

**MARICOPA COUNTY AIR POLLUTION HEARING BOARD  
OCTOBER 21, 2009  
MINUTES**

**8:15 a.m.** Board Members present: Kimberly W. MacEachern, Chair  
Jean McGrath  
Gary Van Hofwegen  
Eric Hiser, Counsel to the Board

The members meet in executive session pursuant to ARS §38-431.03 at 501 N. 44<sup>th</sup> Street, Phoenix, Maricopa County, Phoenix, AZ, Silver Room, Second Floor to receive legal advice regarding the proceedings in the matter of the Appeal from Denial of Permit Revision, Fisher Industries, Inc. Permit No December 2008

**9:00 a.m.** The Chair calls the hearing to order at:

501 N. 44<sup>th</sup> Street, Phoenix, Maricopa County, Phoenix, AZ, Gold Room, First Floor

Members present: Kimberly W. MacEachern, Chair  
Jean McGrath  
Gary Van Hofwegen  
Eric Hiser, Counsel to the Board

Appearing for Appellant: Albert Acken, Lewis and Roca,  
Counsel for Fisher Industries, Inc.

Appearing for Appellee: Daniel Brendan, Maricopa County Attorney's Office  
Counsel for Maricopa County Air Quality Department

The proceeding is recorded by Davette Repola AVTRANZ, Phoenix, AZ  
(The recorded transcript of the proceeding contains the details of the proceeding)

The parties are limited to 1.5 hours each for presentation and may reserve time for rebuttal.

Opening remarks are presented Mr. Acken; opening is waived by Mr. Brendan.

Mr. Acken calls Wesley Bryant Operations Manager Fisher Industries  
Testimony, cross examination and questions from the Board are fielded

Mr. Acken calls Eddie Al –Rayes, Trinity Consulting, Inc.  
Testimony, cross examination and questions from the Board are fielded

**10:00 a.m.** The proceeding is recessed until **10:15 a.m.**

Mr. Al-Rayes testimony is completed.

**11:20 a.m.** The hearing goes into a short recess.

Fisher rests.

Mr. Brendan calls Todd Martin, Maricopa County Air Department, Permits Division, Engineer.

Testimony, cross examination and questions from the Board are fielded.

Mr. Brendan calls Doug Erwin, Maricopa County Air Department, Permits Division, Supervisor.

Testimony, cross examination and questions from the Board are fielded.

Mr. Brendan recalls Todd Martin.

Testimony, cross examination and questions from the Board are fielded.

Mr. Brendan calls Lawrence Odle, Maricopa County Air Department Director

Testimony, cross examination and questions from the Board are fielded.

Maricopa County rests.

Mr. Achen presents rebuttal testimony by recalling Mr. Al-Rayes.

Mr. Achen's request to put an Industry representative on as a witness, who had not been previously disclosed was denied by the Board, but time permitting that person would be given an opportunity to comment.

Mr. Achen moves Fisher Exhibits 1,2,5,6,7 into the record, the Board hearing no objections accepts said documents into the official record of the proceeding.

Mr. Brendan moves Maricopa County Exhibits 1, 2, and 3, including all subparts into the record; the Board hearing no objections accepts said documents into the official record of the proceeding.

The parties are invited to submit supplementary materials regarding the calculations of the various production scenarios as they relate to the limits that trigger Best Available Control Technology and to provide closing statements of no more than 5 pages in length to the Board to be received prior to the Board reconvening.

**1:10 p.m.** The Chair adjourns the hearing with the Board to reconvene on October 27, 2009 at 1:00 p.m. in Executive Session pursuant to A.R.S. section 38-431.03.A.3 for the purpose of consultation with the Board's attorney on the appeal of Fisher Industries and the handling of the administrative record in appeals to be followed by a Regular Session to deliberate and render a decision.

