

MINUTES OF THE
MARICOPA ASSOCIATION OF GOVERNMENTS
AIR QUALITY TECHNICAL ADVISORY COMMITTEE MEETING

Thursday, September 23, 2010
MAG Office
Phoenix, Arizona

MEMBERS ATTENDING

Doug Kukino, Glendale, Chairman	Steve Trussell for Russell Bowers, Arizona Rock Products Association
Larry Person, Scottsdale, Vice Chair	*Greater Phoenix Chamber of Commerce
Sue McDermott, Avondale	Amanda McGennis, Associated General Contractors
#Elizabeth Biggins-Ramer, Buckeye	Spencer Kamps, Homebuilders Association of Central Arizona
#Jim Weiss, Chandler	*Mannie Carpenter, Valley Forward
#Jamie McCullough, El Mirage	*Erin Taylor, University of Arizona Cooperative Extension
Kurt Sharp, Gilbert	Keith Killough for Beverly Chenausky, Arizona Department of Transportation
*Cato Esquivel, Goodyear	Diane Arnst, Arizona Department of Environmental Quality
Scott Bouchie, Mesa	*Environmental Protection Agency
#Janet Ramsey for William Mattingly, City of Peoria	Jo Crumbaker, Maricopa County Air Quality Department
Phil McNeely, Phoenix	#Duane Yantorno, Arizona Department of Weights and Measures
#Antonio DeLaCruz, Surprise	*Ed Stillings, Federal Highway Administration
Oddvar Tveit, Tempe	*Judi Nelson, Arizona State University
#Mark Hannah, Youngtown	*Christopher Horan, Salt River Pima-Maricopa Indian Community
Ramona Simpson, Queen Creek	
*American Lung Association of Arizona	
Wendy Crites for Grant Smedley, Salt River Project	
*Brian O'Donnell, Southwest Gas Corporation	
Mark Hajduk, Arizona Public Service Company	
*Gina Grey, Western States Petroleum Association	
*Valley Metro/RPTA	
Dave Berry, Arizona Motor Transport Association	
Jeannette Fish, Maricopa County Farm Bureau	

*Members neither present nor represented by proxy.
#Participated via telephone conference call.
+Participated via video conference call.

OTHERS PRESENT

Lindy Bauer, Maricopa Association of Governments	Frank Schinzel, Maricopa County Air Quality
Dean Giles, Maricopa Association of Governments	Joe Gibbs, City of Phoenix
Patrisia Magallon, Maricopa Association of Governments	Michelle Wilson, City of Glendale
Julie Hoffman, Maricopa Association of Governments	Russell Van Leuven, Arizona Department of Agriculture
Feng Liu, Maricopa Association of Governments	Mary Ellen Boom, Happy Planet Consulting
Taejoo Shin, Maricopa Association of Governments	Shane Kiesow, City of Apache Junction
Randy Sedlacek, Maricopa Association of Governments	Heather Hodgman, City of Apache Junction
Matt Poppen, Maricopa Association of Governments	Scott DiBiase, Pinal County
Ranjith Dandanayakula, Maricopa Association of Governments	Beth Lewallen, Maricopa County
Mitch Wagner, Maricopa County Department of Transportation	Will Barnow, Maricopa County
Amy Bratt, Greater Phoenix Chamber of Commerce	Scott Hughes, Cal Portland
	Rusty Bowers, Arizona Rock Products Association

1. Call to Order

A meeting of the MAG Air Quality Technical Advisory Committee was conducted on September 23, 2010. Doug Kukino, City of Glendale, Chair, called the meeting to order at approximately 1:32 p.m. Antonio De La Cruz, City of Surprise; Mark Hannah, Town of Youngtown; Jamie McCullough, City of El Mirage; Elizabeth Biggins-Ramer, Town of Buckeye; Jim Weiss, City of Chandler; Janet Ramsey, City of Peoria; and Duane Yantorno, Arizona Department of Weights and Measures, attended the meeting via telephone conference call.

2. Call to the Audience

Mr. Kukino stated that according to the MAG public comment process, members of the audience who wish to speak are requested to fill out comment cards, which are available on the tables adjacent to the doorways inside the meeting room. Citizens are asked not to exceed a three minute time period for their comments. Public comment is provided at the beginning of the meeting for nonagenda items and nonaction agenda items. He noted that no public comment cards had been received.

3. Approval of the July 29, 2010 Meeting Minutes

The Committee reviewed the minutes from the July 29, 2010 meeting. Amanda McGennis, Associated General Contractors, moved and Jeannette Fish, Maricopa County Farm Bureau, seconded and the motion to approve the July 29, 2010 meeting minutes carried unanimously.

4. Update on CMAQ Projects for the Federal Fiscal Year 2010 Interim Year End Closeout

Dean Giles, MAG, provided an update on the Congestion Mitigation and Air Quality Improvement (CMAQ) projects for the Federal Fiscal Year 2010 Interim Year End Closeout. Mr. Giles stated that on May 25, 2010, the Air Quality Technical Advisory Committee made a recommendation to forward the CMAQ evaluation to the Transportation Review Committee (TRC) for use in prioritizing projects for fiscal year 2010 CMAQ funding. He added that on May 28, 2010, the TRC made a recommendation and the MAG Management concurred to program \$2.2 million that was available to three existing projects in the Transportation Improvement Program (TIP). Mr. Giles noted that projects vying for the fiscal year 2010 interim year end closeout funds should be in an advanced stage of the project development process and close to obligation through the federal process. He mentioned that the process is conducted in May which means that there are approximately three months for project obligation by the Arizona Department of Transportation. In June 2010, the MAG Regional Council approved the interim closeout. Mr. Giles added that the three projects receiving funding include a City of Glendale multi-use path project at Skunk Creek and Union Hills Drive and two City of Mesa ITS projects.

5. Update on Exceptional Events and MAG Five Percent Plan for PM-10

Ms. Bauer provided an update on the exceptional events and MAG Five Percent Plan for PM-10. She stated that since the Committee last met, MAG, along with the Arizona Department of Environmental Quality (ADEQ), Maricopa County, and the Salt River Pima-Maricopa Indian Community, submitted letters to the Environmental Protection Agency (EPA) requesting a six month delay on the proposed action for the Five Percent Plan for PM-10 as well as final action on the Plan. She added that a six month delay was requested to enable EPA to review all of the scientific information prepared in its totality on the four high wind exceptional events which concerned EPA. In addition, the Arizona

Congressional Delegation also submitted a letter requesting a delay and discussing the need for fairness in the process. Ms. Bauer indicated that the Delegation also conducted a telephone conference call with EPA to request a six month delay. The Environmental Protection Agency responded by indicating that this was a consent decree and would have to move forward. Ms. Bauer noted that EPA sent letters on September 2, 2010 to the Delegation, MAG, and ADEQ indicating that there were issues with the inventories.

Ms. Bauer stated that on September 3, 2010, EPA signed a notice to partially disapprove and approve the Five Percent Plan for PM-10. She noted that a partial approval and disapproval under the Clean Air Act has the same consequences as a disapproval. Ms. Bauer added that the approvability issues in the notice are technical in nature and did not cause the high wind exceptional events at the West 43rd Avenue monitor. She commented that the Plan has been effective and there have been no violations during stagnant conditions at the monitors since the Plan was submitted in 2007. Ms. Bauer mentioned that ADEQ and MAG believe that the region had its first year of clean data in 2008. EPA disagrees with MAG and ADEQ. She stated that it is important to point out that EPA has not reviewed all of the scientific information that was submitted. Ms. Bauer noted that in August 2010 a great deal of additional scientific information was provided from ADEQ with assistance by MAG. She commented that ADEQ also reformatted the information to please EPA. Again, EPA has not yet reviewed all of the scientific information.

Ms. Bauer stated that \$1.7 billion in federal highway funds and the \$7.4 billion Transportation Improvement Program are at risk. She added that a conformity freeze on the TIP could occur by February 28, 2011. Ms. Bauer commented that EPA has acknowledged that their Exceptional Events Rule is flawed; however, they are forced to use the rule. Ms. Bauer indicated that until the Exceptional Events Rule is fixed, the problem will remain unresolved. She noted that this region will always have high winds that can not be controlled.

Ms. Bauer stated that some citizens in various communities are worried about the air quality in their area. She presented a map to put the issue in perspective. The map provides the 11 exceedances in 2008 listed by monitor. Ms. Bauer noted that all of the exceedances with the exception of one were due to high wind exceptional events. She added that 11 exceedances at four monitors on eight days in 2008 means that the air in the region was clean 99.8 percent of the time.

Ms. Bauer discussed the EPA proposed partial approval and disapproval of the Plan. She added that the proposed disapproval included the 2005 baseline emissions inventory which indicates the various sources of emissions. Ms. Bauer mentioned that the inventory is the foundation of the Five Percent Plan for PM-10. The Environmental Protection Agency is contending that the construction emissions were overestimated due to a rule effectiveness issue. Ms. Bauer noted that at the time, the economy was robust and the region had a great deal of road building, commercial, and home building construction. She indicated that the County used a different methodology and EPA had an issue with the rule effectiveness. Ms. Bauer noted that the County used a methodology that was used in the past.

Ms. Bauer stated that MAG prepared the projected inventories which EPA is proposing to disapprove. In addition, MAG prepared the modeling attainment demonstration. Ms. Bauer noted that EPA is indicating that they can not approve a modeling attainment demonstration in the Plan since the region failed to attain at the monitors. She added that this disapproval ties back to the EPA nonconurrence with the four high wind exceptional events. Ms. Bauer indicated that EPA is also proposing to disapprove the five percent reductions in emissions which were based on the 2005 inventory.

Ms. Bauer presented a diagram that represents the role of the 2005 PM-10 emissions inventory in the Five Percent Plan process. She noted that the emissions inventory is a very critical piece in the Plan. Ms. Bauer indicated that the emissions inventory impacts the Motor Vehicle Emissions Budget, Five Percent Reduction Demonstration, Reasonable Further Progress and Quantitative Milestones, and the Contingency Measures. She added that credit was taken for the measures in the attainment demonstration. Ms. Bauer presented the 2005 emissions inventory pie chart. She noted that Maricopa County has also prepared a 2008 PM-10 Emissions Inventory, which has been presented to the Committee. Ms. Bauer stated that the construction emissions were much larger in the 2005 emissions inventory; however, the Plan has control measures on all the different sources. She indicated that MAG will be commenting on the notice of the proposed rulemaking.

Ms. Bauer stated the EPA also proposed disapproval of the reasonable further progress, which is the annual emission reductions to ensure attainment. In addition, EPA is proposing disapproval of the milestone demonstrations (every 3 years) since the region did not attain the standard at the monitors in 2008. Ms. Bauer noted that this is also attributed to EPA's nonconcurrence with the exceptional events. She mentioned that EPA also indicated that the contingency measures cannot be approved since they do not have surplus benefits. Ms. Bauer added that the contingency measures are required to have extra benefits above and beyond what is needed for attainment. She commented that EPA has stated that the contingency measures are no longer surplus since the region failed to attain the standard at the monitors in 2008. Ms. Bauer stated that EPA proposed disapproval of the 2010 Motor Vehicle Emissions Budget which is based on the 2010 emissions inventory projected from the 2005 inventory. She added that this budget is used for conformity when approving the MAG Transportation Improvement Program and the Regional Transportation Plan. Ms. Bauer indicated that MAG has to make sure that these pass the federal conformity test since the emissions cannot exceed the Motor Vehicle Emissions Budget.

Ms. Bauer stated that EPA proposed approval of 20 measures in the Plan as well as the Agricultural Best Management Practices Guidance Booklet and Pocket Guide. She added that EPA proposed limited approval and disapproval of some of the agricultural rules. The EPA has indicated that the rules strengthen the SIP; however, EPA is concerned that they do not meet the requirements for enforceable Best Available Control Measures. Ms. Bauer commented that EPA has also indicated that the agricultural general permit rule needs to be revised.

Ms. Bauer thanked the Committee for all the hard work they put into the Five Percent Plan for PM-10. She thanked the private and public sectors for working so hard on the measures that go to all the different pieces of the pie chart. Ms. Bauer noted that this Plan was quite an effort and a painful process and MAG appreciates their hard work. She indicated that MAG disagrees with the Environmental Protection Agency on the exceptional events.

Ms. Bauer stated that MAG is very concerned with the conformity freeze which would only allow projects in the first four years of the conforming TIP and Regional Transportation Plan to proceed. She stated that if additional funds are provided by the federal government, new major projects may need to be added to the TIP and RTP. However, those projects that require a conformity determination would not be able to be included or built due to the conformity freeze. Ms. Bauer mentioned that there could be no new TIPs, RTPs, or projects until a plan revision is submitted that fulfills the Clean Air Act requirements, EPA finds the budget for conformity adequate or EPA approves the plan, and conformity to the plan revision is determined. Ms. Bauer noted that previously, MAG reported a 30 to 90 day time period for the freeze from the effective date of the notice. She pointed out that when

EPA published their proposed action, it indicated that the time period is 30 days from the effective date of the final notice.

Ms. Bauer stated that at a previous Committee meeting, Diane Arnst, ADEQ, pointed out that there was some language in the EPA write up on conformity that the freeze could potentially be lifted earlier. She added that MAG posed that question to EPA. Ms. Bauer indicated that the Clean Air Act sanctions would be triggered based upon when EPA goes final with their decision. She noted that the timetable is still the same with EPA signing the notice on January 28, 2011. Ms. Bauer commented that a partial disapproval from EPA would trigger the sanctions clock. She indicated that if the problem is not corrected within 18 months, tighter controls will be imposed on business and industry. Ms. Bauer added that if the problem is still not corrected within 24 months, it could result in the loss of the federal highway funds and a Federal Implementation Plan could be imposed. She noted that on the day the highway sanctions are imposed, a conformity lapse would occur on the Transportation Improvement Program; therefore, major projects could not proceed.

Ms. Bauer discussed the consequences for the Five Percent Plan for PM-10, based upon the EPA notice. She stated that a new emissions inventory appears to be needed. Ms. Bauer added that Maricopa County has come before this Committee on two occasions to present the new 2008 periodic emissions inventory. She noted that the County has some questions based upon the notice that was published by EPA. Maricopa County will be asking those questions to EPA to make sure that the new 2008 inventory is good to use. EPA has indicated that they would like a Best Available Control Measure (BACM) Analysis completed of all the other PM-10 nonattainment areas in the country to make sure that this Plan has the Best Available Control Measures. Ms. Bauer mentioned that EPA has already approved a BACM Analysis and a Most Stringent Measure Analysis for the region when MAG prepared the Serious Area Plan for PM-10. She commented that MAG will be questioning EPA about the necessity for a BACM Analysis.

Ms. Bauer stated that additional measures may be needed in the Plan. She added that a new base will be used for a revised Plan. Ms. Bauer mentioned that it is unknown how the 53 measures in the Five Percent Plan will stack up against the new base. She commented that the tough part for this type of Plan is that there has to be at least five percent reductions in emissions until attainment is met, as measured at the monitors. Ms. Bauer indicated that all of the modeling in the Plan will have to be revised. She noted that ADEQ and the Governor's Agricultural Best Management Practices Committee will be working on the agricultural BACM and enforcement issues. Ms. Bauer added that the region will also need three years of clean data at all the monitors.

Ms. Bauer presented the timeline of PM-10 air quality actions. She stated that MAG submitted the Five Percent Plan for PM-10 on time by December 31, 2007. Ms. Bauer added that the Center for Law in the Public Interest warned EPA about their intention to file a lawsuit if they failed to act on the Plan. She mentioned that EPA did not take action as required under the Clean Air Act; therefore, the Center for Law in the Public Interest filed a lawsuit in December 2009. Ms. Bauer noted the timeline of when EPA intends to go final with the action. She commented that by the time EPA takes some type of action on the Plan, it will be over three years that EPA has had this Plan.

Ms. Bauer again thanked the Committee, State, and the private and public sectors for their work on the Plan. She added that this Plan was a huge effort which was submitted in a timely manner. Ms. Bauer indicated that MAG does disagree with EPA on those four high wind exceptional events. She noted that MAG also believes that the Plan is effective.

Ms. McGennis commented on the conformity freeze and additional projects. She inquired if most of the projects have to go through conformity. Ms. Bauer responded that major projects such as adding lanes to arterials or freeways, new freeways, and other major projects generally have to go through conformity. Ms. McGennis inquired about projects that are related to maintenance or overlays. Ms. Bauer responded that there is a list of smaller projects that are exempt from conformity which would be able to proceed during a conformity freeze.

Steve Trussell, Arizona Rock Products Association, inquired if EPA approved Senate Bill 1552 in its entirety. Ms. Bauer responded that it does not appear that EPA approved Senate Bill 1552 in its entirety; however, they did approve a list of 20 measures. She added that the memo written to the Committee and included in the agenda packet contains an attachment listing the 20 measures that were approved by EPA. Ms. Bauer noted that EPA proposed approval of the measures in a different fashion, they proposed approval of the statutes. She added that the notice had a table with the measure number and the statutes. Ms. Bauer indicated that MAG compiled the measures associated with the Arizona Revised Statutes proposed for approval by EPA. Mr. Trussell inquired if there is a possibility of going back to the Arizona Legislature to fix Senate Bill 1552. He asked if there were parts of the Bill that were not approved by EPA that will have to be corrected. Ms. Bauer responded that EPA did not disapprove parts of Senate Bill 1552. She stated that EPA pulled some of the measures in the Plan that were tied to Senate Bill 1552, proposed approval, and listed the statutes.

Mark Hajduk, Arizona Public Service Company, commented on the measures from Senate Bill 1552 that were approved by EPA and inquired if those measures can be used for reductions in the new analysis. Ms. Bauer clarified that EPA has proposed approval. She added that the proposed approval does not mean that we will not be able to use those measures. Ms. Bauer added that these measures have benefits going through time. She noted that under the Clean Air Act, one plan builds upon another; therefore, these measures can be used since many of them have continuing benefits over time. Mr. Hajduk mentioned the 2008 inventory and inquired if the emission reductions that took place during that time will be able to be used towards the new inventory. Ms. Bauer responded that all of the numbers will change since EPA is proposing to disapprove the 2005 emissions inventory. Ms. Bauer noted that the economy has changed a great deal from 2005. She indicated that the County has a new 2008 inventory that may be used as a base; however, EPA may have some suggestions or additional comments for the new inventory. She commented that it is uncertain whether the inventory is totally final at this time. Ms. Bauer noted that the numbers will change regardless of the inventory that will be used.

Oddvar Tveit, City of Tempe, mentioned the emissions inventory and EPA's comment on the overestimation of construction. He inquired if this is a technical disagreement. Ms. Bauer responded that the emissions inventory is a technical piece of the Plan. She added that with regard to rule effectiveness, the County used a different methodology for the 2008 emissions inventory which will hopefully assist in addressing the issue EPA had with the 2005 emissions inventory. Ms. Bauer indicated that the total 2008 emissions in the inventory are much less than 2005 and very close to what was projected for 2010 in the Five Percent Plan. She added that this is another indication that the Plan has been working to reduce emissions. Ms. Bauer noted that the percentages in the inventory have changed. She mentioned the lower percentages in residential construction, road construction, and commercial construction. Ms. Bauer commented that the biggest change in the inventories were the windblown dust pieces. She stated that the County applied a new methodology that is more accurate for the windblown piece. Ms. Bauer noted that there are measures in place that address windblown dust. She indicated that when MAG assesses the impacts of the measures, some will have a big impact

while others will have a smaller impact. Ms. Bauer commented that Maricopa County has also indicated that compliance has increased a great deal since the 2007 Plan was completed, which increases rule effectiveness. She credited the private sector and governmental entities that complied with those rules.

Ms. Fish inquired if EPA assigned new numbers to each of the pieces of the pie since they had issues with the 2005 inventory. She asked if the County will have to redo the 2005 inventory or will they be able to move forward with the new 2008 inventory. Ms. Bauer responded that EPA has indicated their intention to disapprove the 2005 inventory. She added that the County has prepared the new 2008 inventory using a methodology that EPA favors which uses a larger base for the rule effectiveness. Ms. Bauer indicated that the County believes that the 2008 inventory is an improvement including the windblown dust category. She mentioned that once the 2008 inventory is ready, it will be used to move forward with the projections for the revised Plan. Jo Crumbaker, Maricopa County Air Quality Department, stated that the questions asked by Ms. Fish are similar to those that the County has asked to EPA. She added that the County is still awaiting the answers and will share the information once there is a clear understanding.

Larry Person, City of Scottsdale, stated that the presentation discussed the importance of the emissions inventory since it is the starting point. He added that he characterizes the 2005 emissions inventory as a growth area emissions inventory since there was a lot of construction and growth activity in the region at that time. Mr. Person commented that the 2008 inventory seems to be moving more in a direction of a recession type of inventory, an area with no growth. He indicated that long term, he does not believe the 2008 inventory reflects the reality in this region. Mr. Person mentioned that he feels that once the recession is over, the inventory will look more like the 2005 inventory. He added that maybe the inventory will not go as far with the construction pieces but likely similar to the 2005 inventory in many ways. Mr. Person noted that the 2005 inventory is more characteristic of this region. He inquired how to characterize the emissions inventory that EPA wants this region to provide. Mr. Person asked if the emissions inventory should reflect who we are as a region or one that reflects the technical critique of this Plan. Ms. Bauer responded that the periodic emissions inventory is a snapshot in time. She added that this is the reason that the Clean Air Act requires that an inventory be completed every three years. Ms. Bauer commented that there are constant changes. She noted that the 2005 inventory was prepared during a robust time; however, EPA has mentioned that their issue is with the rule effectiveness calculation that impacted the pieces of the pie.

Ms. Bauer added that now the County has prepared the 2008 emissions inventory. She stated that the County has used a broader base for the rule effectiveness study and it is another snap shot in time. She added that the County has also used a rule effectiveness methodology that EPA seems to like. Ms. Bauer noted that methodologies change as well. She indicated that the emissions inventories are important since they are the foundation for a plan. Ms. Bauer mentioned that the Clean Air Act states that the inventory should be comprehensive and accurate since the goal is to address sources and emissions to clean up the air. She commented that EPA is saying they have an issue with the rule effectiveness which consequently resulted in an over estimation of construction emissions. Ms. Bauer stated that the new inventory has improved and also includes the windblown dust category. She added that the County has used a different approach. Ms. Bauer noted that the models also change. She discussed the modeling that its performed at MAG and added that EPA is always changing the models and making improvements. Mr. Person commented that if EPA would have made a determination on the Plan in March 2008, he believes they would have found the 2005 inventory to be current and

accurate. He added that the three plus year delay by EPA is partly at fault for disapproval of the 2005 emissions inventory.

Mr. Person inquired if the County was directed by EPA to use the methodology that was subsequently used to determine rule effectiveness since it was an issue in the past. Mr. Person asked if EPA provided guidance at that time that is different than what is being presented. Ms. Crumbaker responded that EPA had the County commit to perform the rule effectiveness study. She added that their guidance has changed somewhat, though not completely over time, which is a complication that the County will have to deal with. Ms. Crumbaker indicated that EPA reviewed rule effectiveness at that point in time and had no comments which is probably one of the points that the County will be making to EPA.

Scott Bouchie, City of Mesa, referred to the timeline in the presentation and inquired about when the 2008 inventory will be ready. He added that he is thinking ahead in regards to the work that will need to be done considering the time and effort that was spent developing the Five Percent Plan for PM-10. Mr. Bouchie asked if work will begin in 2011 after the action has been finalized by EPA or if the Committee can begin to work on the next steps. Ms. Bauer responded that MAG needs answers from EPA as soon as possible. She added that MAG asked EPA questions long before the proposed action on the Plan was published. Ms. Bauer commented that MAG inquired about the issues and EPA responded that they could not talk to MAG until after the notice was signed. She indicated that time is of the essence since there is a great deal of work that has to be done. Ms. Bauer commented that MAG has posed some questions to EPA and shared them with Maricopa County, ADEQ, and others. She added that EPA has indicated that they will look at the questions and get back to MAG with some answers. Ms. Bauer noted that the County may also have some additional questions for EPA. Ms. Crumbaker added that most of the questions are subsets of questions that were submitted by MAG; therefore, Maricopa County has decided not to submit them to EPA.

Mr. Hajduk stated that according to the preamble, the rule effectiveness was 51 percent based on 63 inspections. He added that in 2010, Maricopa County reevaluated the rule effectiveness based on 11,000 inspections which resulted in 68 percent for Rule 310. Mr. Hajduk inquired if this was accurate. Ms. Crumbaker responded that this was one of the differences in methodology. She added that it was an approximate number of 64 percent. Ms. Crumbaker noted that the full 11,000 inspections are not random and include complaints, drive-by, and reinspections. She indicated that the inspections do not represent the full level two inspections that were completed under the other methodology. Ms. Crumbaker mentioned that there are distinct differences between the datasets. She added that if the inspections numbers are reapplied, assuming that they are in compliance on the return visit, it will actually generate a number of 66.7 percent, which is close to the 64 percent.

Mr. Hajduk inquired if the new methodology was done as a result of EPA requesting Maricopa County to do it. Ms. Crumbaker responded that the new methodology was used by the County to see what differences the two methods would generate. Mr. Hajduk asked if it was internally driven. Ms. Crumbaker responded yes and added that when the methodologies change, you want to see what impacts the change may cause. She added that EPA released a new guidance when the County was working on the last study. Ms. Crumbaker noted that at some point in time, the newer guidance will have to be used. Mr. Hajduk stated that it seems unfair to use a methodology and guidance that was approved in 2010 on 2005 data when at that time it was not available even though the data was there. Ms. Crumbaker clarified that the methodology was approved in 2005 as the County was preparing the study. She added that the County did a protocol and started the study. Ms. Crumbaker noted that the

other methodology is still allowed under that guidance; however, EPA was urging it and it was more comprehensive than the prior guidance. Mr. Hajduk stated that it seems that the County used proper protocol and the right methodology at the time which has now changed since EPA is looking at it five years later. He added that this should be a comment that is made to EPA. Ms. Crumbaker responded that the County will be making this comment to EPA. She added that the methodology was allowable at the time that it was used. Ms. Crumbaker noted that the methodology is still allowable and not precluded under the current guidance.

Mr. Person stated that there were 11 exceedances in 2008 including four that EPA would not consider exceptional events making the data in 2008 not clean. He mentioned his concern of not getting those exceedances declared as exceptional events. Mr. Person added that according to EPA, there are 17 exceedances in 2009 that we are trying to have declared as exceptional events. However, if the issue is not fixed for 2008, then the region may not have a chance of having clean data in 2009. Ms. Bauer responded that this is exactly the point MAG is making. She added that EPA has admitted that the Exceptional Events Rule is flawed and that there are issues with implementation. Ms. Bauer indicated that EPA has been working with WESTAR, and WESTAR has been working with EPA very aggressively along with the National Association of Clean Air Agencies. She mentioned that ADEQ has been participating since they know there are issues with the Exceptional Events Rule. Ms. Bauer commented that MAG has been involved in working with ADEQ to help provide additional information to EPA. She stated that MAG does agree that the issue will remain with the region until the Exceptional Events Rule is fixed since the high wind events in the region cannot be controlled. Ms. Bauer stated that according to Maricopa County and ADEQ there are seven days of exceedances in 2009.

Ms. Arnst stated that there is a meeting at WESTAR next week where Janet McCabe, EPA, will be attending and responding in part to the letter from WESTAR about fixing the Exceptional Events Rule. She added that there should be some information from that meeting that provides a sense of direction from EPA, how quickly they will be providing guidance on how to implement the rule, or actual revisions to the rule.

Mr. Hajduk discussed a presentation that was provided by Colleen McKaughn, EPA. He added that she described an exceedance at the West 43rd Avenue monitor stating it was not a "storm." Mr. Hajduk noted that the verbiage MAG is using is "wind events." He added that there is a big difference between a wind event and a storm and he is not sure if EPA is seeing that difference. Mr. Hajduk inquired if that is the frustration that MAG is dealing with. Ms. Bauer responded yes. She mentioned an article in the *MAGAZine* and added that MAG attempted to clarify the difference with pictures that were obtained from ADEQ. Ms. Bauer commented that the Exceptional Events Rule addresses exceptional events at a single monitor. She added that the region has dust devils that occur in the desert that could cause a monitor to go over and are not dust storms. Ms. Bauer discussed surface roughness, high winds coming from the west and southwest, moving over a smooth terrain and picking up dust, dry silky soils in that area and hitting the monitor. However, when the dust travels further down wind into the urbanized areas, the winds slow down as it runs into the buildings, causing particles to drop out which eventually makes the concentrations less. Ms. Bauer added that MAG is frustrated since a lot has to do with surface roughness. She indicated that the EPA Exceptional Events Rule does allow for exceptional events at a single monitor. In fact, EPA has made that argument when other environmental groups have questioned them on various exceptional events.

Mr. Hajduk commented that Ms. McKaughn's rebuttal to that is that the information submitted at the time addressed the exceedance as a dust storm and not a localized wind event. He added that EPA stated that they were going off the information that was presented at the time. Mr. Hajduk inquired if the additional information submitted clarified that issue. Ms. Bauer responded that the additional information submitted to EPA by MAG and ADEQ clarifies the issue. She noted that a great deal of additional information has been submitted to EPA. Ms. Bauer encouraged the Committee to take a copy of the *MAGAZine* and added that pictures are included of one of the days in question.

Mr. Trussell commented on the issue of high winds. He inquired if the winds at the West 43rd Avenue monitor were characterized as within or above the 95th percentile. Ms. Bauer responded yes, they were unusually high winds. She added that the MAG consultant, Sierra Research, completed that analysis. Mr. Trussell inquired if this information was originally submitted and dismissed or if it was supplemental information. Ms. Bauer responded that she believes it was part of the supplemental information.

Ms. Arnst stated that the initial submittals had a chart that was created with a pink color over the hours that were in the top five percent of historical frequency. She added that there were questions by the reviewers of EPA and they were not understanding how the information was presented. Therefore, the supplemental information included a more narrative form. She mentioned that WESTAR has commented that there are two things in the Exceptional Events Rule that are not in the Clean Air Act that need to come out of the rule. Ms. Arnst added that one of those items is the demonstration of historical frequency and the other is "but for this event, an exceedance would not have happened." She mentioned that it will be interesting to see what Ms. McCabe has to say about that issue.

Ms. Fish stated that she has seen the information compiled by ADEQ to be submitted to EPA on the exceptional events. She added that the information is very thorough with a great deal of information from not only the Valley monitors but from weather stations throughout the State. Ms. Fish noted that the information included pictures taken from the various monitors. She indicated that there is a lot of good information and presented in a concise manner. Ms. Bauer added that ADEQ has done an excellent job with the exceptional events.

Mr. Person commented on the consequences of Plan disapproval action. He mentioned the conformity freeze and inquired when the sanctions clock will turn off. Ms. Bauer responded that the language for a conformity freeze is out of the federal conformity regulations. She stated that the plan does not have to be approved. Ms. Bauer mentioned that if EPA has some level of comfort with the plan that was submitted, EPA could give an adequacy finding on the conformity budget within 90 days of when the plan was submitted. She indicated that EPA will put it out for public review and then the conformity budget can be used. Ms. Bauer added that another way of receiving an approved conformity budget is by EPA approving the plan.

Mr. Hajduk stated that it seems that EPA, MAG and ADEQ are going to agree to disagree on the exceptional events issue. He inquired if there are plans for legal action. Ms. Bauer responded that the MAG Regional Council is very concerned with this issue. She added that MAG staff has been directed to work with the MAG Regional Council Executive Committee. Ms. Bauer noted that the Executive Committee has authorized MAG to have legal counsel. She mentioned that MAG has hired Roger Ferland from Quarles and Brady in Phoenix, Arizona; Patton and Boggs, Washington D.C.; and Crowell and Moring, Washington D.C. She added that all options are under consideration.

Mr. Trussell stated that Imperial Valley is in a similar situation. He asked if there is anything that could be learned or efforts to be joined regarding the Exceptional Events Rule. Ms. Bauer responded that MAG had a conference call with Imperial Valley and MAG's legal counsel has also been in close contact with Imperial. She added that the Board of the Imperial County Air Pollution Control District authorized legal action as necessary.

Mr. Kamps inquired about the next steps. Ms. Bauer responded that MAG staff will be reporting back to the Committee. She added that the questions submitted to EPA need to be answered. Ms. Bauer indicated that MAG will need to address the Plan and the criticism from EPA. In addition, MAG, Maricopa County, and ADEQ will be submitting comments on the proposed action to EPA. She noted that the information will be shared with the Committee. Ms. Bauer mentioned that once EPA approves the base for a revised plan, all of the measures in place will be analyzed to see how far out those benefits extend. She commented that MAG will share the information with the Committee and gather input. Mr. Kukino thanked Ms. Bauer for the update.

6. EPA Delays Release of Final Ozone Standards

Ms. Bauer stated that EPA has delayed the new revised eight-hour ozone standard until the end of October 2010. EPA had originally intended to announce the new standard by August 31, 2010.

7. Call for Future Agenda Items

Mr. Kukino announced that the next meeting of the Committee has been tentatively scheduled for Thursday, October 28, 2010 at 1:30 p.m. Ms. Fish stated that EPA is proposing a change to the National Ambient Air Quality Standard for PM-10 to reduce the standard from the current 150 micrograms per cubic meter to 75 micrograms per cubic meter. She requested that a presentation be provided on the impacts that this change will have on the region. Mr. Trussell seconded the request and added that the Committee would have to know what else they are going to deal with as the plan revision is prepared. With no further comments, the meeting was adjourned at 2:34 p.m.