board approve the changes to Chapter  
21 621 as amended by the Council.

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

25           Seeing none, I will bring it back to

1 the Board to approve as proposed, OAC  
2 252:621. Do I hear such a move -- a  
3 proposal from the Board?

4 MS. ROSE: So moved.

5 DR. GALVIN: Do I hear a second?

6 MR. WUERFLEIN: I'll second that.

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

10 MS. BRUCE: Ms. Cantrell.

11 MS. CANTRELL: Yes.

12 MS. BRUCE: Mr. Coffman.

13 MR. COFFMAN: Yes.

14 MS. BRUCE: Mr. Drake.

15 MR. DRAKE: Yes.

16 MS. BRUCE: Mr. Griesel.

17 MR. GRIESEL: Yes.

18 MS. BRUCE: Mr. Johnston.

19 MR. JOHNSTON: Yes.

20 MS. BRUCE: Mr. Mason.

21 MR. MASON: Yes.

22 MS. BRUCE: Ms. Rose.

23 MS. ROSE: Yes.

24 MS. BRUCE: Ms. Savage.

25 MS. SAVAGE: Yes.

1 MS. BRUCE: Mr. Wuerflein.

2 MR. WUERFLEIN: Yes.

3 MS. BRUCE: Dr. Galvin.

4 DR. GALVIN: Yes.

5 MS. BRUCE: Motion passed.

6

7 ITEM NUMBER 14

8 DR. GALVIN: All right. Moving

9 on to Agenda Item Number 14, Pre-treatment  
10 for Central Treatment Trusts. Lowell Hobbs  
11 will give us the presentation.

12 MR. HOBBS: This rule, Chapter  
13 623, pertains to the Oklahoma Ordnance  
14 Works Program in Pryor. The Department  
15 proposed to amend this rule concerning  
16 Central Treatment Trusts, Oklahoma Ordnance  
17 Works Authority, OOWA, to update the  
18 incorporation by reference date from July  
19 1, 2006 to July 1, 2007 in OAC 252:623-1-7.

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

25 DR. GALVIN: Thanks, Lowell. Are

1 there any questions or concerns from the  
2 Board?

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

6 MR. HOBBS: Yes.

7 MR. WUERFLEIN: Okay.

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

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

14 MR. DRAKE: So moved.

15 DR. GALVIN: Do I hear a second?

16 MR. COFFMAN: Second.

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

19 MS. BRUCE: Ms. Cantrell.

20 MS. CANTRELL: Yes.

21 MS. BRUCE: Mr. Coffman.

22 MR. COFFMAN: Yes.

23 MS. BRUCE: Mr. Drake.

24 MR. DRAKE: Yes.

25 MS. BRUCE: Mr. Griesel.

1 MR. GRIESEL: Yes.

2 MS. BRUCE: Mr. Johnston.

3 MR. JOHNSTON: Yes.

4 MS. BRUCE: Mr. Mason.

5 MR. MASON: Yes.

6 MS. BRUCE: Ms. Rose.

7 MS. ROSE: Yes.

8 MS. BRUCE: Ms. Savage.

9 MS. SAVAGE: Yes.

10 MS. BRUCE: Mr. Wuerflein.

11 MR. WUERFLEIN: Yes.

12 MS. BRUCE: Dr. Galvin.

13 DR. GALVIN: Yes.

14 MS. BRUCE: Motion passed.

15 DR. GALVIN: Thank you.

16

17 ITEM NUMBER 15

18 DR. GALVIN: Moving on to Agenda

19 Item Number 15, Minor Public Water Supply

20 Systems. We will have a presentation by

21 Lowell Hobbs.

22 MR. HOBBS: You might think by

23 what we're proposing here, that all of our

24 discussions had to do with fee increases.

25 But I can assure you that we cut apart

1 every one of these proposals and discussed  
2 them at length. And there were a lot of  
3 discussions other than just the fee  
4 increases. And this next one is a typical  
5 one of those.

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

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

18 The proposed rulemaking will also  
19 require an individual permit for slow sand  
20 filters; make the pretesting requirements  
21 less stringent; include ownership criteria  
22 that ensures minor public water supply  
23 systems are located on property that is  
24 owned by or dedicated in an easement to the  
25 users of the system or on property where

1 all service connections are owned by or  
2 dedicated in an easement to the owner of  
3 the wellhead; reduce the frequency of VOC  
4 testing for wells within 300 feet of  
5 gasoline underground storage tanks; provide  
6 DEQ the option to require additional  
7 testing based on the proximity of the well  
8 to known potential pollution sources; and  
9 include closure requirements.

10           The Council debated the proposed  
11 changes to the rules. The Council proposed  
12 changes -- they debated and then they  
13 proposed changes. The DEQ did not receive  
14 any comments from the public concerning the  
15 proposed rule modifications. The Council  
16 voted unanimously to recommend that the  
17 Board approve Chapter 624 as amended by the  
18 Council.

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

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

25           MS. CANTRELL: I do have one

1 question. My question is, what was the  
2 thought behind decreasing or making less  
3 stringent the pretesting requirements?

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

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

17 MS. CANTRELL: Okay. Thank you.

18 MR. HOBBS: I'd like to expand on  
19 that a little bit. None of these changes  
20 that we recommended will make it any less -  
21 - it won't sacrifice our environment.  
22 Everything we did was to make the system a  
23 little better for the regulated community,  
24 as well as staff here. Nothing was  
25 intended to disrupt our environment.

1 MS. CANTRELL: Thank you.

2 MR. HOBBS: Sure.

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

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

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

9 MR. JOHNSTON: So moved.

10 DR. GALVIN: That we adopt?

11 MR. JOHNSTON: That we adopt.

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

14 MS. ROSE: Second.

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

18 MS. BRUCE: Ms. Cantrell.

19 MS. CANTRELL: Yes.

20 MS. BRUCE: Mr. Coffman.

21 MR. COFFMAN: Yes.

22 MS. BRUCE: Mr. Drake.

23 MR. DRAKE: Yes.

24 MS. BRUCE: Mr. Griesel.

25 MR. GRIESEL: Yes.

1 MS. BRUCE: Mr. Johnston.

2 MR. JOHNSTON: Yes.

3 MS. BRUCE: Mr. Mason.

4 MR. MASON: Yes.

5 MS. BRUCE: Ms. Rose.

6 MS. ROSE: Yes.

7 MS. BRUCE: Ms. Savage.

8 MS. SAVAGE: Yes.

9 MS. BRUCE: Mr. Wuerflein.

10 MR. WUERFLEIN: Yes.

11 MS. BRUCE: Dr. Galvin.

12 DR. GALVIN: Yes.

13 MS. BRUCE: Motion passed.

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

16 COURT REPORTER: I'm fine, thank  
17 you.

18

19 ITEM NUMBER 16

20 DR. GALVIN: Moving on to Agenda

21 Item Number 16, Public Water Supply

22 Construction Standards. Lowell Hobbs will

23 give us the presentation.

24 MR. HOBBS: You will probably

25 know my name by the time we get through

1 here today.

2 Chapter 626. The Department  
3 proposed to amend this rule concerning  
4 Public Water Supply Construction Standards.  
5 The Department undertook a major rewrite of  
6 this chapter. The proposed changes removed  
7 outdated language; add design and  
8 construction standards for new treatment  
9 techniques; delete a supplemental  
10 information section and integrate that  
11 section into the rules; revoke Subchapter  
12 21 and Appendix G, as those requirements  
13 are proposed to be moved to OAC 252:624;  
14 update structure requirements to meet new  
15 the EPA disinfection and sampling  
16 requirements and correct typographical  
17 errors and omissions of certain  
18 definitions.

19 The Department received written  
20 comments from the City of Tulsa during the  
21 comment period. The comments from the City  
22 of Tulsa were reviewed by the Department.  
23 There were agreed modifications to the  
24 proposed rule modifications based on the  
25 comments from the City of Tulsa. There

1 were no oral comments received by the  
2 Council during the Council meeting. The  
3 City of Tulsa's comments, Department  
4 responses and proposed amendments are  
5 reflected in the Executive Summary for  
6 Chapter 626. The Council voted unanimously  
7 to recommend that the Board approve the  
8 changes to Chapter 626, as amended by the  
9 Council.

10 DR. GALVIN: Thank you, Lowell.

11 Are there any questions or comments from  
12 the Board? Any questions or comments from  
13 the public?

14 All right. I'll bring it back to  
15 the Board for a motion on --

16 MR. MASON: I move for approval.

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

20 MR. GRIESEL: I'll second.

21 MR. WUERFLEIN: I have one  
22 question. I noticed when we combined the  
23 chapters last time for the minor systems, I  
24 am wondering if there should have been some  
25 things revoked that would be duplicating,

1 but then I see on this chapter we did  
2 revoke a lot of language on the  
3 construction; does that cover -- are those  
4 two totally different things?

5 MR. MAISCH: No. Those  
6 repetitions that you see are those  
7 provisions that were moved over to 624,  
8 where we're revoking them from 626.

9 MR. WUERFLEIN: We're revoking  
10 them?

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

17 MR. WUERFLEIN: Thanks, Don.

18 MR. HOBBS: How did you like my  
19 answer on that?

20 MR. WUERFLEIN: It was good.

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

25 MS. BRUCE: Ms. Cantrell.

1 MS. CANTRELL: Yes.  
2 MS. BRUCE: Mr. Coffman.  
3 MR. COFFMAN: Yes.  
4 MS. BRUCE: Mr. Drake.  
5 MR. DRAKE: Yes.  
6 MS. BRUCE: Mr. Griesel.  
7 MR. GRIESEL: Yes.  
8 MS. BRUCE: Mr. Johnston.  
9 MR. JOHNSTON: Yes.  
10 MS. BRUCE: Mr. Mason.  
11 MR. MASON: Yes.  
12 MS. BRUCE: Ms. Rose.  
13 MS. ROSE: Yes.  
14 MS. BRUCE: Ms. Savage.  
15 MS. SAVAGE: Yes.  
16 MS. BRUCE: Mr. Wuerflein.  
17 MR. WUERFLEIN: Yes.  
18 MS. BRUCE: Dr. Galvin.  
19 DR. GALVIN: Yes.  
20 MS. BRUCE: Motion passed.  
21 DR. GALVIN: Thank you.

22

23 ITEM NUMBER 17

24 DR. GALVIN: Moving on to Agenda

25 Item Number 17, Public Water Supply

1 Operation. Lowell Hobbs may need a chair,  
2 but he's also going to give us a  
3 presentation on this issue.

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

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

19 The Department proposed to update  
20 its rules concerning the date of  
21 incorporation by reference of certain  
22 federal regulations, except for the new  
23 groundwater rule, which will not be adopted  
24 by reference. The change updates the  
25 publication date of the federal rules from

1 July 1, 2006 to July 1, 2007.

2           The Department proposed to revoke  
3 Subchapter 5, as those requirements are to  
4 be moved to OAC 252:624, update language to  
5 meet EPA requirements and rule reference  
6 changes by EPA, require 25 pounds per  
7 square inch, throughout the entire  
8 distribution system, and adopt new  
9 requirements for source water development.

10 Finally, the remaining changes correct  
11 typographical errors, correct omissions of  
12 certain definitions and other construction  
13 requirements from the rules and recognize  
14 what kind of testing will be required for  
15 new disinfection treatment techniques.

16           The Department received written  
17 comments from the City of Tulsa during the  
18 comment period. The comments from the City  
19 of Tulsa were reviewed by the Department  
20 and there were agreed modifications to the  
21 proposed rule modifications based on the  
22 comments from the City of Tulsa.

23           Additionally, there were questions  
24 from the Council concerning the proposed  
25 Chapter 631 rule modifications. No other

1 oral comments were received by the Council  
2 during the meeting. The City of Tulsa's  
3 comments, Councils questions, Department  
4 responses and proposed amendments are  
5 reflected in the Executive Summary for  
6 Chapter 631.

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

17 After debate by the Council, the  
18 Council proposed amendments to the  
19 Department's proposed rule changes  
20 concerning the fee increases and the  
21 comments from the City of Tulsa. The fee  
22 increase amendment was for the fee increase  
23 to be based on the rate of inflation, from  
24 the effective date of the last fee  
25 modification, through 2007, removing the

1 fee increase that was projected for the  
2 next five years.

3           Additionally, the proposed amendment  
4 would change the automatic increase in fees  
5 from once every five years, to every year.  
6 The amendments based on the City of Tulsa  
7 comments were to remove the term  
8 "watershed" from the requirement for  
9 protection of a lake or a reservoir that is  
10 used as a public water supply source, as  
11 such protection of the entire watershed  
12 would be impossible; and remove the need  
13 for the operation and maintenance manual to  
14 be approved by the DEQ.

15           The Council voted unanimously to  
16 recommend that the Board approve the  
17 changes to Chapter 631 as amended by the  
18 Council.

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

21           MR. MASON: I have one question.

22           DR. GALVIN: Steve.

23           MR. MASON: In 631, there are  
24 some comments from the Oklahoma Municipal  
25 League dated February 6.

1                   MR. MAISCH:    Yes.

2                   MR. MASON:    Have we doubled this?  
3    Have those been doubled?

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

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

14                  MR. MAISCH:    Hang on one second.

15                  MR. HOBBS:    While he is looking  
16    that up, I might share with you something  
17    that happened at our Council meeting.    A  
18    fellow presented us a letter during the  
19    course of our discussion with some thoughts  
20    that they had.    I encouraged him to not do  
21    that -- bring them to our Council meeting.  
22    We've had quite a few weeks to study the  
23    proposed changes.    We've had time for  
24    comments, written and oral and public  
25    comments, and him bringing them over at a

1 time when we had already digested this  
2 information and try to change it again, I  
3 just said please bring that further in  
4 advance so we can have notice of that. We  
5 didn't hardly have time to read his letter  
6 during the Council meeting, so we asked him  
7 to put that in a time frame that we could  
8 respond to it better. And then we would  
9 take that into consideration and look at  
10 the next work session.

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

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

24 What we would say is that those fees  
25 have not increased since -- in this

1 situation it was about 1993. And all we  
2 did was take those -- the only way we  
3 calculated those increases was to look at  
4 each year's rate of inflation and take that  
5 fee increase up each year, just like we did  
6 on all the other fees. So the fees  
7 actually were not increased by 55 percent,  
8 but only by about 42 percent.

9           And as you heard the Council,  
10 especially on 606 and all the other fees,  
11 took those issues into account as to the  
12 hardship that it would be upon any of the  
13 permittees. And when they did that, they  
14 reduced down that five years. That would  
15 be our response there.

16           As to the second question, I can  
17 tell you that Jimmy Givens and the entire  
18 legal staff looked at the CPI question.  
19 And we modeled our CPI language, that is  
20 the same as it is contained in the state  
21 statute for Air Quality fees. We looked at  
22 all the statutes and all the cases  
23 concerning those and we came to the  
24 conclusion that the Board has the authority  
25 to put into the rules an increase yearly

1 based on the CPI. And we took a look at  
2 that and we believe that it does comply  
3 with state requirements.

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

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

21 MR. COFFMAN: I move to adopt.

22 DR. GALVIN: Do I hear a second?

23 MS. ROSE: Second.

24 DR. GALVIN: It was seconded by  
25 Sandra Rose. And I would just like to

1 clarify that we are moving to adopt as  
2 presented in our packet, Subchapter 5 is  
3 revoked but there are other pieces there  
4 that are revoked. But I would just like to  
5 point out that we are adopting it as  
6 provided to us, and when I say it -- OAC  
7 252:631 for permanent adoption as presented  
8 in our packet.

9 MR. COFFMAN: Correct.

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

12 MS. BRUCE: Ms. Cantrell.

13 MS. CANTRELL: Yes.

14 MS. BRUCE: Mr. Coffman.

15 MR. COFFMAN: Yes.

16 MS. BRUCE: Mr. Drake.

17 MR. DRAKE: Yes.

18 MS. BRUCE: Mr. Griesel.

19 MR. GRIESEL: Yes.

20 MS. BRUCE: Mr. Johnston.

21 MR. JOHNSTON: Yes.

22 MS. BRUCE: Mr. Mason.

23 MR. MASON: Yes.

24 MS. BRUCE: Ms. Rose.

25 MS. ROSE: Yes.

1 MS. BRUCE: Ms. Savage.

2 MS. SAVAGE: Yes.

3 MS. BRUCE: Mr. Wuerflein.

4 MR. WUERFLEIN: Yes.

5 MS. BRUCE: Dr. Galvin.

6 DR. GALVIN: Yes.

7 MS. BRUCE: Motion passed.

8 DR. GALVIN: Thank you.

9

10 ITEM NUMBER 18

11 DR. GALVIN: I'd like to indicate

12 that we are on Agenda Item 18. We will

13 take a short break right after 18, so be

14 aware of that.

15 Agenda Item Number 18 is addressing

16 Drinking Water State Revolving Fund.

17 Lowell Hobbs will give us the presentation.

18 Mr. Hobbs: Thank you. I might

19 say, I appreciate the confidence that you

20 are showing in our Council recommendations

21 to you and I want to assure you that they

22 are not without merit. Because we do

23 analyze that and debate it. I also want to

24 commend the staff, because they are very

25 interested in working with the regulated

1 community to try to work out those problems  
2 that you've asked about and make it  
3 something that everybody can live with and  
4 still keep the integrity of our environment  
5 and our water quality safe and sound.

6           Aside from that we are still on  
7 Chapter 633.

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

15           There were no oral comments received  
16 from Members of the Council and from the  
17 public during the Council meeting, which is  
18 summarized in the Executive Summary. The  
19 Department did not receive any written  
20 comments concerning the proposed rule  
21 changes. The Council voted unanimously to  
22 recommend that the Board approve the  
23 proposed changes to Appendix A in Chapter  
24 633.

25           DR. GALVIN: Thank you, Lowell.

1 Any questions or comments from the Board?

2 Any questions or comments from the public?

3 All right.

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

9 MR. DRAKE: So moved.

10 MR. GRIESEL: I'll second it.

11 DR. GALVIN: Bob Drake has  
12 proposed the adoption and David Griesel has  
13 seconded the adoption of the Drinking Water  
14 State Revolving Fund 252:633 as proposed.  
15 Myrna, please take a roll call.

16 MS. BRUCE: Ms. Cantrell.

17 MS. CANTRELL: Yes.

18 MS. BRUCE: Mr. Coffman.

19 MR. COFFMAN: Yes.

20 MS. BRUCE: Mr. Drake.

21 MR. DRAKE: Yes.

22 MS. BRUCE: Mr. Griesel.

23 MR. GRIESEL: Yes.

24 MS. BRUCE: Mr. Johnston.

25 MR. JOHNSTON: Yes.

1 MS. BRUCE: Mr. Mason.

2 MR. MASON: Yes.

3 MS. BRUCE: Ms. Rose.

4 MS. ROSE: Yes.

5 MS. BRUCE: Ms. Savage.

6 MS. SAVAGE: Yes.

7 MS. BRUCE: Mr. Wuerflein.

8 MR. WUERFLEIN: Yes.

9 MS. BRUCE: Dr. Galvin.

10 DR. GALVIN: Yes.

11 MS. BRUCE: Motion passed.

12 DR. GALVIN: Thank you. We will

13 take a break at this time. Please be back

14 at roughly 11:15, a short break.

15 (Whereupon, a break was taken after

16 which the following took place)

17

18 MR. THOMPSON: I am in serious

19 trouble. I mentioned the folks from all

20 the other divisions that were helpful on

21 the issue at Lone Grove, and I forgot my

22 own person.

23 So Skyler, stand up. Skyler

24 McElheny is our PIO, Public Information

25 Officer. She dealt with 10,000 press

1 inquiries during that issue. So please  
2 give her a hand.

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

5

6 ITEM NUMBER 19

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

11 MR. HOBBS: This is dealing with  
12 Chapter 641. There are only eight main  
13 reasons for this proposed rulemaking.

14 The first is to increase fees to  
15 compensate for the increased cost of  
16 operating the program.

17 The second is to add low pressure  
18 dosing fields and drip irrigation fields as  
19 new options for the treatment and dispersal  
20 of wastewater.

21 The third is to increase the  
22 separation distance from the spray  
23 irrigation pattern to property lines from 5  
24 feet to 15 feet.

25 The fourth is to require that

1 installers maintain aerobic systems they  
2 install for two years after the date of  
3 installation and delineate what maintenance  
4 installers shall perform.

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

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

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

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

25           The Council debated the proposed

1 rule changes, and proposed changes to the  
2 rules. The DEQ did receive comments from  
3 the public concerning the proposed rule  
4 modifications. A summary of the public  
5 comments are contained in your Executive  
6 Summary.

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

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

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

24 MR. HOBBS: Do you understand the  
25 question good enough to answer it?

1 MR. COLLINS: I think so.

2 MR. HOBBS: Because I can't.

3 MR. COLLINS: The way the rules

4 are now, there aren't any special

5 requirements in a Scenic River Corridor.

6 So this will be the new requirement that's

7 been added. Does that answer your

8 question?

9 MS. CANTRELL: Well, I probably

10 didn't ask my question very well. I was

11 pleased to see the limitations in the

12 Scenic River Corridor for percolation

13 testing.

14 But then my question was beyond the

15 percolation testing provision. When you

16 move on through the different types of

17 tanks and treatment systems, are there any

18 restrictions in those portions of the

19 rules, as far as placement in a Scenic

20 River Corridor?

21 MR. COLLINS: No, not as far as

22 the Scenic River Corridor. The only

23 difference in the Scenic River Corridor and

24 the rest of the state, is when you design a

25 system in a Scenic River Corridor you have

1 to do a soil profile rather than a  
2 percolation test. And the reason for that  
3 is in a soil profile you're going to go  
4 four feet deep and you're going to identify  
5 the soil below the lateral fields; where as  
6 if you only do a perc test, you're only  
7 going to identify the top two feet of the  
8 soil. You can go down to 30 inches, but  
9 you're probably not going to see what's  
10 below that system. And in some of those  
11 areas the soils are very fractured. And  
12 what happens is the sewage goes out of the  
13 house and into the septic tank and into the  
14 lateral field and it never surfaces. So  
15 nobody ever sees it failing. So what  
16 happens is it goes straight to the river  
17 without any treatment.

18 But if you do a profile you will  
19 identify those soils and then you can add a  
20 different treatment option to treat the  
21 wastewater better before it's discharged,  
22 or you can land apply it, or put in a drip  
23 irrigation, some way to provide better  
24 treatment for that sewage before it reaches  
25 the creek.

1                   MR. THOMPSON:    Brita, I think the  
2    answer to your specific question is, no.  
3    That's the only provision in the rules  
4    we've adopted relative to the protection of  
5    Scenic River Corridor, for on-site sewage.

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

13                  MR. COLLINS:    Right.

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

25                  MR. COLLINS:    On the aerobic

1 treatment systems, if they are properly  
2 maintained they provide better treatment  
3 than a septic tank. So the effluent that  
4 is being discharged is a much better  
5 quality. And using an aerobic treatment,  
6 you are either going to spray it on top of  
7 the ground and allow it to soak in to be  
8 used up on the grass or you're going to put  
9 it in a drip irrigation, which means you're  
10 going to put the sewage about eight inches  
11 underground, so you're putting it up in the  
12 topsoil with an aerobic treatment unit.  
13 Your effluent is discharged either eight  
14 inches deep or on the surface. So you can  
15 get a better treatment with an aerobic  
16 treatment unit.

17 MS. CANTRELL: I guess my  
18 question is given that and given the fact  
19 that the scenic rivers -- the river  
20 corridors themselves seem to be short on  
21 that upper layer of grass, they seem to be  
22 very rocky and less of the absorbing  
23 material. Is there a restriction -- how do  
24 these rules protect the Scenic River  
25 Corridor as far as where these aerobic

1 treatment systems are being placed?

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

18 MS. CANTRELL: Okay. Thank you  
19 very much.

20 MR. THOMPSON: I think the answer  
21 is that we -- while the system that is  
22 being adopted may not be perfect, we are  
23 much more confident. Indeed these aerobic  
24 systems have chlorinators in them, so they  
25 tend to address bacteriological issues and

1 provide a much more effective treatment  
2 method than septic tanks do. So we think  
3 we've come a long way, maybe we have  
4 further to go but at least we've taken this  
5 -- the Council has taken this step.

6 MS. CANTRELL: Thank you very  
7 much.

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

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

14 MR. KELLOGG: Thank you, Ms.  
15 Galvin.

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

20 I'm here to comment to you today on  
21 behalf of the Oklahoma Certified Installers  
22 Association. Don't worry, I'm not going to  
23 ask you to change the rules that are in the  
24 packet in front of you today. But I would  
25 like to give you a bit of an explanation as

1 to why you should expect to see some  
2 procedural simplifications come back to you  
3 next year.

4 I was very pleased to hear, Brita,  
5 the discussion and the questions about  
6 aerobic treatment systems. That is a  
7 fairly modern technology, but like most  
8 modern technologies, it is complicated.  
9 More complicated than the old fashioned  
10 septic tank system, and it requires  
11 maintenance. Those are obligations that  
12 fall to the homeowner. And when the  
13 homeowner doesn't live up to those  
14 obligations there are environmental  
15 problems besides the public health problems  
16 that go along with those. So that is very  
17 critical and that is the driving factor of  
18 what caused the Certified Installers  
19 Association to ask me to come to you today.  
20 You all do know there are public treatment  
21 systems that are so efficient that we take  
22 sewage treatment for granted. But that  
23 isn't necessarily true outside of cities  
24 where these private systems or on-site  
25 systems, including aerobic treatment

1 systems, are installed. They must be  
2 properly installed. They must be properly  
3 maintained. That is what keeps us and our  
4 environment so sound. Aerobic systems  
5 require more maintenance and that is a bit  
6 of a problem.

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

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

23           By the way the ECLS has certified,  
24 approximately, a little over 300  
25 installers; about half of whom are members

1 of the OCIA.

2           The Oklahoma Certified Installers  
3 Association holds an annual convention to  
4 educate its members, to provide the  
5 requisite education, continuing education,  
6 that certified installers must have, and to  
7 examine new technologies that are out  
8 there.

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

19           They have commented on these  
20 particular rules, and it took courage for  
21 them to stand up to ECLS, to comment on the  
22 rules, to comment before the Water Quality  
23 Council, and to even send me here today.  
24 To show a little more about their sincerity  
25 and how critical this program is, one of

1 their Board Members is here today. Mr.  
2 David Jones, from Edmond. Sir, would you  
3 please stand. Thank you very much. The  
4 President of the OCIA Board, is Mr. Earl  
5 Biggs from the Piedmont area.

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

25 I told the Council that the

1 technical revisions that were contained in  
2 the proposed rules were very good, and that  
3 the OCIA commended the ECLS staff for  
4 having put them together. But the OCIA  
5 continues to have concerns with the  
6 processes and the procedures that are  
7 involved; not the technical standards but  
8 the processes and the procedures.

9           The OCIA believes the program needs  
10 to be simpler, the paperwork needs to be  
11 simpler, late fees on the certified  
12 installers need to be removed. The Water  
13 Quality Council listened to those comments,  
14 and I suspect they understood. By the time  
15 this chapter came up on the long Water  
16 Quality Council Agenda, it was about 6:30  
17 in the evening. Mr. Jeffrey Short was the  
18 presiding officer and he commented -- Mr.  
19 Short commented that he thought that the  
20 certified installers had been created to  
21 self-inspect the on-site sewage systems, so  
22 that the ECLS staff would thereby be freed  
23 up to spend more time protecting the  
24 environment. Mr. Short was concerned about  
25 the micromanagement of the installers was

1 taking away from that effort to spend more  
2 time protecting the environment.

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

8 Simply stated the three major  
9 concerns that the OCIA has is:

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

21 The third comment is again about the  
22 automatic fee increase which they believe  
23 is wrong, if not contrary to law. Without  
24 going into the legal arguments, let me  
25 point out that OCIA's belief about the

1     tying on an automatic fee increase is that  
2     that promotes complacency, and business as  
3     usual. It does not promote change. It  
4     does not promote simplification. It does  
5     not promote improvement in the processes.

6             The OCIA, its members, and the  
7     certified installers have lost patience  
8     with business as usual. And this is  
9     evidenced by many of the certified  
10    installers who have not renewed their  
11    certification. The last count I had was  
12    approximately 50 that had not renewed. I  
13    do not know where that stands today, but I  
14    think that's indicative of a problem.

15            While the ECLS staff, I'm pleased to  
16    say, has begun to listen and to talk with  
17    the Oklahoma Certified Installers  
18    Association. Last Friday, a week ago  
19    today, ECLS staff met with the OCIA at  
20    their Board meeting in Stroud. They began  
21    to work to simplify some of the paperwork.

22            Now the OCIA also learned from this  
23    process about some of the constraints that  
24    ECLS feels, and it has on them as well. In  
25    any program by actually working together, a

1 more reasonable process can be developed  
2 for the benefit of all. Hopefully, those  
3 dialogues will continue and the processes  
4 can improve.

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

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

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

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

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

24           DR. GALVIN: Yes.

25           MR. HOBBS: We have some things

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

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

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

25 At the Oklahoma Certified Installers

1 Association meeting that Bob talked about,  
2 that took place after the Council meeting,  
3 DEQ talked with the installers. And it was  
4 the -- of the installers present they  
5 requested two things -- two rule changes.

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

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

22 So with that said, we are proposing  
23 two amendments. One is 252:641-21-12(a)  
24 (2), it would increase the time frame to  
25 turn in paperwork from 10 working days to

1 15 working days and to change that fee in  
2 there back to \$30. That's under Chapter  
3 21-12(a)(2). Does everybody see that?  
4 It's Subchapter 21, Section 12(a)(2). It's  
5 on Page 30.

6 DR. GALVIN: So the wording that  
7 I'm seeing on Page 30 is 641-21-12(a)(2)  
8 states, submittals to DEQ. Within 10  
9 working days after the work has been  
10 completed, the certified installer shall  
11 submit an accurate completed DEQ Form --  
12 and it gives the name of the form -- to the  
13 local DEQ office.

14 The installer shall pay DEQ a \$50  
15 fee each time the installer fails to submit  
16 a completed form -- form name given --  
17 within 10 working days upon completing the  
18 work.

19 Is the proposal that within 10, be  
20 changed to 15?

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

23 DR. GALVIN: And that the late  
24 fee -- so the installer shall pay the DEQ  
25 -- leave it at a \$30 fee?

1 MS. TURNER-BURGESS: Yes, take  
2 out the underlined \$50.

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

7 MS. TURNER-BURGESS: Yes, strike  
8 10 in both places and insert 15. And just  
9 delete the \$50 and leave the original \$30.  
10 Remove the strikeout of the \$30.

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

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

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

24 When you want an approval for one of  
25 these systems, if you can do it by credit

1 card, we can turn that thing around in a  
2 day, or at least two. It is a vast  
3 improvement over the system that we had  
4 before.

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

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

18           The way I view that as, it's a  
19 protection to the homeowner. If you're in  
20 a construction project, you are depending  
21 upon these people that you are hiring to do  
22 the work and to do it in a timely manner.  
23 And by saying if you -- if you present to  
24 the installer, and I may be wrong, if  
25 you're saying to the installer that if you

1 don't get it in on time you're going to get  
2 hit with a fee. To me that's sort of an  
3 incentive. That's kind of a carrot to get  
4 it in on time. Am I reading this wrong?

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

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

21 So unless someone can convince me, I  
22 think I might be predisposed not to go  
23 along with the changes that were requested.  
24 Let's just keep it the way it is. Let's  
25 not make any amendments, let's keep it the

1 way staff has proposed. And if they want  
2 to come back to the Council, like they said  
3 maybe in a year, and not drop this on our  
4 laps in the meeting, and present some good  
5 reasons -- but just on the face of it I am  
6 kind of inclined to keep it -- to go along  
7 with these changes.

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

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

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

24 MS. SAVAGE: These are the people  
25 that do the heavy lifting, we are the

1 people that come in four times a year. I'm  
2 saying give me a compelling reason. Say,  
3 no, really, we think it's okay, we think  
4 we're dealing with some good folks, yada-  
5 yada, we think these changes should happen.  
6 That's what I want to hear.

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

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

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

25 DR. GALVIN: Anymore comments

1 from the Board?

2 MR. MASON: I have a comment.

3 Jimmy, this is on Page 35, this whole

4 annual automatic CPI raising fees.

5 I think Mr. Kellogg's comments are fair

6 comments that we need to be judicious in

7 raising the fees. And then if you -- and

8 I'm not a lawyer, if you go to this OML

9 comment about the red slipper case; how can

10 we raise fees automatically in the future,

11 when we don't even know what the cost of

12 the service is if we have to tie fee

13 increases to cost of service. I can't tell

14 you if there will be an increase in cost of

15 service next year.

16 MR. GIVENS: Let me begin by

17 saying -- echoing what Don said earlier,

18 there was mention made of the legality of

19 it. And I do want to emphasize that we

20 literally started at the intern level and

21 worked our way up to the point where I

22 reviewed it and felt like that this was

23 something that legitimately can be done

24 under the case law that is out there. So

25 if we are ever challenged on it, I believe

1 that we can adequately defend it. But in  
2 terms of the practicality -- what our law  
3 requires us to do is to reasonably  
4 approximate the cost of our services. And  
5 we believe that tying it to CPI is a  
6 reasonable way we do that. Is it exact,  
7 no, but it's never going to be exact. We  
8 are either going to use this model, or else  
9 we're going to be coming back in here every  
10 year and trying to approximate it.

11           And frankly, I don't think the  
12 Council and most of the regulated  
13 community, in their expression of  
14 sentiments to the Councils, wanted that.  
15 So I believe it is legal to go this  
16 direction. I believe it is practical to go  
17 this direction. It reasonably reflects our  
18 cost.

19           MR. THOMPSON: I guess the idea  
20 of this originated with me. When your  
21 Administrative Services Director comes in  
22 and says we're 6.4 million dollars short,  
23 and in some cases we haven't raised fees  
24 since 1994, there is an anxiety I think on  
25 my part. And I won't speak for the

1 Councils and the Board, I've had that  
2 occur.

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

7  
8 I don't think that -- in many cases, we  
9 have good associations and we sort of  
10 report -- and I know in one case with the  
11 Water Quality Council and in every case, I  
12 think, with the Air Quality Council we are  
13 pretty good about providing information  
14 about the cost approach.

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

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

1     forth with that.

2                     DR. GALVIN:     Yes, Mista.

3                     MS. TURNER-BURGESS:     I just have  
4     one more amendment and it goes along with  
5     the change of the fee.     If you guys decide  
6     to do that it would also need to include a  
7     change to Subchapter 23, on Page 34;  
8     Section 2, which is on the bottom of Page  
9     34, (a)(6).

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

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

1 Council meeting.

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

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

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

11 MS. CANTRELL: I have a question.  
12 When you talk about the statutory charge  
13 being to protect the waters of the state as  
14 you go through the promulgation of these  
15 rules, was there any thought given to  
16 requiring that these types of systems be  
17 installed by a certified installer?

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

20 MS. CANTRELL: Right. And I  
21 guess with self installation being part of  
22 that discussion, were there any  
23 certification requirements that were  
24 discussed as far as what it takes to be  
25 able to adequately install one of these

1 systems; and whether or not there needs to  
2 be some sort of thought given to that?

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

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

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

24 Currently, if you install more than  
25 10 systems per year, you have to be

1 certified. So we would prefer that they  
2 all be certified as with the Certified  
3 Installers Association. But there are  
4 folks in western Oklahoma, where there are  
5 very few installers, feel that would be a  
6 burden on those installers in western  
7 Oklahoma. That was the discussion when the  
8 bill was originally passed.

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

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

23 MS. CANTRELL: Thank you.

24 MR. WUERFLEIN: Madam Chair, I've  
25 got a question. On page -- referring to

1 Page 33, we've been doing all this  
2 discussion on the Consumer Price Index, and  
3 some of these fee schedules are increasing  
4 from \$50 to \$150 over the next five years.  
5 That's considerably more than the Consumer  
6 Price Index. Where does that come from?

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

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

24 DR. GALVIN: Any further  
25 questions from the Board? Are there any

1 further questions or comments from the  
2 public?

3 MR. LINDSEY: I have a comment.

4 DR. GALVIN: Yes, sir.

5 MR. LINDSEY: I'm Jim Lindsey.

6 I'm a public works engineer in Tahlequah.  
7 We were looking at this noting that really  
8 if you're talking about one area of the  
9 state being the Scenic River Corridor --  
10 and there was a thought that we looked at  
11 -- we were looking at this about the soil  
12 profile description. And that process you  
13 follow there, well, ultimately, if you know  
14 the terrain of geology in that area -- and  
15 our family has been here since 1883, so we  
16 kind of know the geology of the area, those  
17 soil profiling descriptions are going to  
18 really add a major cost to the installation  
19 of systems in the rural areas, which is  
20 mostly in the Scenic River Corridor. And I  
21 really think that's going to shut down --  
22 by soil profile description it's going to  
23 shut down a lot of the systems that would  
24 normally use typical lateral systems. And  
25 if you don't have the right percolation

1 rate then you go ahead and add more lineage  
2 footage for your septic systems, so those  
3 systems will work. By shutting down,  
4 putting most of these systems in the way  
5 they are standardly put in now, it's going  
6 to open up a bigger market, I guess, for  
7 the aerobic systems, which is fine. And  
8 the installation -- and we've got  
9 procedures and everything that are going to  
10 protect the public and the protection of  
11 the river during that period of time.

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

17 So you are going to have these  
18 systems where you're going to have property  
19 owner changes; one, two, three down the  
20 road. You're going to have people that  
21 aren't going to want to maintain it. Right  
22 now our own water treatment plant has an  
23 aerobic system. It's maintained great. We  
24 have a program -- a contract for \$250 a  
25 year, and they come in and they check it

1 out. And we make sure it's running right.  
2 But are homeowners going to do this over  
3 the years; 5 years, 10 years, 15 years? I  
4 think we're setting up systems where the  
5 soil profiling description is going to shut  
6 down our standard way. We're going to see  
7 more of these aerobic systems come into  
8 play and down the road as they get older,  
9 in 10 years, 15 years, 20 years down the  
10 road, we're going to see more problems that  
11 somebody is going to have to deal with.

12 And the state's sanitarian and stuff, you  
13 know, we have two that cover the entire  
14 county, and they are burdened with just the  
15 systems that they have now that they have  
16 to deal with.

17 How does the state look at trying to  
18 enforce this on down the road as these  
19 systems get older and all that? It was  
20 just a thought that we had, that we feel  
21 the soil profiling descriptions are  
22 actually going to end up being more of a  
23 problem down the road. And by changing  
24 this -- thinking that higher technology is  
25 going to solve the scenic river area and

1 protect the river, long-term I think it's a  
2 pipe dream. I just wanted to throw that  
3 comment in for your consideration. Thank  
4 you.

5 DR. GALVIN: Thank you.

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

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

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

1 increase to the point that that is  
2 necessary.

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

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

18           I would say that an aerobic system,  
19 as I explained before, you're going to  
20 spread it on top of the ground, if you  
21 spray poorly treated sewage on top of the  
22 ground it's going to start plugging up your  
23 sprinkler heads, and then it going to start  
24 having an odor, so the homeowner, where  
25 most of the homeowners would see that as a

1 problem and take care of it. And, of  
2 course, we will work on a complaint basis  
3 when we get complaints.

4           The other option for the aerobic  
5 system is to put it into a drip irrigation  
6 system. And if you don't treat it properly  
7 there what's going to happen is it's going  
8 to plug up that irrigation system and the  
9 sewage will back up into your house.

10 So to some extent, I think it's going to  
11 take care of itself. Although I certainly  
12 agree with some of the concerns that he has  
13 about maintenance on aerobic systems. That  
14 is something that I think every state --  
15 and we go to some national meetings --  
16 every state we go to is struggling with  
17 requiring maintenance or requiring people  
18 that maintain them are trained. We haven't  
19 found a good answer to that yet.

20           MR. THOMPSON: Keep looking.

21           DR. GALVIN: Further comments?

22           MR. LINDSEY: I just wanted to  
23 say that what you have proposed now is a  
24 great short-term solution to protect the  
25 environment. I don't think this will

1 answer a long-term solution to protecting  
2 the river -- the water quality of the river  
3 through this system. I'm not against it or  
4 anything, it's just -- I don't know if we  
5 are putting the right foot forward, as Mr.  
6 Thompson was saying, but hopefully it is.  
7 Again, it's probably really not the place  
8 to bring this up, but we ran out of time to  
9 say it anywhere else. Thank you for your  
10 time.

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

13 MR. LINDSEY: Thank you.

14 DR. GALVIN: We'll try again.

15 Any further comments from the public or the  
16 Board?

17 Hearing none, do I hear a motion  
18 from the Board for permanent adoption?  
19 Shall I try to frame what the --

20 MR. DRAKE: I so move.

21 DR. GALVIN: You so move.

22 MR. DRAKE: I move as amended.

23 MR. GRIESEL: I'll second.

24 MR. GIVENS: It needs to be more  
25 explicit.

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

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

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

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

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

23 MR. DRAKE: Okay, so moved.

24 (Discussion)

25 DR. GALVIN: All right. What we

1 have on the floor --

2 MR. COFFMAN: Jennifer, you also  
3 need to incorporate, if we're going to vote  
4 on the amendment, on Page 34, 252:641-23-  
5 2(a)(6), that's a \$30 fee there as well.

6 DR. GALVIN: Yes, I just hadn't  
7 gotten there yet. So we're calling for  
8 them to adopt that motion.

9 MR. DRAKE: Motion to approve the  
10 amendment.

11 MR. GRIESEL: I second.

12 MR. DRAKE: And a second to my  
13 left.

14 DR. GALVIN: Myrna, shall we have  
15 a roll call. Does anybody need a refresher  
16 as to what we just agreed to?  
17 Okay, roll call please.

18 MS. BRUCE: Ms. Cantrell.

19 MS. CANTRELL: Yes.

20 MS. BRUCE: Mr. Coffman.

21 MR. COFFMAN: Yes.

22 MS. BRUCE: Mr. Drake.

23 MR. DRAKE: Yes.

24 MS. BRUCE: Mr. Griesel.

25 MR. GRIESEL: Yes.

1 MS. BRUCE: Mr. Johnston.

2 MR. JOHNSTON: Yes.

3 MS. BRUCE: Mr. Mason.

4 MR. MASON: Yes.

5 MS. BRUCE: Ms. Rose.

6 MS. ROSE: Yes.

7 MS. BRUCE: Ms. Savage.

8 MS. SAVAGE: Yes.

9 MS. BRUCE: Mr. Wuerflein.

10 MR. WUERFLEIN: Yes.

11 MS. BRUCE: Dr. Galvin.

12 DR. GALVIN: Yes.

13 MS. BRUCE: Motion approved.

14 DR. GALVIN: Thank you.

15 (Discussion)

16 DR. GALVIN: Okay. I don't know

17 if everyone heard that on the Board. We

18 need another motion to approve as amended

19 -- to approve 252:641 as amended.

20 MS. CANTRELL: I move to approve

21 252:641 as amended.

22 DR. GALVIN: Do I hear a second?

23 MR. COFFMAN: Second.

24 DR. GALVIN: Thank you. Myrna,

25 will you do a roll call.

1 MS. BRUCE: Ms. Cantrell.

2 MS. CANTRELL: Yes.

3 MS. BRUCE: Mr. Coffman.

4 MR. COFFMAN: Yes.

5 MS. BRUCE: Mr. Drake.

6 MR. DRAKE: Yes.

7 MS. BRUCE: Mr. Griesel.

8 MR. GRIESEL: Yes.

9 MS. BRUCE: Mr. Johnston.

10 MR. JOHNSTON: Yes.

11 MS. BRUCE: Mr. Mason.

12 MR. MASON: Yes.

13 MS. BRUCE: Ms. Rose.

14 MS. ROSE: Yes.

15 MS. BRUCE: Ms. Savage.

16 MS. SAVAGE: Yes.

17 MS. BRUCE: Mr. Wuerflein.

18 MR. WUERFLEIN: Yes.

19 MS. BRUCE: Dr. Galvin.

20 DR. GALVIN: Yes.

21 MS. BRUCE: Motion approved.

22 DR. GALVIN: Thank you. We do

23 appreciate the comments from the public.

24

25

ITEM NUMBER 20

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

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

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

17 Something else I might say before I  
18 finish up. I was talking to Ms. Savage  
19 here during break a while ago and she was  
20 talking about reading -- what Christy is  
21 doing over here. And if you don't think  
22 that will kind of sober you up, if you will  
23 read what comments you've said, or how you  
24 try to say something and read back what she  
25 has written down it will improve your

1 English and your language communication  
2 skills quite well, hopefully. Okay, on to  
3 Chapter 656.

4           The Department proposed to amend OAC  
5 252:656-3-9. The amendment would have  
6 increased non-industrial flow-through and  
7 public water supply impoundment and system  
8 fees by the rate of inflation since the  
9 effective date of the last fee  
10 modification, which was on or about July 1,  
11 1993 and the projected inflation rate over  
12 the next five years.

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

18           The Council debated the proposed fee  
19 increase. The Department did not receive  
20 any written comments concerning the fee  
21 increase and there were no oral comments  
22 received during the Council meeting, except  
23 for the debate by the Council Members. The  
24 Council debate is reflected in the  
25 Executive Summary for Chapter 656. After

1 the close of the public comment period, and  
2 after the Council took action on the  
3 proposed rule and after completion of the  
4 documents for this Board meeting by the  
5 Department, the Department did receive  
6 comments from the Oklahoma Municipal League  
7 concerning the rule changes. A copy of  
8 those comments are contained in your  
9 documents provided by the Department.

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

20 Additionally, the proposed amendment  
21 would change the automatic increase in fees  
22 from once every five years, to every year.  
23 The Council voted unanimously to recommend  
24 that the Board approve the proposed changes  
25 to Chapter 656 as amended.

1 DR. GALVIN: Thank you, Lowell.

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

9 MR. JOHNSTON: So moved.

10 MR. COFFMAN: Second.

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

14 MS. BRUCE: Ms. Cantrell.

15 MS. CANTRELL: Yes.

16 MS. BRUCE: Mr. Coffman.

17 MR. COFFMAN: Yes.

18 MS. BRUCE: Mr. Drake.

19 MR. DRAKE: Yes.

20 MS. BRUCE: Mr. Griesel.

21 MR. GRIESEL: Yes.

22 MS. BRUCE: Mr. Johnston.

23 MR. JOHNSTON: Yes.

24 MS. BRUCE: Mr. Mason.

25 MR. MASON: Yes.

1 MS. BRUCE: Ms. Rose.

2 MS. ROSE: Yes.

3 MS. BRUCE: Ms. Savage.

4 MS. SAVAGE: Yes.

5 MS. BRUCE: Mr. Wuerflein.

6 MR. WUERFLEIN: Yes.

7 MS. BRUCE: Dr. Galvin.

8 DR. GALVIN: Yes.

9 MS. BRUCE: Motion passed.

10

11 ITEM NUMBER 21

12 DR. GALVIN: All right. Moving

13 on to Agenda Item Number 21, Water Quality

14 Standards Implementation. Lowell Hobbs

15 will give us the presentation.

16 MR. HOBBS: This deals with

17 Chapter 690.

18 The Department proposed to the

19 Council to update its rules concerning the

20 date of the incorporation by reference of

21 certain federal regulations. The change

22 updates the publication date of the federal

23 rules from July 1, 2006 to July 1, 2007 and

24 the Oklahoma Administrative Code in

25 252:690-1-4.

1                   There were no comments received  
2 during the comment period or at the Council  
3 meeting. The Council voted unanimously to  
4 recommend that the Board approve the  
5 proposed changes to Chapter 690.

6                   DR. GALVIN: Thank you, Lowell.

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

12                   MR. MASON: I move for approval.

13                   MR. DRAKE: Second.

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

18                   MS. BRUCE: Ms. Cantrell.

19                   MS. CANTRELL: Yes.

20                   MS. BRUCE: Mr. Coffman.

21                   MR. COFFMAN: Yes.

22                   MS. BRUCE: Mr. Drake.

23                   MR. DRAKE: Yes.

24                   MS. BRUCE: Mr. Griesel.

25                   MR. GRIESEL: Yes.

1 MS. BRUCE: Mr. Johnston.

2 MR. JOHNSTON: Yes.

3 MS. BRUCE: Mr. Mason.

4 MR. MASON: Yes.

5 MS. BRUCE: Ms. Rose.

6 MS. ROSE: Yes.

7 MS. BRUCE: Ms. Savage.

8 MS. SAVAGE: Yes.

9 MS. BRUCE: Mr. Wuerflein.

10 MR. WUERFLEIN: Yes.

11 MS. BRUCE: Dr. Galvin.

12 DR. GALVIN: Yes.

13 MS. BRUCE: Motion passed.

14 DR. GALVIN: Thank you, Lowell.

15 MR. HOBBS: On behalf of the

16 Water Quality Council, it is my privilege

17 to represent them and that's all I do.

18 They are a very intelligent group of

19 people. The staff I commend them. And I

20 thank you all for letting us present these.

21 I appreciate your confidence shown in us by

22 accepting these recommendations that we

23 have made. Thank you.

24 MR. DRAKE: Before he leaves,

25 this just gives you an idea of how

1 important the work is that you all have  
2 done. But when we got this from Steve, I  
3 made a phone call or two, to see if there  
4 was going to be any money from the State  
5 Legislature. I have a good friend who  
6 knows something about that, and they just  
7 kind of laugh at you. So there wasn't any  
8 doubt about that we were going to have to  
9 do this. And as a result of that  
10 conversation I indicated, you know, that  
11 we're going to have some fee increases, and  
12 they're not going to be pleasant. And you  
13 guys just keep giving us more and more to  
14 do, with less and less to do it with, and  
15 then scream about when we have to have  
16 increases. So you have to have some kind  
17 of happy medium, or sooner or later EPA, in  
18 their benevolent matter, will come in to  
19 help us out. And I don't think you really  
20 want that. So it's been a rough day on  
21 everybody, but thank you for what you've  
22 done and everyone else has done. And I  
23 think that we certainly owe whoever is left  
24 in here that's been doing all this work, a  
25 big hand.

1 DR. GALVIN: Right. We do  
2 appreciate the guidance and the work that  
3 was done on behalf of the State of  
4 Oklahoma.

5

6 ITEM NUMBER 22

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

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

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

25 Additionally, the Department

1 proposed to have fees automatically  
2 increase every five years thereafter,  
3 pursuant to any increase in the Consumer  
4 Price Index over the previous five years.

5           The Council had vigorous debate  
6 concerning the proposed fee increases. The  
7 Department did not receive any written  
8 comments concerning the fee increase. Oral  
9 comments were received from both Members of  
10 the Council and the public. The Council  
11 debate and comments, as well as the  
12 comments from the public are reflected in  
13 the Executive Summary of Chapter 710.

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

24           After debate by the Council, the  
25 Council proposed an amendment to the

1 Department's proposed rule changes  
2 concerning the fee increases. The  
3 amendment was to have one-half of the fee  
4 increase go into effect on July 1, 2008  
5 with the remaining fee increase effective  
6 July 1, 2009.

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

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

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

1 Miller for his participation in that.

2 MR. MILLER: Thank you.

3 DR. GALVIN: Any further  
4 comments? I will bring it back to the  
5 Board for permanent adoption of Title 252,

6 Chapter 710. Do I hear a proposal?

7 MR. WUERFLEIN: Call for  
8 adoption.

9 DR. GALVIN: Do I hear second?

10 MR. COFFMAN: Second.

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

15 MS. BRUCE: Ms. Cantrell.

16 MS. CANTRELL: Yes.

17 MS. BRUCE: Mr. Coffman.

18 MR. COFFMAN: Yes.

19 MS. BRUCE: Mr. Drake.

20 MR. DRAKE: Yes.

21 MS. BRUCE: Mr. Griesel.

22 MR. GRIESEL: Yes.

23 MS. BRUCE: Mr. Johnston.

24 MR. JOHNSTON: Yes.

25 MS. BRUCE: Mr. Mason.

1 MR. MASON: Yes.

2 MS. BRUCE: Ms. Rose.

3 MS. ROSE: Yes.

4 MS. BRUCE: Ms. Savage.

5 MS. SAVAGE: Yes.

6 MS. BRUCE: Mr. Wuerflein.

7 MR. WUERFLEIN: Yes.

8 MS. BRUCE: Dr. Galvin.

9 DR. GALVIN: Yes.

10 MS. BRUCE: Motion passed.

11 DR. GALVIN: Moving on to Agenda

12 Item Number 23. Is there any new business

13 to be brought before the Board that could

14 not have been reasonably foreseen prior to

15 the time of the posting of the Agenda?

16 If not, Agenda Item Number 24, the

17 Director's Report.

18 (No Report was given)

19 DR. GALVIN: The last item is

20 adjournment.

21 MR. DRAKE: So moved.

22 ?: Second.

23 DR. GALVIN: This meeting is

24 adjourned.

25

(Meeting Concluded)

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