

NOTICES OF FINAL RULEMAKING

The Administrative Procedure Act requires the publication of the final rules of the state's agencies. Final rules are those which have appeared in the *Register* first as proposed rules and have been through the formal rulemaking process including approval by the Governor's Regulatory Review Council or the Attorney General. The Secretary of State shall publish the notice along with the Preamble and the full text in the next available issue of the *Register* after the final rules have been submitted for filing and publication.

NOTICE OF FINAL RULEMAKING

TITLE 18. ENVIRONMENTAL QUALITY

CHAPTER 2. DEPARTMENT OF ENVIRONMENTAL QUALITY AIR POLLUTION CONTROL

PREAMBLE

- 1. Sections Affected**

R18-2-301	Amend
R18-2-326	Amend
R18-2-511	Amend
- 2. The specific authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):**

Authorizing statutes: A.R.S. §§ 49-104(A)(11), 49-402, 49-422(A), 49-422(C), 49-425
Implementing statutes: A.R.S. §§ 49-426(E), 49-426(H), 49-426(L), 49-455
- 3. The effective date of the rules:**

January 1, 2002
- 4. A list of all previous notices appearing in the Register addressing the final rules:**

Notice of Rulemaking Docket Opening: 7 A.A.R. 2016, May 4, 2001
Notice of Proposed Rulemaking: 7 A.A.R. 2114, May 25, 2001
- 5. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**

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- 6. An explanation of the rules, including the agency's reasons for initiating the rules:**

These rules revise the structure of the Arizona Department of Environmental Quality's (ADEQ's) air permit fees. The need for permit fee rules is based on Arizona's mandate to comply with state law and the federal Clean Air Act. The ADEQ is required to develop and implement a permit program in which fees paid by sources will support program development and implementation costs. Though the fees were sufficient when the rule was adopted in 1993, this system of fees no longer provides sufficient revenues to cover the costs of the permitting programs and comply with federal and state law. The program fee requirement is statutorily mandated by A.R.S. § 49-426(E)(1) and (E)(2). Furthermore, A.R.S. § 49-426(E)(1) requires the ADEQ Director to establish a fee system that is "consistent with and equivalent to that prescribed by section 502 of the clean air act." Arizona law, being consistent with the 1990 Clean Air Act Amendments (CAAA), also provides for increasing permit fees based on the consumer price index. These rules, a revision of R18-2-301, and new rule text for R18-2-326 and R18-2-511, conform to these mandates.

An additional complication relates to a statutory provision that links county permit fees to those that ADEQ sets. A.R.S. § 49-112 was added by the legislature in 1994 placing limits on county environmental rules. Subsection (B) limits the amount these counties may charge for their permit fees to an amount "approximately equal or less than" the

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fee the state program may charge. "Approximately equal" is defined in A.R.S. § 49-101 as "not greater than ten percent more than the fees or costs charged by the state for similar state permits or approvals." Maricopa, Pima, and Pinal counties administer their own air quality programs.

The challenge was to develop a fee schedule that would recover ADEQ's costs, allow the counties to collect sufficient revenues, and allocate permit program costs among sources in a manner that would be equitable and acceptable to those who pay the fees.

To ensure that all counties and ADEQ would recover adequate revenue, taking into account the differences between the state and county programs, linear program modeling was employed using the Microsoft Excel[®] Solver Tool, projected figures contained in ADEQ's Work Load Analysis (WLA), and estimates provided by the individual counties. Additionally, cost allocation calculations were employed to ensure that fees from Title V permits were used solely for Title V program costs. Finally, Laws 2000, Ch 194 (SB 1480), Sec. 8 provides that its provisions (related to county rulemaking) are effective from and after the date ADEQ "adopts an air quality rule that relates to fees for processing individual permits for federal clean air act title V sources and nontitle V sources", and that ADEQ must notify the Arizona Legislative Council when the rule is adopted.

Title V of the CAAA provides for a permit system implemented by states, and requires that states recover costs incurred to develop and administer the operating permit program, including the following costs:

- Preparing rules and implementing procedures for the permit program, including enforcement provisions.
- Reviewing and acting upon permit applications, including permit revisions, renewals, etc.
- Administering and operating the program (e.g., all activities pertaining to issuing permits, supporting and tracking permitted sources; compliance certifications; and related data entry).
- Implementing and enforcing permit terms, excluding court costs or other costs associated with enforcement actions.
- Performing emissions and ambient monitoring.
- Performing modeling, analyses, and demonstrations.
- Preparing inventories and tracking emissions.
- Developing and administering a Small Business Assistance Program (SBAP), pursuant to CAAA 502(b)(3)(7)(A)(i) through (vi).

(CAAA, § 502(b)(3))

A final objective met by these rules is to assure that the state's Title V permit fee program is EPA-approvable, thus avoiding a federally-administered program in this state.

For purposes of fees, the designations "Title V" and "Non-Title V" generally refer to the origin of the source's permit requirement. For a source that requires a permit pursuant to State law and Title V of the federal CAAA, this fee structure includes an hourly-based permit processing fee. The source must also pay an annual administrative fee plus an annual emissions-based fee. For a source that requires a permit pursuant only to State law (non-title V), the fee structure is based on an hourly-based permit processing fee not to exceed \$25,000 and an annual inspection fee. For a source that is covered under a general permit, the fee structure is based on fixed amounts for obtaining an authorization to operate and an annual administrative or inspection fee. These structures are visualized more clearly in the tables below in the Section-by-Section Analysis.

One reason for adopting this structure is that Title V sources had expressed an interest in moving away from the previous fee structure, under which emissions-based fees provided over three-quarters of the total annual revenue. Such a structure did not provide for budgeting consistency from year to year because emissions are, in part, determined by a source's operational demands, which may vary greatly from year to year. This new structure will allow sources to better anticipate their costs since only a small portion of the annual fees are based on emissions tonnage. The emissions tonnage will be billed at \$11.75/ton, which is revised annually based on the Consumer Price Index. The annual administrative and inspection fees, also adjusted annually, were calculated based on actual hours that will be expended on each source category for activities that cover inspections, monitoring, and other regulatory activities.

SECTION-BY-SECTION ANALYSIS

R18-2-301. Definitions

This Section adds terms used within this rulemaking. The terms "billable permit action" and "permit processing time" are used in this rulemaking to clarify for what types of activities the sources pay a fee. "Itemized bill" refers to the information the Department will include on the invoice.

The "North American Industry Classification System-United States (NAICS)" refers to the series of number codes and attempts to classify all business establishments by the types of products or services they make available. The 6-digit NAICS code replaces the 4-digit Standard Industrial Classification (SIC) code. The longer code accommodates a larger number of sectors and allows more flexibility in designating subsectors. Establishments engaged in the same activity, whatever their size or type of ownership, are assigned the same code. Use of these codes and definitions are

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important for standardization, however, since it was not possible to provide a NAICS code for every potential source, the final rule itself does not stipulate any NAICS codes.

R18-2-326. Fees Related to Individual Permits

This Section describes the categories of sources and outlines the fees for each category. Subsection (B) details the hourly rate, and includes a cap for hourly fees. The subsection specifies when in the permitting process an invoice will be sent. The \$66 hourly rate was calculated by taking the total costs for processing the projected number of permit applications and dividing by the number of technical hours required to process those applications. The growth in the hourly rate is the result of anticipated increased expenses for operating the permitting programs, including growth in base salaries and increased expenses for the public notice and comment process.

Subsection (C) details fees for Class I Title V sources. The tables included in the rule list the annual administrative fee, and (C)(2) details emission fees, also charged annually. Emission fees are based on stack and some fugitive emissions. The rule establishes a method for determining which fugitives count for emission fees which was based on stakeholder input: no PM₁₀ (particulate matter less than or equal to 10 micrometers) fugitives count unless they are in the 4 listed categories; all VOC (volatile organic compound) fugitives count unless they are from a solution-extraction unit. To comply with A.R.S. § 49-426(E)(1), the administrative fees are adjusted annually for both Class I and Class II Title V sources. For consistency, and to avoid fee adjustments by rule revisions for Class II Non-Title V sources only, ADEQ has also provided for CPI-based adjustment of the inspection fees for Class II Non-Title V sources.

The following table illustrates what fees a Class I facility will pay under these rules.

CLASS I - TITLE V PERMIT FEES

Permit Action	Type of Fee	Fee	Payment Time
New Facility	Permit Processing	\$66/ hour, no cap	Prior to permit issuance
	Annual Fees	Administrative Fee + \$11.75/ton, max 4000 tons per pollutant, excluding certain fugitive emissions ¹ , no emissions already counted as VOC or PM ₁₀ , CO exempted	After initial start-up, every March 31, starting 2002
Existing Facility	Permit Processing (Renewals)	\$66/ hour, no cap	Prior to permit issuance
	Annual Fees	Administrative Fee + \$11.75/ton, max 4000 tons per pollutant, excluding certain fugitive emissions ¹ , no emissions already counted as VOC or PM ₁₀ , CO exempted	Every March 31, starting 2002
Permit Revisions	Permit Processing	\$66/ hour, no cap	Prior to issuance
Administrative Amendments, Changes under R18-2-317, Permit Transfers	NO FEE		
General Permit	Permit Processing	\$500	Application Fee
	Annual Fee	Administrative fee	Every March 31, starting 2002

¹ See R18-2-326(C)(2)(c)(iv) & (v).

Subsections (D) and (E) detail fees for Class II Title V and Class II Non-Title V permits respectively. The following tables illustrate what fees Class II facilities will be responsible to pay.

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CLASS II TITLE V PERMIT FEES

Permit Action	Type of Fee	Fee	Payment Time
New Facility	Permit Processing	\$66/ hour, no cap	Prior to permit issuance
	Annual Fee	Administrative Fee	After initial start-up, every March 31, starting 2002
Existing Facility	Permit Processing (Renewals)	\$66/ hour, no cap	Prior to permit issuance
	Annual Fee	Administrative Fee	After initial start-up, every March 31, starting 2002
Permit Revisions	Permit Processing	\$66/ hour, no cap	Prior to issuance
Administrative Amendments, Changes under R18-2-317.02, Transfers	NO FEE		
General Permit	Permit Processing	\$500	At the time of application submittal
	Annual Fee	Listed source categories pay \$500, others pay \$3000	March 31, starting 2002

CLASS II NON-TITLE V PERMIT FEES

Permit Action	Type of Fee	Fee	Payment Time
New Facility	Permit Processing	\$66/ hour, maximum \$25,000	Prior to permit issuance
	Annual Fee	Inspection Fee	After initial start-up, every March 31, starting 2002
Existing Facility	Permit Processing (Renewals)	\$66/ hour, maximum \$25,000	Prior to permit issuance
	Annual Fee	Inspection Fee	After initial start-up, every March 31, starting 2002
Permit Revisions	Permit Processing	\$66/ hour, maximum \$25,000	Prior to issuance
Administrative Amendments, Changes under R18-2-317.02, Transfers	NO FEE		
General Permit	Permit Processing	\$500	At the time of application submittal
	Annual Fee	Listed source categories pay as listed in rule, others pay \$2,000	March 31, starting 2002

Subsections (F), (G), and (H) codify the invoicing processes, including due dates for invoicing and payment, an informal review process for disputed charges, and provisions for annual adjustments in the fees as the Consumer Price Index changes. A fee provision for sources temporarily not operating but wanting to maintain their permit is found in subsection (J). An accelerated permit processing provision is included in subsection (I) and detailed below.

ACCELERATED PERMIT FEES

Permit type	Application Fee	Maximum Fee	Fee rate
Class I	\$15,000	No cap	Actual cost
Class II Title V	\$15,000	No cap	Actual cost
Class II Non-Title V	\$15,000	\$25,000	Actual cost

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Provisions in subsection (K) were included for the transition from the former fee structure to the new fee structure. This rule is effective January 1, 2002, even if the rule is actually filed with the Secretary of State before January 1, 2002. See A.R.S. § 41-1032.

R18-2-511. Fees Related to General Permits

The provisions in this Section have reduced the general permit application fee from \$540 to \$500, and established a single annual administrative or inspection fee for all general permits.

7. A reference to any study that the agency relied on in its evaluation of or justification for the final rules and where the public may obtain or review the study, all data underlying each study, any analysis of the study and other supporting material:

“Draft Arizona’s Workload and Resource Needs Analysis for Assessing Permitting Fees,” January 26, 2000

This document is available at:

Arizona Department of Environmental Quality Library
3033 North Central Avenue, Suite 100
Phoenix, Arizona 85012

(602) 207-4335

8. A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of the state:

Not applicable

9. Summary of the economic, small business, and consumer impact:

This economic impact statement (EIS) was developed to estimate the incremental impact of this rule. This impact, comprised of potential costs and benefits, represents the probable “incremental” impact or the estimated costs and benefits above the status quo. Thus, it is not the total accumulation of costs and benefits, but the marginal costs and benefits possible under the new status quo after this rule is implemented.

Previously, about 75% of the revenues that supported the stationary source permitting program were generated from annual Title V emissions fees. Under the new rule, this proportion will be significantly less. Although the increase in the hourly rate charged for permit processing will result in higher costs to applicants, the focus of this EIS is on the revised fee structure and the estimated ADEQ revenues.

The implementation of this rule increases the permit processing fee to a single hourly rate of \$66.00, from \$53.00 and \$40.00 for Title V and Non-Title V permit application review, respectively. In addition, the hourly rate will be adjusted annually for inflation beginning in 2003. Based on estimated workload hours for processing Title V and Non-Title V permits, permit processing revenues for new sources and permit amendments are expected to increase by approximately \$344,000 annually (\$136,000 and \$208,000, respectively for Title V and Non-Title V revenues).

Table 1 shows an estimate of average processing hours for Title V and Non-Title V permits for new source and permit amendment categories. Note that general permits are not included because those processing fees will not be based upon an hourly rate. Total projected fees in this table were calculated at an hourly rate of \$66.00. To make the comparison equitable, the same number of hours were used to estimate the former fee level, except hourly rates of \$53.00 and \$40.00 were used for TV and NTV, respectively.

**Table 1. Fee Changes for Permit Processing of Title V (TV) and Non-Title V (NTV)
Sources: New Permits and Amendments***

Source Category	Total Average Time For Processing Permits (hours)	Projected Cost for New Sources Only (\$)	Total Fee Per Category (\$)
new sources TV	4,969	\$327,954	\$327,954
permit amendments TV	5,526	NA	\$364,716
SUBTOTAL (TV)	10,495	\$327,954	\$692,670
new sources NTV	6,622	\$437,052	\$437,052
permit amendments NTV	1,359	NA	\$89,694
SUBTOTAL (NTV)	7,981	\$437,052	\$526,746
TOTAL (TV + NTV)	18,476	\$765,006	\$1,219,416

*Projected costs based on an hourly rate of \$66.00.

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Another significant change implemented is how annual revenues are generated from Title V sources. As a result of this change, approximately one-half of the anticipated \$1.6 million in annual revenues will be generated from the annual administrative fee and the remainder from the annual emissions fee. Formerly, all of the annual revenue was from the annual emissions fee.

Table 2 lists 54 Title V sources (Class I), distributed among 11 source categories and their corresponding fees. Annual administrative fees, shown in the 3rd column, were calculated by source category. These administrative fees by source category range from a low of \$7,900 for compressor stations to \$39,500 for cement plants and smelters. For a comparison, Table 3 includes these same 54 Title V sources by category only using the former annual fees.

Table 2. Annual Fees For Class I Title V Permitted Sources*

Source Category	Number of ADEQ Sources Per Category	Annual Administrative Fee Per Source ¹ (\$)	Total Annual Administrative Fee Revenue Per Category (\$)	Annual Emissions Per Category ² (tons)	Total Annual Emissions Fee Revenue Per Category ³ (\$)	Total Annual Revenue Per Category (\$)
cement plants	2	\$39,500	\$79,000	6,920	\$81,310	\$160,310
compressor stations	16	\$7,900	\$126,400	6,025	\$70,794	\$197,194
lime plants	2	\$37,000	\$74,000	2,848	\$33,464	\$107,464
mines	7	\$9,300	\$65,100	1,880	\$22,090	\$87,190
others	6†	\$9,900	\$59,400	484	\$5,687	\$65,087
others with CEM	1	\$12,700	\$12,700	207	\$2,432	\$15,132
others-landfill	5†	\$9,900	\$49,500	400	\$4,700	\$54,200
paper mills	3	\$12,700	\$38,100	6,187	\$72,697	\$110,797
smelters	3	\$39,500	\$118,500	12,800	\$150,400	\$268,900
utilities - natural gas	5	\$10,200	\$51,000	498	\$5,852	\$56,852
utilities - other	4	\$20,200	\$80,800	30,880	\$362,840	\$443,640
TOTAL	54		\$754,500	69,129	\$812,266	\$1,566,766

*This table does not reflect permit processing costs.

†Estimates only.

¹Administrative fees were generated using the Excel Solver Tool that ratioed permit administration hours based on the WLA.

²Emissions tonnages were derived from calendar year 1998 emissions inventory with a source cap of 4,000 tons per pollutant. The table excludes certain fugitives emissions which some source will pay, though any fee increase is small.

³Total emissions fees were calculated by multiplying emissions tonnage in column 5 by \$11.75 per ton.

Table 3. Former Annual Fees For Class I Title V Sources*

Source Category	Number of ADEQ Sources Per Category	Total Emissions Per Category ¹ (annual tons)	Total Emissions Fee per Category ² (\$)
cement plants	2	6,882	\$261,929
compressor stations	16	6,026	\$229,350
lime plants	2	2,720	\$103,523
mines	7	2,860	\$108,852
others ³	11	927	\$35,282
others with CEM	1	207	\$7,878
paper mills	3	7,877	\$299,799
smelters	3	15,902	\$605,230
utilities--natural gas	5	517	\$19,677
utilities--coal	4	29,688	\$1,129,925
TOTAL	54	73,606	\$2,801,445

* Excludes Administrative Fees for Permits.

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¹ Pollutant tonnages represent emissions billed for calendar year 1998 with a source cap of 4,000 tons per pollutant. The amounts represent the total per source category.

² Total emissions fees were calculated by multiplying total emissions tons by the former rate of \$38.06 per ton.

³ This category includes landfills that are identified separately in Table 2 under "others-landfill".

Comparing the estimated annual revenues shown in Tables 2 and 3, discloses that these same 54 sources will generate approximately \$1.2 million less in annual total revenue under this new rule. This reduction better reflects the actual costs attributable to Class I Title V sources, as shown in Table 7, which is appended to the end of this section of the Notice of Final Rulemaking. Table 8, also at the end of this section, shows the overall shift from Class I to Class II sources.

Tables 7 and 8 provide rationale for the extent of the shift in fees from Class I to Class II sources. Table 7 is a compilation of the time needed to administer permits by source type, based on the Workload Analysis. The total estimated annual hours for each of the 3 permit categories are used in the middle row of Table 8, where they show the approximate proportional annual cost to ADEQ for these three permit categories. It is readily evident that the approximately \$350,000 each collected from the 2 Class II categories was not proportional to the estimated permit administration costs. Table 8 shows that this disproportion has been largely corrected under the new fee system.

Fees for Class II Title V and Class II Non-Title V will increase under this new rule to better reflect the share of costs directly related to Class II permits. Tables 4 and 5 show that annual revenues from these sources are expected to more than double under the new rule. Thus, ADEQ expects annual revenues from Class II sources to increase from just over \$700,000 to approximately \$2 million.

Table 4. Annual Fees For Permitted Class II Title V (TV) and Class II Non-Title V (NTV) Sources

Source Category	Number of Sources Per Category	Administrative Fee Per Source (\$)	Total Fee Per Category (\$)
stationary Title V	22	\$5,000	\$110,000
portable Title V	69	\$5,000	\$345,000
general permit Title V	82	\$3,000	\$246,000
general permit small source Title V (dry cleaners)	27	\$500	\$13,500
SUBTOTAL	200		\$714,500
stationary Non-Title V	271	\$3,250	\$880,750
portable Non-Title V	66	\$3,250	\$214,500
general permit Non-Title V	129	\$2,000	\$258,000
general permit Non-Title V (crematoriums)	20	\$1,000	\$20,000
general permit Non-Title V (gas stations) ¹	35	\$500	\$17,500
SUBTOTAL	521		\$1,390,750
TOTAL	721		\$2,105,250

¹ General permits in development stage

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**Table 5. Former Fees for Class II Title V (TV) and
Class II Non-Title V (NTV)***

Source Category	Number of Sources Per Category	Permit Administration Fee (\$)	Permit Administration Fee Per Category (\$)
stationary TV	22	\$2,500	\$55,000
portable TV	69	\$2,500	\$172,500
general permit TV	82	\$1,500	\$123,000
small source Title V	27	\$260	\$7,020
SUBTOTAL (TV)	200		\$357,520
stationary NTV	271	\$955	\$258,805
portable NTV	66	\$955	\$63,030
general permit NTV	84	\$390	\$32,760
SUBTOTAL (NTV)	421		\$354,595
TOTAL (TV + NTV)	621		\$712,115

*For simplicity, this table does not show testing or inspection fees or complex sources.

The change in the fee structure will also allow those counties administering their own permit programs to more fully recover their program costs. Currently, not all permit costs can be recovered by Maricopa, Pima, and Pinal Counties because of ADEQ's fee schedule and the requirement under A.R.S. § 49-112(B) that the county fee be approximately equal to the state fee for a similar permit or approval. ADEQ anticipates that this rule will allow the 3 counties to collect increased revenues for activities related to their permit programs. Maricopa County has estimated that the new ADEQ fee structure could allow them to change their fee rule to increase revenue from \$900,000 to \$3 million for Title V sources, and from \$1.7 million to \$3.4 million for non-Title V sources. These numbers are preliminary estimates, since counties must do their own rulemakings. Similar estimates have not been provided to ADEQ by Pima and Pinal counties.

Table 6 is included to show the variety of sources permitted by ADEQ, Maricopa County, Pima County, and Pinal County.

**Table 6. Comparison of Number of Sources Permitted by ADEQ, Maricopa, Pima, and Pinal Counties
Includes Class I, Class II Title V, and Class II Non-Title V**

<u>Class I Title V Sources (available SIC/NAICS Code)</u>	<u>ADEQ</u>	<u>Maricopa</u>	<u>Pima</u>	<u>Pinal</u>
aerospace (326299, 336411, 336412, 334511)	-	7	-	-
cement plants (32731)	2	-	-	-
boilers	-	4	-	-
compressor stations (48621)	16	1	2	2
electronics(334412, 334413, 334418, 33511)	-	7	-	-
expandable foam (326140)	-	4	-	-
foundries (3315)	-	4	-	-
landfills (562212)	7	-	-	-
lime plants (32741)	2	-	-	-
mines	7	-	1	1
mobile home mfg. (321991)	-	5	-	-
others	11	10	17	5
others with continuous emission monitoring	1	-	-	-
paper (32212)	3	-	-	-
paper coaters (322232, 333415)	-	2	-	-
petroleum prod. terminal facilities (42271)	-	6	-	-
polymeric fabric coaters (334419)	-	3	-	-
reinforced plastics (325991, 325191, 326199, 327991, 336612)	-	11	-	-

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semiconductor fabrication (334413)	-	7	-	-
smelters (331411)	3	-	-	-
natural gas utilities (221112)	5	13	2	2
coal utilities (221112)	4	-	1	-
vitamin/pharmaceutical mfg. (32541, 32562)	-	3	-	-
wood furniture (337110, 337112, 337125, 337129)	-	15	-	-
TOTAL	54	109	23	10

Class II Title V Sources	<u>ADEQ</u>	<u>Maricopa</u>	<u>Pima</u>	<u>Pinal</u>
stationary	22	56	10	11
portables	69	2		-
general permits	82	-	3	-
small sources	27	246	40	1
TOTAL	200	304	53	12

Class II Non Title V	<u>ADEQ</u>	<u>Maricopa</u>	<u>Pima</u>	<u>Pinal</u>
stationary	271	1077	153	106
portables	66	-	-	-
general permits	209	2043	7	1
sources less than ADEQ threshold	-	-	-	140
TOTAL	546	3120	160	247

Cost/Benefit Discussion

ADEQ believes that the benefits of restructuring a significant portion of the cost of the air quality permit program from larger to smaller sources outweighs the cost of the rulemaking to ADEQ, political subdivisions, and permitted sources. Based on input at numerous stakeholder meetings, ADEQ and stakeholders place a high value on a fee system that is more streamlined and equitable, meets statutory requirements, and maintains sufficient revenues from Class I sources to receive approval from EPA as a Title V program revision.

Small Business Impact

Due to the new fee structure and the assessment of fees under this new rule, costs will shift from Class I to Class II sources to more accurately reflect the costs of administering Class II permits. In general, Class II sources are smaller than Class I sources. "Small business" is defined in A.R.S. § 41-1001 as "a concern, including its affiliates, which is independently owned and operated, which is not dominant in its field and which employs fewer than one hundred full-time employees or which had gross annual receipts of less than four million dollars in its last fiscal year. For purposes of a specific rule, an agency may define small business to include more persons if it finds that such a definition is necessary to adapt the rule to the needs and problems of small businesses and organizations." Although ADEQ requested data about impacts to small businesses, no comments were received from sources who classified themselves as small businesses under this definition. Based on this and the statutory requirements for determining fees, ADEQ has not made any adjustments to the rule for small businesses.

A.R.S. § 41-1035 requires agencies to reduce the impact of a rule on small businesses by using certain methods when they are legal and feasible in meeting the statutory objectives for the rulemaking. ADEQ considered each of the methods prescribed in A.R.S. §§ 41-1035 and 41-1055(B)(5)(c) for reducing the impact on small businesses. The methods to be considered are:

- (1) Establish less stringent compliance or reporting requirements in the rule for small businesses.
- (2) Establish less stringent schedules or deadlines in the rule for compliance or reporting requirements for small businesses.
- (3) Consolidate or simplify the rule's compliance or reporting requirements for small businesses.
- (4) Establish performance standards for small businesses to replace design or operational standards in the rule.
- (5) Exempt small businesses from any or all requirements of the rule.

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The general statutory objectives that are the basis of this rule are contained in the statutory authority cited in number 2 of this preamble. The specific objectives are to:

- (1) Provide for the prevention and abatement of all air pollution (A.R.S. 49-104(A)(11)),
- (2) Implement a fee system for permitted sources under A.R.S. § 49-426(E), and
- (3) Ensure EPA approval of the fee system for Title V sources under 40 CFR 70 (see A.R.S. § 49-426(E)(1)).

ADEQ has evaluated each of the five listed methods and has concluded that all of the methods that are legal and feasible have already been implemented. The statutory directive that permit fees be related to costs prohibits ADEQ from permit fees based on the size of the source.

Other EIS Statutory Requirements

Although overall, air quality permit fees in Arizona will shift from Class I to Class II sources, this can be viewed as a more realistic cost of doing business. ADEQ expects that a proportion of this increased compliance burden will be passed-on. In some cases, this could result in increased prices for consumers. In other cases, these increased costs may have to be absorbed by the sources. ADEQ has not received examples of how this might impact certain categories of sources.

Although many sources will experience increased costs under this new rule, ADEQ expects this burden to be relatively minor on these sources. As such, ADEQ does not anticipate more than a very minor to de minimis effect on revenues or payroll expenditures of these impacted sources. Concomitantly, ADEQ does not anticipate any impact upon private or public employment on any entity impacted by this new rule. Finally, ADEQ does not expect an impact upon state revenues.

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TABLE 7 - TIME TO ADMINISTER A PERMIT BY SOURCE & CATEGORY

ACTIVITIES	Source Types # of Sources	CLASS I										Total for all source types
		Mines	Smelthers	Coal Power Plants	Nat.Gas Power Plants	Cement Plants	Lime Plants	Compressor Stations	Paper*	Other*		
	7	3	4	5	2	2	16	3	12			
	Annual hours per individual source											
Inspections	2.3.1/2.3.2	66	94	94	44	44	94	94	42	64	94	
Documentation Review	2.3.5	25	50	40	25	25	20	30	30			
CEM Audit	2.3.5	0	47	47	47	47	0	47	47			
Emissions Inventory	2.4.1	25	25	25	20	20	20	25	25			
Source Testing/CEM Certification	2.4.2	40	40	40	40	40	40	40	40	40		
Compliance Assistance	2.5.2	0	0	0	0	0	0	0	0	0		
Information & Education - Smoke School	2.5.1	0.5	0.5	0.5	0.5	0.5	0.5	0.5	0.5	0.5		
Data Management	2.6.2	10	10	10	10	10	10	10	10	10		
Compliance Program Coordination	2.3.4	7	7	7	7	7	7	7	7	7		
Other Activities	2.1; 2.2.3-2.2.5; 2.2.7; 2.2.9; 2.4.4; 2.6.1	45	46	46	46	46	46	46	46	46	46	46
Ambient Monitoring**	2.4.3	0	820	213	0	588	780	0	0	0	585	
Total per individual source:		219.5	1139.5	522.0	239.5	892.0	1084.5	185.5	299.5	884.5		
Total per entire source types		1536.5	3418.5	2088.0	1197.5	1784.0	2169.0	2968.0	898.5	10814.0		26674.0

** are for only these sources.
** vary within each category.

ACTIVITIES	Source Types	TIME TO ADMINISTER A PERMIT BY SOURCE TYPE				Total for all Class II - TV	CLASS II - NTV		Total for all Class II - NTV
		CLASS II - TV		Small Sources	Portables -TV		Stationary -NTV	Stationary -NTV	
		Portables-TV	Stationary -TV						
# of Sources :		22	151	27	150	271			
WLA Section		Annual hours per source			Annual hours per source				
Inspections	2.3.1/ 2.3.2	5	6	5	5	5			
Documentation Review	2.3.5	11	13	3	11	13			
CEM Audit	2.3.5	0	0	0	0	0			
Emissions Inventory	2.4.1	3	3	0	3	3			
Source Testing/ CEM Certification	2.4.2	7	7	0	0	6			
Compliance Assistance	2.5.2	6	6	6	5	5			
Information & Education - Smoke School	2.5.1	0.25	0.25	0.00	0.25	0.25			
Data Management	2.6.2	9	7	5	9	7			
Compliance Program Coordination	2.3.4	4	4	2	3	3			
Other Activities	2.1; 2.2.3-2.2.5, 2.2.7, 2.2.9; 2.4.4; 2.6.1	46	46	46	32	32			
Ambient Monitoring	2.4.3	0	0	0	0	0			
Total per individual source:		91.25	92.25	67.00	68.25	74.25			
Total per entire source type:		2007.50	13929.75	1809.00	10237.50	20121.75	30359.25		

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**Table 8
COSTS TO REGULATE VS. REVENUE PRODUCED
COMPARISON OF NON-HOURLY (ANNUAL) FEES vs. COSTS
BY SOURCE CATEGORY, BEFORE AND AFTER PERMIT FEE RULE**

	Class I Title V receipts	Class II Title V receipts	Class II Non-Title V receipts	Total
FORMER REVENUE Former fee system (from Tables 3 and 5)	54 Class I Title V sources (based on 1998 emissions) \$2.8 million (80%)	200 Class II Title V sources: \$357,720 (10%)	421 Class II Non-Title V sources: \$354,595 (10%)	\$3.51 million
COSTS Estimated 2001 permit administration hours (from Table 7)	26,674 hours (35.7%)	17,746 hours (23.7%)	30,359 hours (40.6%)	74, 779 hours
NEW REVENUE New fee system	54 sources \$1,566,766 (43%)	200 sources \$714,500 (19%)	521 sources \$1,390,750 (38%)	\$3.67 million

10. A description of the changes between the proposed rules, including supplemental notices, and final rules (if applicable):

Three kinds of changes were made between the proposed rule and the final rule. First, in response to a comment from a stakeholder, ADEQ changed the definition of “itemized bill”. Second, ADEQ changed the term “fixed fee” since it was inaccurate to label the fee “fixed” when it would be adjusted annually. The new term for Title V sources is “administrative fee”, while the new term for Non-Title V sources is “inspection fee”. All the rest of the changes were the result of ADEQ working with GRC staff to make the rule clear, concise, and understandable. All of the changes from the proposed rule are shown below:

ARTICLE 3. PERMITS AND PERMIT REVISIONS

R18-2-301. Definitions

The following definitions, and the definitions contained in Article 1 of this Chapter and A.R.S. § 49-401.01 shall apply to this Article unless the context otherwise requires:

1. No change
2. “Billable permit action” means the issuance or denial of a new permit, significant permit revision, or minor permit revision, or the renewal of an existing permit.
3. No change
4. “CEM” means a continuous emission monitoring system as defined in R18-2-101.
5. No change
6. No change
7. No change
8. No change
9. No change
10. “Itemized bill” means a breakdown of the permit processing time ~~that includes the tasks performed, the hours to perform those tasks~~ into the categories of pre-application activities, completeness review, substantive review, and public involvement activities, and the name of the employees who performed the tasks and within each category, a further breakdown by employee name.
11. No change
12. “NAICS” means the 5 or 6-digit North American Industry Classification System-United States, 1997, number for industries ~~assigned~~ used by the ~~National Census Bureau~~ of the U.S. Department of Commerce.
13. “Permit processing time” means all time spent by Air Quality Division staff or consultants on tasks specifically related to the processing of an application for the issuance, ~~denial,~~ or renewal of a particular permit or permit revision, including time spent processing an application that is denied.
14. No change
15. No change
16. No change
17. No change
18. “Small source” means a source with ~~the~~ a potential to emit, without controls, less than the rate defined as significant in R18-2-101, but ~~is~~ required to obtain a permit solely because it is subject to a standard under 40 CFR 63.
19. “Startup” means the setting in operation of a source for any purpose.

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20. "Synthetic minor" means a source with a permit ~~containing~~ that contains voluntarily accepted emissions limitations, controls, or other requirements (e.g. for example, a cap on production rates, ~~maximum~~ or hours of operation, or limits on the type of fuel) under R18-2-306.01 ~~in order~~ to reduce the potential to emit to a level below the major source threshold.

R18-2-326. Fees Related to Individual Permits

A. Source Categories. The owner or operator of a ~~A~~ source required to have an air quality permit from the Director shall pay the fees described in this Section unless authorized to operate under a general permit issued under Article 5. The fees ~~shall be~~ are based on ~~the~~ a source being classified in one of the following ~~3~~ three categories:

1. Class I Title V sources are those required or that elect to have a permit under R18-2-302(B)(1).
2. Class II Title V sources are those required to have a permit under R18-2-302(B)(2) and for which either R18-2-302(B)(2)(a)(i) or (ii) applies.
3. Class II Non-Title V sources are those required to have a permit under R18-2-302(B)(2) ~~but~~ and for which neither R18-2-302(B)(2)(a)(i) ~~or~~ nor (ii) ~~does not apply~~ applies.

B. Fees for Permit Actions. The owner or operator of a Class I Title V ~~sources~~ source, Class II Title V ~~sources~~ source, and ~~or~~ Class II Non-Title V ~~sources~~ source shall pay to the Director \$66 per hour, adjusted annually under subsection (H), for all permit processing time required for a billable permit action. Upon completion of permit processing activities, ~~but before~~ other than issuance or denial of the permit ~~action or permit revision~~, the Director shall send notice of the decision to the applicant along with a final itemized bill. The maximum fee for any billable permit action for a non-Title V source is \$25,000. Except as provided in subsection (G), the Director shall not issue a permit ~~action or permit revision~~ until the final bill is paid in full.

C. Class I Title V Fees. The owner or operator of a Class I Title V ~~sources~~ source that ~~have~~ has undergone initial startup by January 1 shall annually pay to the Director ~~a fixed~~ an administrative fee plus an emissions-based fee as follows:

1. The applicable ~~fixed~~ administrative fee from the table below, as adjusted annually under subsection (H). The fee is due by March 31, or 60 days after the Director mails the invoice under subsection (F), whichever is later.

Class I Title V Source Category	Fixed Administrative Fee
Aerospace	\$12,900
Cement Plants	\$39,500
Combustion/Boilers	\$9,600
Compressor Stations	\$7,900
Electronics	\$12,700
Expandable Foam	\$9,100
Foundries	\$12,100
Landfills	\$9,900
Lime Plants	\$37,000
Copper & Nickel Mines	\$9,300
Gold Mines	\$9,300
Mobile Home Manufacturing	\$9,200
Paper Mills	\$12,700
Paper Coaters	\$9,600
Petroleum Products Terminal Facilities	\$14,100
Polymeric Fabric Coaters	\$12,700
Reinforced Plastics	\$9,600
Semiconductor Fabrication	\$16,700
Copper Smelters	\$39,500
Utilities - Natural Gas	\$10,200
Utilities - Fossil Fuel Except Natural Gas	\$20,200
Vitamin/Pharmaceutical Manufacturing	\$9,800
Wood Furniture	\$9,600
Others	\$9,900
Others with Continuous Emissions Monitoring	\$12,700

2. An emissions-based fee of \$11.75 per ton of actual emissions of all regulated pollutants emitted during the previous calendar year ending 12 months earlier. The fee is adjusted annually under subsection (d) and due by March 31, or 60 days after the Director mails the invoice under subsection (F), whichever is later.

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- a. For purposes of this Section, “actual emissions” means the quantity of all regulated pollutants emitted during the calendar year, as determined by the annual emissions inventory under R18-2-327.
 - b. For purposes of this Section, regulated pollutants consist of the following:
 - i. Nitrogen oxides and any volatile organic compounds;
 - ii. Conventional air pollutants, except carbon monoxide and ozone;
 - iii. Any pollutant that is subject to any standard promulgated under Section 111 of the Act, including fluorides, sulfuric acid mist, hydrogen sulfide, total reduced sulfur, and reduced sulfur compounds; and
 - iv. Any federally listed hazardous air pollutant.
 - c. For purposes of this Section, the following emissions of regulated pollutants ~~shall be~~ are excluded from a source’s actual emissions:
 - i. Emissions of any regulated pollutant from the source in excess of 4,000 tons per year;
 - ii. Emissions of any regulated pollutant already included in the actual emissions for the source, such as a federally listed hazardous air pollutant that is already accounted for as a VOC or as PM10;
 - iii. Emissions from insignificant activities listed in the permit application for the source under R18-2-304(E)(8);
 - iv. Fugitive emissions of PM10 from activities other than crushing, belt transfers, screening, ~~and or~~ stacking; and
 - v. Fugitive emissions of VOC from solution-extraction units.
 - d. The Director shall adjust the rate for emission-based fees ~~shall be adjusted~~ every January 1, beginning on January 1, 2003, by multiplying \$11.75 by the Consumer Price Index (CPI) for the most recent year, and then dividing by the CPI for the year 2001. The Consumer Price Index for any year is the average of the Consumer Price Index for all-urban consumers published by the United States Department of Labor, as of the close of the 12-month period ending on August 31 of that year.
- D.** Class II Title V Fees. The owner or operator of a Class II Title V source ~~source~~ that have has undergone initial startup by January 1 shall pay the applicable ~~Fixed Fee~~ administrative fee from the table below, adjusted ~~annually~~ under subsection (H), for that calendar year, and annually thereafter. The fee is due by March 31 or 60 days after the Director mails the invoice under subsection (F), whichever is later.

CLASS II Title V Source Category	Fixed Administrative Fee
Synthetic minor sources, except portable sources	Fixed Administrative fee from Class I Title V table for category
Stationary	\$5,000
Portables	\$5,000
Small Source	\$500

- E.** Class II Non-Title V Fees. The owner or operator of a Class II Non-Title V source ~~source~~ that have has undergone initial startup by January 1 shall pay the applicable ~~Fixed Fee~~ inspection fee from the table below, adjusted ~~annually~~ under subsection (H), for that calendar year, and annually thereafter. The fee is due by March 31 or 60 days after the Director mails the invoice under subsection (F), whichever is later.

Class II Non-Title V Source Category	Fixed Inspection Fee
Stationary	\$3,250
Portables	\$3,250
Gasoline Service Stations	\$500

- F.** The Director shall mail the owner or operator of each source an invoice for all fees due under subsections (C), (D), or (E) by January 31.
- G.** Any person who receives a final itemized bill from the Director under this Section for a billable permit action may request an informal review of the hours billed and may pay the bill under protest. If the bill is paid under protest, the Director shall take final action on the permit or permit revision.
- 1. The request shall be made in writing, and received by the Director within 30 days of the source’s receipt date of the final bill. Unless the Director and applicant person agree otherwise, the informal review shall take place within 30 days ~~of after~~ the Director’s receipt of the request. The Director shall arrange the date and location of the informal review with the requestor person at least 10 business days ~~prior to~~ before the informal review. The Director shall review whether the amounts of time billed are correct and reasonable for the tasks involved. ~~Disposition of The~~

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- Director shall mail his or her decision on the informal review ~~shall be mailed~~ to the requestor person within 10 business days after the informal review date.
2. The Director's decision after informal review shall become final unless, within 30 days after ~~source's~~ person's receipt of the informal review decision, the applicant person requests a hearing under R18-1-202.
- H. The Director shall adjust the hourly rate ~~shall be adjusted~~ every January 1, to the nearest ten cents per hour, beginning on January 1, 2003, by multiplying \$66 by the Consumer Price Index (CPI) for the most recent year, and then dividing by the CPI for the year 2001. The Director shall adjust the fixed administrative or inspection fees listed in subsections (C), (D), and (E) ~~shall be adjusted~~ every January 1, to the nearest \$10, beginning on January 1, 2003, by multiplying the fixed administrative or inspection fee by the Consumer Price Index (CPI) for the most recent year, and then dividing by the CPI for the year 2001. The Consumer Price Index for any year is the average of the Consumer Price Index for all-urban consumers published by the United States Department of Labor, as of the close of the 12-month period ending on August 31 of that year.
- I. An applicant for a Class I or Class II permit or permit revision may request that the Director provide accelerated processing of the application by providing the Director written notice 60 days ~~in advance of~~ before filing the application. The request shall be accompanied by an initial fee of \$15,000. The fee ~~shall be~~ is non-refundable to the extent of the Director's costs ~~in for~~ accelerating the processing if the Director undertakes the accelerated processing as described below:
1. ~~When~~ If an applicant ~~has requested~~ requests accelerated permit processing, the Director may, to the extent practicable, undertake to process the permit or permit revision in accordance with the following schedule:
 - a. For applications for initial Class I and II permits under R18-2-302 or significant permit revisions under R18-2-320, the Director shall issue or deny the proposed permit or permit revision within 120 days after the Director determines that the application is complete.
 - b. For minor permit revisions under R18-2-319, the Director shall issue or deny the permit revision within 60 days after receiving a complete application.
 2. At any time after an applicant ~~has requested~~ requests accelerated permit processing, the Director may require additional advance ~~payment~~ payments based on the most recent estimate of additional costs.
 3. Upon completion of permit processing activities but before issuance or denial of the permit ~~action or permit revision~~, the Director shall send notice of the decision to the applicant along with a final bill. The ~~total fee for non-Title V sources shall not exceed~~ maximum fee for any billable permit action for a non-Title V source is \$25,000. The final bill shall include all regular permit processing and other fees due, and, in addition, the difference between the cost of accelerating the permit application, including any costs incurred by the Director in contracting for, hiring, or supervising the work of outside consultants, and all advance payments submitted for accelerated processing. In the event all payments made exceed actual accelerated permit costs, the Director shall refund the excess advance payments shall be refunded. Nothing in this subsection ~~shall affect~~ affects the public participation requirements of R18-2-330, or EPA and affected state review as required under R18-2-307 or R18-2-319.
- J. Inactive Sources. The owner or operator of a Permitted sources permitted source that ~~have~~ has undergone initial startup but ~~were~~ was shut down for the entire preceding calendar year shall pay 50% of the ~~Fixed Fee~~ administrative or inspection fee required under subsection (C), (D), or (E). The owner or operator of a source claiming inactive status under this subsection shall submit a letter to the Director by December 15 of the year prior to the billing year. Termination of a permit does not relieve a source of any past fees due.
- K. Transition.
1. Subsections (A) through (J) of this Section ~~shall be~~ are effective January 1, 2002. The first ~~Fixed Fees shall be~~ administrative or inspection fees are due on March 31, 2002.
 2. Except as provided in subsection (b), all fees incurred after January 1, 2002, ~~shall be~~ are payable in accordance with the rates contained in this Section.
 - a. Emission-based fees for calendar year 2000 shall be billed at \$11.75 per ton and be due March 31, 2002.
 - b. The hourly rates and maximum fees for a new permit or permit revision ~~shall be~~ are those in effect when the application for the permit or revision ~~was~~ is determined to be complete.
 - c. Fees accrued but not yet paid before the effective date of this ~~rule~~ Section ~~shall~~ remain as obligations to be paid to the Department.

ARTICLE 5. GENERAL PERMITS

R18-2-511. Fees Related to General Permits

- A. Permit Processing Fee. The owner or operator of a ~~A~~ source that applies for authority to operate under a general permit shall pay to the Director \$500 with the submittal of the application. This fee applies to the owner or operator of any source ~~that who~~ intends to continue operating under the authority of a general permit that has been proposed for renewal.
- B. ~~Fixed Administrative or Inspection~~ Fee. The owner or operator of a source ~~Sources~~ with authority to operate under a general permit shall pay, for each calendar year, the applicable ~~Fixed Fee~~ administrative or inspection fee from the table below, by March 31 or 60 days after the Director mails the invoice, whichever is later.

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General Permit Source Category	Fixed Administrative Fee
Class I Title V General Permits	Fixed Fee Administrative fee for category from R18-2-326(C)
Class II Title V Small Source	\$500
Other Class II Title V General Permits	\$3,000
	Inspection Fee
Class II Non-Title V Gasoline Service Stations	\$500
Class II Non-Title V Crematories	\$1,000
Other Class II Non-Title V General Permits	\$2,000

11. A summary of the principal comments and the agency responses to them:

ADEQ received 7 comments on the proposed rules. Two comments came from utilities. Both supported the proposed rule, however one of the utility commenters stated that the fees utilities would pay would still be disproportionately high. A 3rd commenter supported the rule but asked that the definition of itemized bill be made more specific. A 4th commenter from the printing industry was concerned that the proposed rule had no category for printers under a general permit. Commenters 5, 6, and 7 thought the \$500 fee for gas stations operating under a general permit in an attainment area should be reduced to \$125. ADEQ responses to these comments are below.

Utility fees. ADEQ disagrees that the fees utilities pay are disproportionate. The administrative fees are derived from the estimated number of hours it costs to administer these types of permits, and are therefore directly proportionate. In addition, Table 2 in the EIS shows that utilities' administrative fees are neither the highest nor the lowest.

Table 2 also shows that utilities pay the largest emission-based fees. These fees are based on tons per year of emissions and Table 2 also shows that utilities had the highest annual emissions of any category.

Itemized bill. The proposed rule's definition of itemized bill was "a breakdown of the permit processing time that includes the tasks performed, the hours to perform those tasks, and the names of the employees who performed the tasks."

ADEQ is developing software that provides the following four categories of tasks in each itemized bill: 1. Pre-application tasks, 2. Completeness tasks, 3. Substantive review tasks, 4. Public involvement tasks. These categories are now specified in the definition of itemized bill. Each of the task categories will continue to be broken down further by the employee(s) who incurred the hours.

Printing Industry General Permit. ADEQ held a number of public workshops on draft fee rules, including November 20 and December 12, 2000, and February 17, 2001. In the November and December workshops, the draft included a category for Printers under a General Permit. By the February 17 workshop, and in a later version ADEQ faxed to stakeholders for comment on March 27, 2001, ADEQ had removed Printers from the General Permit table because ADEQ has no plans to issue a general permit for this category. Upon further investigation, ADEQ found that there are no printers in Arizona under its jurisdiction that would fit into the Class II Non-Title V category, let alone the ten necessary for general permit issuance. (There are 2 printers under ADEQ's jurisdiction, one is a major source, and the other a synthetic minor).

Since one of the goals of the ADEQ fee rule was to establish a baseline for county fees, early workshop drafts contained categories of county sources, with the proposed fee developed using county data regarding average annual hours to administer the permit. ADEQ determined that the state fee rule should not establish a fee based on reasonable cost if there would be no state sources in that category. Based on the latest information, Maricopa County plans to issue a general permit for printers some time in 2002. The county estimates that about 90 printers will be included under this permit. Workshops for the Maricopa County fee rule are being planned for Fall, 2001, and the rule should include categories for various general permits.

Gas Station General Permit. ADEQ issued a gas station general permit for attainment area gas stations with 18 or more refueling stations on May 11, 2001. The facilities that fall under this permit are very large gas stations outside of Maricopa County. There are only about 35 of these types of facilities in the state under the ADEQ general permit. In order to operate under this general permit, facilities must implement Stage I vapor recovery controls. Facilities under the permit with more than 26 refueling positions must implement both Stage I and Stage II vapor recovery. Facilities under this general permit will be periodically inspected. The state general permit serves an extremely important purpose by preventing these gas stations from being considered major sources under the federal Title V program and therefore subject to much higher permitting and compliance costs.

The commenters stated that a \$500 fee per year for coverage under this general permit is unjustifiably high, that the permit serves no emission reduction function, and that the permit may be just a revenue generating mechanism.

ADEQ can easily justify the \$500 annual fee for coverage under this general permit. General permits, like individual permits, have a lifetime of 5 years. The development costs of each general permit, therefore, must be amortized over 5 years. Under A.R.S. § 426(H), for each general permit ADEQ must provide 2 weeks notice in a paper of general cir-

ulation in each county of the state. This alone costs about \$5,000. Table 2.2.4.B in the "Workload Analysis" breaks down a total of 309 hours of technical staff time to develop each general permit. These activities include modeling activities, drafting of the permit, internal and external review, and public participation. At \$66/hour, this is an additional \$20,394, for a total development cost of over \$25,000. Dividing this cost over the 35 sources currently under the gas station general permit means that each source should contribute about \$145 per year for 5 years, toward the development of the general permit.

In addition, ADEQ must factor in the annual costs of carrying each source in the state permitting system, from entering and maintaining information in a database, to inspections, reports, and responses to inquiries. This annual cost is the same whether or not the source is in a high emission area, and is very conservatively set at a minimum of 6 hours per year per source, or, at the labor rate of \$66/hour, \$396 per year. Given these estimated costs, it would be contrary to statute to have the annual fee for this general permit at less than \$500.

12. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:

None

13. Incorporations by reference and their location in the rules:

None

14. Was this rule previously adopted as an emergency rule?

No

15. The full text of the rules follows:

TITLE 18. ENVIRONMENTAL QUALITY

**CHAPTER 2. DEPARTMENT OF ENVIRONMENTAL QUALITY
AIR POLLUTION CONTROL**

ARTICLE 3. PERMITS AND PERMIT REVISIONS

Section

R18-2-301. Definitions

R18-2-326. Fees Related to Individual Permits

ARTICLE 5. GENERAL PERMITS

Section

R18-2-511. Fees Related to General Permits

ARTICLE 3. PERMITS AND PERMIT REVISIONS

R18-2-301. Definitions

The following definitions, and the definitions contained in Article 1 of this Chapter and A.R.S. § 49-401.01 shall apply to this Article unless the context otherwise requires:

1. No change
2. "Billable permit action" means the issuance or denial of a new permit, significant permit revision, or minor permit revision, or the renewal of an existing permit.
- ~~2-3.~~ No change
4. "CEM" means a continuous emission monitoring system as defined in R18-2-101.
- ~~3-5.~~ No change
- ~~4-6.~~ No change
- ~~5-7.~~ No change
- ~~6-8.~~ No change
- ~~7-9.~~ No change
10. "Itemized bill" means a breakdown of the permit processing time into the categories of pre-application activities, completeness review, substantive review, and public involvement activities, and within each category, a further breakdown by employee name.
- ~~8-11.~~ No change
12. "NAICS" means the 5 or 6-digit North American Industry Classification System-United States, 1997, number for industries used by the U.S. Department of Commerce.
13. "Permit processing time" means all time spent by Air Quality Division staff or consultants on tasks specifically related to the processing of an application for the issuance or renewal of a particular permit or permit revision, including time spent processing an application that is denied.
- ~~9-14.~~ No change

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~~10-15.~~No change

~~11-16.~~No change

~~12-17.~~No change

18. "Small source" means a source with a potential to emit, without controls, less than the rate defined as significant in R18-2-101, but required to obtain a permit solely because it is subject to a standard under 40 CFR 63.

19. "Startup" means the setting in operation of a source for any purpose.

20. "Synthetic minor" means a source with a permit that contains voluntarily accepted emissions limitations, controls, or other requirements (for example, a cap on production rates or hours of operation, or limits on the type of fuel) under R18-2-306.01 to reduce the potential to emit to a level below the major source threshold.

R18-2-326. Fees Related to Individual Permits

~~**A.** The fees in this Section related to permits are based on estimated costs for the Department of Environmental Quality air pollution stationary source permitting program under this Article. The fees listed shall not be construed as representative of costs for any other permitting authority.~~

~~**B.** For the purposes of this Section and R18-2-511, the following apply:~~

~~1. The following sources shall be considered to be required to obtain a permit pursuant to Title V of the Act:~~

~~a. Any source required to have a Class I permit.~~

~~b. Any source allowed to operate under a Class II permit pursuant to being listed in R18-2-302(B)(2)(b)(i) or (ii).~~

~~c. Any source that qualifies for a Class II permit pursuant to being listed in R18-2-302(B)(2) but that elects to apply for a Class I permit.~~

~~2. The following sources shall be considered complex:~~

~~a. Agricultural chemical manufacturers and processors.~~

~~b. Commercial ethylene oxide sterilizers.~~

~~c. Foundries.~~

~~d. Glass bead manufacturers.~~

~~e. Lumber mills.~~

~~f. Mining and mineral processing facilities, except facilities engaged solely in the extraction and beneficiation of ores and minerals. For the purposes of this paragraph, "beneficiation" is limited to the activities specified in 40 CFR 261.4(b)(7), as incorporated by reference in R18-2-261(A).~~

~~g. Paper mills.~~

~~h. Refineries.~~

~~i. Plastics extrusion facilities.~~

~~j. Printers with actual emissions of VOC in excess of 25 tons per year.~~

~~k. Textile manufacturers.~~

~~l. Manufacturers of tires and related products.~~

~~3. "Existing source" means a source that has commenced construction and for which one of the following is true:~~

~~a. Held a valid installation or operating permit as of September 1, 1993, or~~

~~b. Has been issued a permit pursuant to A.R.S. § 49-426(A) after September 1, 1993.~~

~~4. "Direct hours spent processing the permit" means the time spent by office of air quality technical staff or consultants on tasks specifically related to the processing, issuance, or denial of a particular permit or permit revision, including pre-application activities and time at a public hearing. Direct hours shall not include time inspecting a facility, travel to or from any facility or permit hearing, or training.~~

~~**C.** The owner or operator of each source required to obtain a permit pursuant to Title V of the Act shall pay an annual emissions fee equal to \$28.15 per year per ton of actual emissions of all regulated pollutants or the minimum specified in subsection (C)(5), whichever is greater. The rate of \$28.15 shall be adjusted for the date of payment pursuant to subsection (C)(4). Except as provided in subsection (D), the annual emissions fee is due on January 1 of each year but may be paid in two equal parts, one half on January 1 and one half on July 1. In calculating the fee, all of the following apply:~~

~~1. For purposes of this subsection, actual emissions means the actual quantity of all regulated pollutants emitted during the most recent calendar year ending at least twelve months before the date the fee is due unless some other period is specified by rule, determined pursuant to R18-2-327, or pursuant to an emissions inventory required prior to the effective date of R18-2-327.~~

~~2. For purposes of this Section, regulated pollutants consist of the following:~~

~~a. Nitrogen oxides or any volatile organic compounds.~~

~~b. Conventional air pollutants, except carbon monoxide.~~

~~c. Any pollutant that is subject to any standard promulgated under Section 111 of the Act, including fluorides, sulfuric acid mist, hydrogen sulfide, total reduced sulfur and reduced sulfur compounds.~~

~~d. Any federally listed hazardous air pollutant that is subject to a standard promulgated by the Administrator under Section 112 of the Act or other requirement established under Section 112 of the Act, including Sections 112(g) and (j) of the Act. Federally listed hazardous air pollutants subject to requirements established under Section 112 of the Act include the following:~~

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- i. Any pollutant subject to requirements under Section 112(j) of the Act. If the Administrator fails to promulgate a standard by the date established pursuant to Section 112(e) of the Act, any pollutant for which a subject source would be considered major under Section 112(a)(1) of the Act shall be considered to be regulated on the date eighteen months after the applicable date established pursuant to Section 112(e) of the Act.
 - ii. Any pollutant for which the requirements of Section 112(g)(2) of the Act have been met, but only with respect to the individual source subject to Section 112(g)(2) requirements.
 3. The following emissions of regulated pollutants shall be excluded from a source's actual emissions for purposes of this subsection:
 - a. Emissions of a regulated pollutant from the source in excess of 4,000 tons per year.
 - b. Emissions of any regulated pollutant that are already included in the fee calculation for the source, such as a federally listed hazardous air pollutant that is already accounted for as a VOC or as PM10.
 - c. Emissions from insignificant activities excluded from the permit for the source pursuant to R18-2-304(E)(7).
 4. Beginning in 1994, the \$28.15 per ton per year fee shall be adjusted each year on January 1 to reflect the increase, if any, by which the Consumer Price Index for the most recent year exceeds the Consumer Price Index for the year 1989. The Consumer Price Index for any year is the average of the Consumer Price Index for all urban consumers published by the United States Department of Labor, as of the close of the 12-month period ending on August 31 of that year.
 5. Notwithstanding previous provisions of this subsection, the following minimum annual permit fees apply:
 - a. New major sources that have not yet been required to report emission quantities pursuant to R18-2-327 for which an annual emissions fee is due; \$5,000.
 - b. All other sources except those listed in subsection (C)(6); \$2,500.
 6. Notwithstanding any other provision of this subsection, sources that have uncontrolled emissions that are less than significant and that are subject to a permit requirement solely because they are subject to a standard under Section 112 of the Act shall pay an annual emissions fee of \$260.
- D.** The following payment schedules apply to annual emission fees:
 1. For sources that have commenced construction before the effective date of this Section, the initial first half payment shall be due on January 1, 1994, or on the 60th day following the effective date of this Section, whichever is later, and shall be based on the emissions inventory for calendar year 1990 or the appropriate minimum fee in subsection (C)(5). The initial second half payment shall be due 120 days after the first.
 2. For sources that commence construction after the effective date of this Section, the initial first half payment for the calendar year they commence construction shall be due on the 60th day following the commencement of construction and shall be based on the appropriate minimum fee in subsection (C)(5). The initial second half payment shall be due 120 days after the first. Half payments for subsequent calendar years shall be due on each January 1 or July 1 and shall be based on the appropriate minimum fee until an annual emissions fee is due based on emissions reported for the most recent calendar year ending at least 12 months before the date the fee is due.
 3. For sources that become subject to a permit requirement pursuant to Title V of the Act through a promulgation of the Administrator after the effective date of this Section, the initial first half payment for that calendar year shall be due on the 60th day after the source becomes subject to the permit requirement and shall be based on the appropriate minimum fee in subsection (C)(5). The initial second half payment shall be due 120 days after the first. Half payments for subsequent calendar years shall be due on each January 1 and July 1 and shall be based on the appropriate minimum fee until an annual emissions fee is due based on emissions reported for the most recent calendar year ending at least 12 months before the date the fee is due.
- E.** The owner or operator of an existing source that is required to obtain a permit pursuant to state law and is not required to obtain a permit pursuant to Title V of the Act shall pay the following fees:
 1. For sources that are complex pursuant to subsection (B)(2):
 - a. An annual permit processing fee of \$1,097 plus an annual inspection fee of \$1,560.
 - b. A performance test fee of \$635 for any year during which such test will be performed.
 2. For sources that are not complex pursuant to subsection (B)(2):
 - a. An annual permit processing fee of \$565 plus an annual inspection fee of \$390.
 - b. A performance test fee of \$488 for any year during which such test will be performed.Any annual fee in this subsection may be paid in two equal parts and is due at the times listed in subsection (F). Performance test fees shall be due when the test protocol is submitted.
- F.** The following payment schedules apply to the annual fees specified in subsection (E):
 1. For sources that are existing on the effective date of this Section, the initial first half payment shall be due on January 1, 1994, or on the 60th day following the effective date of this Section, whichever is later. The initial second half payment shall be due 120 days after the first. Half payments for subsequent calendar years shall be due on each January 1 or July 1.

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2. For sources that are not existing on the effective date of this Section, the initial first half payment shall be due on the 60th day after they become existing. The initial second half payment shall be due 120 days after the first. Half payments for subsequent calendar years shall be due on each January 1 or July 1.
- G.** Before the issuance of a permit to construct and operate a source that is required to obtain a permit pursuant to Title V of the Act, the applicant for the permit shall pay to the Director a fee billed by the Director representing the total actual cost of reviewing and acting upon the application. The minimum fee chargeable pursuant to this subsection shall be \$2,500, and the maximum fee shall be \$30,000. The sum of \$13,000 shall be due with the application in the case of a Class I permit. The sum of \$2,000 shall be due with the application in the case of any source allowed to operate under a Class II permit pursuant to being listed in R18-2-302(B)(2)(b)(i) or (ii).
- H.** Before the issuance of a permit to construct and operate a source that is subject to a permit requirement pursuant only to state law, the applicant for the permit shall pay to the Director a permit processing fee of \$6520 for a complex source and \$3040 for a source that is not complex. The source may elect to pay one fifth of the amount before issuance and one fifth of the amount during each of the next four years before the anniversary date of the permit. Subsequent to the issuance of the permit, the source shall be subject to the applicable inspection and performance test fees pursuant to subsection (E).
- I.** Each source required to obtain a permit pursuant to Title V of the Act applying for a permit revision pursuant to R18-2-319 or R18-2-320 or the transfer of a permit pursuant to R18-2-323 shall remit to the Director, at the time the application or notice is submitted, an application fee as follows:
1. \$10,000 for a significant permit revision that is a result of a major modification.
 2. \$1,500 for any other significant permit revision.
 3. \$500 for a minor permit revision.
 4. \$424 for a permit transfer.
- Before the issuance of a permit revision pursuant to R18-2-319 or R18-2-320 under this subsection, the applicant for the permit revision shall pay to the Director a fee billed by the Director representing the total actual cost of reviewing and acting upon the application minus any application fee remitted. The maximum fee chargeable pursuant to this subsection shall be \$25,000 for any significant permit revision and \$10,000 for any minor permit revision. The fee for each permit transfer under this subsection shall be \$424.
- J.** Each source required to obtain a permit pursuant to state law and not required to obtain one pursuant to Title V of the Act applying for a permit revision pursuant to R18-2-319 or R18-2-320 or the transfer of a permit pursuant to R18-2-323 shall remit to the Director, at the time the application or notice is submitted, an application fee as follows:
1. \$2,400 for a significant permit revision for a complex source.
 2. \$700 for any other significant permit revision.
 3. \$450 for a minor permit revision.
 4. \$318 for a permit transfer.
- Before the issuance of a permit revision pursuant to R18-2-319 or R18-2-320 under this subsection, the applicant for the permit revision shall pay to the Director a fee billed by the Director representing the total actual cost of reviewing and acting upon the application minus any application fee remitted. The maximum fee chargeable pursuant to this subsection shall be \$25,000 for any significant permit revision and \$10,000 for any minor permit revision. The fee for each permit transfer under this subsection shall be \$318.
- K.** Any person who receives a final bill from the Director for the processing of a permit under this Section may request an informal review of the hours billed and may pay the bill under protest. If the bill is paid under protest, the Director shall issue the permit if it would be otherwise issuable after normal payment. The request shall specify the areas of dispute and be made in writing to the Director within 30 days of the date of receipt of the final bill. Unless the Director and applicant agree otherwise, the informal review shall take place within 30 days of the Director's receipt of the request. Notice of the time and place of informal review shall be mailed to the requester at least ten working days prior to the informal review. The Director shall review whether the amounts of time billed are correct and reasonable for the tasks involved. Disposition of the informal review shall be mailed to the requester within ten working days after the informal review.
- L.** The Director's decision after the informal review shall become final unless within thirty days after receipt of the decision the applicant requests in writing a hearing pursuant to R18-1-202.
- M.** For the purposes of subsections (G) and (I), the hourly rate applied by the Director for all direct hours spent processing the permit shall be \$53.00 per hour. For the purposes of subsection (J), the hourly rate applied by the Director for all direct hours spent processing the permit shall be \$40.00 per hour.
- N.** An applicant for a Class I or Class II permit or any revisions to such permits may request that the Director provide accelerated processing of the application by providing the Director written notice 60 days in advance of filing the application. Any such request shall be accompanied by the standard application fees as described in this Section plus an additional payment of 50% of those fees. The fees shall be non-refundable to the extent of the Director's costs in accelerating the processing if the Director undertakes the accelerated processing as described below:
1. When an applicant has requested accelerated permit processing, the Director may, to the extent practicable, undertake to process the permit or permit revision in accordance with the following schedule:

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- a. ~~For applications for initial Class I and II permits governed by R18-2-302 or significant permit revisions governed by R18-2-320, the proposed permit or permit revision shall be issued within 120 days after the Director determines that the application is complete.~~
 - b. ~~For minor permit revisions governed by R18-2-319, the permit revision shall be issued within 60 days after receiving an application.~~
 - 2. ~~At any time after an applicant has requested accelerated permit processing, the Director may request an additional advance payment fee based on the most recent estimated cost of accelerating the processing of the application.~~
 - 3. ~~Before issuing a permit or permit revision pursuant to this subsection, the applicant shall pay to the Director all regular permit processing and other fees due, and, in addition, the difference between the actual cost of accelerating the permit application, including any costs incurred by the Director in contracting for, hiring or supervising the work of outside consultants, and all advance payment fees submitted. In the event all payments made exceed actual accelerated permit costs, excess advance payments shall be refunded. Nothing in this Section shall affect the public participation requirements of R18-2-330, or EPA and affected state review as required under R18-2-307 or R18-2-319.~~
 - 4. ~~Any additional charges incurred as a result of the accelerated permit processing shall not be applied toward the maximum fees established in subsections (G) and (I) for a source that is required to obtain a permit pursuant to Title V of the Act.~~
- A.** Source Categories. The owner or operator of a source required to have an air quality permit from the Director shall pay the fees described in this Section unless authorized to operate under a general permit issued under Article 5. The fees are based on a source being classified in one of the following three categories:
- 1. Class I Title V sources are those required or that elect to have a permit under R18-2-302(B)(1).
 - 2. Class II Title V sources are those required to have a permit under R18-2-302(B)(2) and for which either R18-2-302(B)(2)(a)(i) or (ii) applies.
 - 3. Class II Non-Title V sources are those required to have a permit under R18-2-302(B)(2) and for which neither R18-2-302(B)(2)(a)(i) nor (ii) applies.
- B.** Fees for Permit Actions. The owner or operator of a Class I Title V source, Class II Title V source, or Class II Non-Title V source shall pay to the Director \$66 per hour, adjusted annually under subsection (H), for all permit processing time required for a billable permit action. Upon completion of permit processing activities other than issuance or denial of the permit or permit revision, the Director shall send notice of the decision to the applicant along with a final itemized bill. The maximum fee for any billable permit action for a non-Title V source is \$25,000. Except as provided in subsection (G), the Director shall not issue a permit or permit revision until the final bill is paid in full.
- C.** Class I Title V Fees. The owner or operator of a Class I Title V source that has undergone initial startup by January 1 shall annually pay to the Director an administrative fee plus an emissions-based fee as follows:
- 1. The applicable administrative fee from the table below, as adjusted annually under subsection (H). The fee is due by March 31 or 60 days after the Director mails the invoice under subsection (F), whichever is later.

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<u>Class I Title V Source Category</u>	<u>Administrative Fee</u>
<u>Aerospace</u>	<u>\$12,900</u>
<u>Cement Plants</u>	<u>\$39,500</u>
<u>Combustion/Boilers</u>	<u>\$9,600</u>
<u>Compressor Stations</u>	<u>\$7,900</u>
<u>Electronics</u>	<u>\$12,700</u>
<u>Expandable Foam</u>	<u>\$9,100</u>
<u>Foundries</u>	<u>\$12,100</u>
<u>Landfills</u>	<u>\$9,900</u>
<u>Lime Plants</u>	<u>\$37,000</u>
<u>Copper & Nickel Mines</u>	<u>\$9,300</u>
<u>Gold Mines</u>	<u>\$9,300</u>
<u>Mobile Home Manufacturing</u>	<u>\$9,200</u>
<u>Paper Mills</u>	<u>\$12,700</u>
<u>Paper Coaters</u>	<u>\$9,600</u>
<u>Petroleum Products Terminal Facilities</u>	<u>\$14,100</u>
<u>Polymeric Fabric Coaters</u>	<u>\$12,700</u>
<u>Reinforced Plastics</u>	<u>\$9,600</u>
<u>Semiconductor Fabrication</u>	<u>\$16,700</u>
<u>Copper Smelters</u>	<u>\$39,500</u>
<u>Utilities - Natural Gas</u>	<u>\$10,200</u>
<u>Utilities - Fossil Fuel Except Natural Gas</u>	<u>\$20,200</u>
<u>Vitamin/Pharmaceutical Manufacturing</u>	<u>\$9,800</u>
<u>Wood Furniture</u>	<u>\$9,600</u>
<u>Others</u>	<u>\$9,900</u>
<u>Others with Continuous Emissions Monitoring</u>	<u>\$12,700</u>

2. An emissions-based fee of \$11.75 per ton of actual emissions of all regulated pollutants emitted during the previous calendar year ending 12 months earlier. The fee is adjusted annually under subsection (d) and due by March 31 or 60 days after the Director mails the invoice under subsection (F), whichever is later.
- a. For purposes of this Section, "actual emissions" means the quantity of all regulated pollutants emitted during the calendar year, as determined by the annual emissions inventory under R18-2-327.
 - b. For purposes of this Section, regulated pollutants consist of the following:
 - i. Nitrogen oxides and any volatile organic compounds;
 - ii. Conventional air pollutants, except carbon monoxide and ozone;
 - iii. Any pollutant that is subject to any standard promulgated under Section 111 of the Act, including fluorides, sulfuric acid mist, hydrogen sulfide, total reduced sulfur, and reduced sulfur compounds; and
 - iv. Any federally listed hazardous air pollutant.
 - c. For purposes of this Section, the following emissions of regulated pollutants are excluded from a source's actual emissions:
 - i. Emissions of any regulated pollutant from the source in excess of 4,000 tons per year;
 - ii. Emissions of any regulated pollutant already included in the actual emissions for the source, such as a federally listed hazardous air pollutant that is already accounted for as a VOC or as PM10;
 - iii. Emissions from insignificant activities listed in the permit application for the source under R18-2-304(E)(8);
 - iv. Fugitive emissions of PM10 from activities other than crushing, belt transfers, screening, or stacking; and
 - v. Fugitive emissions of VOC from solution-extraction units.
 - d. The Director shall adjust the rate for emission-based fees every January 1, beginning on January 1, 2003, by multiplying \$11.75 by the Consumer Price Index (CPI) for the most recent year, and then dividing by the CPI for the year 2001. The Consumer Price Index for any year is the average of the Consumer Price Index for all-urban consumers published by the United States Department of Labor, as of the close of the 12-month period ending on August 31 of that year.

D. Class II Title V Fees. The owner or operator of a Class II Title V source that has undergone initial startup by January 1 shall pay the applicable administrative fee from the table below, adjusted under subsection (H), for that calendar year, and

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annually thereafter. The fee is due by March 31 or 60 days after the Director mails the invoice under subsection (F), whichever is later.

<u>CLASS II Title V Source Category</u>	<u>Administrative Fee</u>
<u>Synthetic minor sources, except portable sources</u>	<u>Administrative fee from Class I Title V table for category</u>
<u>Stationary</u>	<u>\$5,000</u>
<u>Portables</u>	<u>\$5,000</u>
<u>Small Source</u>	<u>\$500</u>

- E.** Class II Non-Title V Fees. The owner or operator of a Class II Non-Title V source that has undergone initial startup by January 1 shall pay the applicable inspection fee from the table below, adjusted under subsection (H), for that calendar year, and annually thereafter. The fee is due by March 31 or 60 days after the Director mails the invoice under subsection (F), whichever is later.

<u>Class II Non-Title V Source Category</u>	<u>Inspection Fee</u>
<u>Stationary</u>	<u>\$3,250</u>
<u>Portables</u>	<u>\$3,250</u>
<u>Gasoline Service Stations</u>	<u>\$500</u>

- F.** The Director shall mail the owner or operator of each source an invoice for all fees due under subsections (C), (D), or (E) by January 31.

- G.** Any person who receives a final itemized bill from the Director under this Section for a billable permit action may request an informal review of the hours billed and may pay the bill under protest. If the bill is paid under protest, the Director shall take final action on the permit or permit revision.

1. The request shall be made in writing, and received by the Director within 30 days of the date of the final bill. Unless the Director and person agree otherwise, the informal review shall take place within 30 days after the Director's receipt of the request. The Director shall arrange the date and location of the informal review with the person at least 10 business days before the informal review. The Director shall review whether the amounts of time billed are correct and reasonable for the tasks involved. The Director shall mail his or her decision on the informal review to the person within 10 business days after the informal review date.
2. The Director's decision after informal review shall become final unless, within 30 days after person's receipt of the informal review decision, the person requests a hearing under R18-1-202.

- H.** The Director shall adjust the hourly rate every January 1, to the nearest ten cents per hour, beginning on January 1, 2003, by multiplying \$66 by the Consumer Price Index (CPI) for the most recent year, and then dividing by the CPI for the year 2001. The Director shall adjust the administrative or inspection fees listed in subsections (C), (D), and (E) every January 1, to the nearest \$10, beginning on January 1, 2003, by multiplying the administrative or inspection fee by the Consumer Price Index (CPI) for the most recent year, and then dividing by the CPI for the year 2001. The Consumer Price Index for any year is the average of the Consumer Price Index for all-urban consumers published by the United States Department of Labor, as of the close of the 12-month period ending on August 31 of that year.

- I.** An applicant for a Class I or Class II permit or permit revision may request that the Director provide accelerated processing of the application by providing the Director written notice 60 days before filing the application. The request shall be accompanied by an initial fee of \$15,000. The fee is non-refundable to the extent of the Director's costs for accelerating the processing if the Director undertakes the accelerated processing described below:

1. If an applicant requests accelerated permit processing, the Director may, to the extent practicable, undertake to process the permit or permit revision in accordance with the following schedule:
 - a. For applications for initial Class I and II permits under R18-2-302 or significant permit revisions under R18-2-320, the Director shall issue or deny the proposed permit or permit revision within 120 days after the Director determines that the application is complete.
 - b. For minor permit revisions under R18-2-319, the Director shall issue or deny the permit revision within 60 days after receiving a complete application.
2. At any time after an applicant requests accelerated permit processing, the Director may require additional advance payments based on the most recent estimate of additional costs.
3. Upon completion of permit processing activities but before issuance or denial of the permit or permit revision, the Director shall send notice of the decision to the applicant along with a final bill. The maximum fee for any billable permit action for a non-Title V source is \$25,000. The final bill shall include all regular permit processing and other fees due, and, in addition, the difference between the cost of accelerating the permit application, including any costs

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incurred by the Director in contracting for, hiring, or supervising the work of outside consultants, and all advance payments submitted for accelerated processing. In the event all payments made exceed actual accelerated permit costs, the Director shall refund the excess advance payments. Nothing in this subsection affects the public participation requirements of R18-2-330, or EPA and affected state review as required under R18-2-307 or R18-2-319.

J. Inactive Sources. The owner or operator of a permitted source that has undergone initial startup but was shut down for the entire preceding calendar year shall pay 50% of the administrative or inspection fee required under subsection (C), (D), or (E). The owner or operator of a source claiming inactive status under this subsection shall submit a letter to the Director by December 15 of the year prior to the billing year. Termination of a permit does not relieve a source of any past fees due.

K. Transition.

1. Subsections (A) through (J) of this Section are effective January 1, 2002. The first administrative or inspection fees are due on March 31, 2002.
2. Except as provided in subsection (b), all fees incurred after January 1, 2002, are payable in accordance with the rates contained in this Section.
 - a. Emission-based fees for calendar year 2000 shall be billed at \$11.75 per ton and be due March 31, 2002.
 - b. The hourly rates and maximum fees for a new permit or permit revision are those in effect when the application for the permit or revision is determined to be complete.
 - c. Fees accrued but not yet paid before the effective date of this Section remain as obligations to be paid to the Department.

ARTICLE 5. GENERAL PERMITS

R18-2-511. Fees Related to General Permits

- ~~**A.** Each source that applies for authority to operate under a general permit shall pay a \$540 application processing fee. This fee applies to any source that intends to continue operating under the authority of a general permit that has been proposed for renewal.~~
- ~~**B.** For each calendar year during which a source required to obtain a permit pursuant to Title V of the Act is covered by a general permit, the source shall pay an annual emissions fee as set forth in R18-2-326(C) and (D), except that the annual emissions fee for sources described in R18-2-326(C)(6) shall be \$260 and the minimum annual emissions fee for all other sources with authority to operate under a general permit shall be \$1,500. When a source is granted authority to operate under a general permit, the initial annual emissions fee for the source shall be due 60 days after the authority is granted and shall be based on emissions for the most recent calendar year ending at least 12 months previous to the date the fee is due, or, for sources granted authority to operate in calendar year 1994, for 1990. The source may deduct from the initial payment a portion of an amount paid pursuant to R18-2-326(C) prorated for the amount of time the source was covered by an individual permit in that calendar year. Subsequent payments shall be due on January 1 and July 1 of each year. For the purposes of this subsection, "required to obtain a permit pursuant to Title V of the Act" shall have the same meaning as in R18-2-326(B)(1).~~
- ~~**C.** For each calendar year during which a source required to obtain a permit pursuant only to state law is covered by a general permit, the source shall pay an annual inspection fee and any applicable performance test fee as set forth in R18-2-326(E)(1) or (2), whichever is applicable. The annual inspection fee is payable in two equal parts. The initial first half payment is due 60 days after a source is granted authority under R18-2-503. The initial second half payment shall be due 120 days after the first. Half payments for subsequent calendar years shall be due on each January 1 or July 1. Performance test fees shall be due when the test protocol is submitted.~~
- A.** Permit Processing Fee. The owner or operator of a source that applies for authority to operate under a general permit shall pay to the Director \$500 with the submittal of the application. This fee applies to the owner or operator of any source who intends to continue operating under the authority of a general permit that has been proposed for renewal.
- B.** Administrative or Inspection Fee. The owner or operator of a source with authority to operate under a general permit shall pay, for each calendar year, the applicable administrative or inspection fee from the table below, by March 31 or 60 days after the Director mails the invoice, whichever is later.

<u>General Permit Source Category</u>	<u>Administrative Fee</u>
<u>Class I Title V General Permits</u>	<u>Administrative fee for category from R18-2-326(C)</u>
<u>Class II Title V Small Source</u>	<u>\$500</u>
<u>Other Class II Title V General Permits</u>	<u>\$3,000</u>
	<u>Inspection Fee</u>
<u>Class II Non-Title V Gasoline Service Stations</u>	<u>\$500</u>
<u>Class II Non-Title V Crematories</u>	<u>\$1,000</u>
<u>Other Class II Non-Title V General Permits</u>	<u>\$2,000</u>

NOTICE OF FINAL RULEMAKING

TITLE 18. ENVIRONMENTAL QUALITY

**CHAPTER 13. DEPARTMENT OF ENVIRONMENTAL QUALITY
SOLID WASTE MANAGEMENT**

PREAMBLE

- | | |
|------------------------------------|---------------------------------|
| 1. <u>Sections Affected</u> | <u>Rulemaking Action</u> |
| R18-13-1201 | Amend |
| R18-13-1202 | Amend |
| R18-13-1205 | Amend |
| R18-13-1209 | Repeal |
| R18-13-1210 | Amend |
- 2. The specific authority for the rulemaking, including both the authorizing statutes (general) and the statutes the rules are implementing (specific):**
Authorizing statutes: A.R.S. § 44-1306 and 49-104
Implementing statute: A.R.S. § 44-1304
- 3. The effective date of the rules:**
November 27, 2001
- 4. A list of all previous notices appearing in the Arizona Administrative Register:**
Notice of Rulemaking Docket Opening: 6 A.A.R. 4450, November 24, 2000
Notice of Proposed Rulemaking: 7 A.A.R. 8, January 5, 2001
- 5. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**
- | | |
|-------------|--|
| Name: | Fred Merrill |
| Address: | Arizona Department of Environmental Quality
Waste Programs Division
3033 North Central Avenue
Phoenix, AZ 85012 |
| Telephone: | (602) 207-4129, (800) 234-5677, ext. 4129 (Arizona only) |
| Fax: | (602) 207-2302 |
| TTD Number: | (602) 207-4829 |
|
 | |
| Name: | Barry Abbott, Program Supervisor |
| Address: | Arizona Department of Environmental Quality
3033 N. Central Ave.
Phoenix, AZ 85012 |
| Telephone: | (602) 207-2226 or (800) 234-5677, ext. 2226 (Arizona only) |
| Fax: | (602) 207-2383 |
- 6. An explanation of the rule, including the agency's reasons for initiating the rule:**
This rulemaking amends the Department's rules governing the disposal of waste tires. Under A.R.S. § 44-1304, waste tires must, generally, be recycled or reused. A.R.S. § 44-1304 authorizes the chopping or shredding of waste tires for use as waste tire daily cover at a solid waste landfill. The statute also authorizes disposal of mining industry off-road motor vehicle waste tires by burial at a mining facility. These rules govern the use of waste tires as waste tire daily cover in landfills and the disposal of mining industry off-road motor vehicle waste tires by burial.
- Waste Tire Daily Cover**
R18-13-1209 and R18-13-1210 currently provide for the use of waste tires as daily cover at solid waste landfills. Waste tire daily cover is defined in R18-13-1209 as waste tires that have been removed from a site to abate a public or environmental nuisance, in accordance with A.R.S. Title 49, Chapter 1, Article 3, and that have been chopped or shredded into pieces that do not exceed 4 inches in diameter.

Notices of Final Rulemaking

In 1997, A.R.S. § 44-1304 was amended to allow waste tires from any source to be used as daily cover at solid waste landfills. This rulemaking amends the definition of waste tire daily cover that currently appears at R18-13-1209 to reflect the new statutory provision. Under the rules as amended, "waste tire daily cover" means waste tires that have been chopped or shredded into pieces that do not exceed 4 inches in diameter used for daily cover at a solid waste landfill

To render the rules more readable, the definition of waste tire daily cover has been moved to R18-13-1201 that contains the other definitions that apply to Article 12. This rulemaking repeals R18-13-1209.

R18-13-1210 has been amended to delete an obsolete reference to A.R.S. § 49-762. Since 1996, A.R.S. § 49-762 has contained a general requirement that solid waste facilities obtain approval of a solid waste facility plan according to A.R.S. § 49-762.03 and A.R.S. § 49-762.04. Plan approval is subject to the requirements of A.R.S. § 49-761, A.R.S. § 49-762.03 and, for amended plans, A.R.S. § 49-762.06. The first sentence of R18-13-1210 now states that the use of waste tire daily cover is subject to the terms of the landfill's approved solid waste facility plan.

Mining Industry Off-road Motor Vehicle Waste Tires

This rulemaking deletes R18-13-1202(A). This subsection authorized, for 5 years after its effective date in 1993, the disposal of mining industry off-road motor vehicle waste tires by burial. By its own terms, this authorization expired. Since 1996, however, the disposal of mining industry off-road motor vehicle waste tires by burial has been authorized under A.R.S. § 44-1304(C). Deleting R18-13-1202(A), eliminates an unnecessary provision of the rule.

Technical Amendments

The current rules are being amended to make necessary technical amendments and to update the rule language to reflect current rule drafting standards.

7. Reference to any study that the agency relied on in its evaluation of or justification for the rule and where the public may obtain or review the study, all data underlying each study, any analysis of the study, and other supporting material.

None

8. A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:

Not applicable

9. The summary of the economic, small business and consumer impact:

A. Rule Identification

This rulemaking pertains to waste tires, solid waste management, under Chapter 13. It is codified in 18 A.A.C. 13, Article 12.

B. Explanation of Impacts

Because this rulemaking removes an earlier time restriction (5 years) for the burial of mining industry off-road motor vehicles tires, adopted effective July 6, 1993, and makes several technical amendments, ADEQ does not expect any direct impacts.

This rulemaking neither imposes additional compliance burdens upon any entity, nor increase regulatory requirements on ADEQ. As a result, this rulemaking is not expected to create any incremental impacts on political subdivisions, businesses, consumers, or general public. The only costs ADEQ is expected to incur are minimal rulemaking processing costs. Additionally, this rulemaking is not expected to have an impact on state revenues or private and public employment.

C. Small Business Impacts

Because ADEQ does not anticipate any impacts on small businesses or consumers, no analysis was necessary. Although costs and benefits are accruing under these rule provisions, none of them can be classified as incremental. Hence, the current ratio of benefits to costs are expected to continue under this rulemaking. Likewise, methods to reduce economic costs or to provide less intrusive compliance mechanisms on businesses are not applicable.

10. A description of the changes between the proposed rules, including supplemental notices, and final rules (if applicable):

The first sentence of proposed R18-13-1210 previously read: "Waste tire daily cover may be used at a solid waste landfill according to plan approval requirements..." To make sure it was clear that the use of waste tires for daily cover must comply with the facility plan, this sentence was changed to read: "If waste tires are used as daily cover at a solid waste landfill they shall be used according to the solid waste facility plan required by A.R.S. § 49-762."

11. A summary of the principal comments and the agency response to them:

An oral proceeding on the proposed rules was held on February 8, 2001. The public comment period ended on February 9, 2001. No comments were received. The agency received no comments regarding this rule after it was proposed.

12. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules.

Not applicable

13. Incorporations by reference and their location in the rules.

Not applicable

14. Was this rule previously adopted as an emergency rule?

No

15. The full text of the rules follows:

TITLE 18. ENVIRONMENTAL QUALITY

**CHAPTER 13. DEPARTMENT OF ENVIRONMENTAL QUALITY
SOLID WASTE MANAGEMENT**

ARTICLE 12. WASTE TIRES

Section

- R18-13-1201. Definitions
- R18-13-1202. Burial of Mining Industry Off-road Motor Vehicle Waste Tires
- R18-13-1205. Burial Cell Closure Certification
- R18-13-1209. ~~Definition Repealed~~
- R18-13-1210. Use of Waste Tire Daily Cover

ARTICLE 12. WASTE TIRES

R18-13-1201. Definitions

In addition to the definitions provided in A.R.S. § 44-1301, the following definitions apply in this Article:

1. "Aquifer protection permit" means an ~~aquifer protection permit as provided for in~~ authorization issued by the Department under A.R.S. § 49-241 et seq.
2. "Burial cell" means an area of ~~earthen materials~~ where mining industry off-road motor vehicle waste tires are placed in or on the land for burial. ~~A burial cell may consist of an entire overburden pile, waste rock pile, tailings impoundment, or leach area.~~
3. "Mining" means activities dedicated to the exploration, extraction, beneficiation, and processing, including smelting and refining, of metallic ores.
4. "Mining facility" means any land, building, installation, structure, equipment, device, conveyance, or area, ~~or source~~ dedicated to mining.
5. "~~Mining industry off-road motor vehicle waste tire~~" means an off-road waste tire which is greater than 3 feet in outside diameter ~~which was used in mining.~~
6. "Operator" means ~~a person who an owner, part owner, management agency, or lessee of a mining facility owns all or part of, a person~~ responsible for the overall operation or control of a mining facility, ~~or who leases, operates or controls such facility, a person responsible for the overall operation of the mining facility, a management agency, or an authorized representative of the operator.~~
7. "Person" means a person as defined by has the same meaning as at A.R.S. § 49-201(21) 49-201.
"Waste tire daily Daily cover" means waste tires that are chopped or shredded into pieces that do not exceed 4 inches in diameter used for cover at a solid waste landfill.

R18-13-1202. Burial of Mining Industry Off-road Motor Vehicle Waste Tires

~~A. For a period of not more than 5 years from the effective date of this Article, mining industry off-road motor vehicle waste tires may be disposed of by burial.~~

~~B.A.~~ No later than 24 hours after commencement of burial at a mining facility of any mining industry off-road motor vehicle waste tires tire greater than 3 feet in outside diameter, the operator of the mining facility shall file with the Director a one-time notice of commencement of burial of mining industry off-road motor vehicle waste tires and consisting of a map of the mining facility which that clearly identifies the location locations and dimensions of the each burial cell ~~or cells~~ and the estimated number of ~~mining industry off-road motor vehicle waste tires~~ which that will be buried in each cell. The operator shall identify ~~Each each~~ burial cell ~~shall be identified to the Department~~ using an alphabetical or numeric identifier. If a mining facility uses a new burial cell not ~~previously~~ included in the commencement of burial notice ~~is utilized~~, the mine operator shall ~~submit an additional notice to notify~~ the Department within 24 hours after commencement of burial in that ~~burial~~ cell.

~~C.B.~~ An operator shall not permit burial Burial of mining industry off-road motor vehicle waste tires ~~shall occur only~~ in areas which that are, or will be, included in the an aquifer protection permit issued for the mining facility by the Department. An operator shall not permit burial ~~Burial~~ of mining industry off-road motor vehicle waste tires ~~shall occur~~ in leach areas

~~unless prior to burial the Department issues, only where an aquifer protection permit has been issued by the Department covering that the leach area.~~

~~D.C.~~ An operator ~~A~~ burial cell shall not permit a burial cell to be located within 10 feet of another burial cell.

~~E.D.~~ An operator shall not permit the burial of ~~Mining~~ mining industry off-road motor vehicle waste tires unless the tires are waste generated at ~~that the~~ mining facility or another mining facility of the same owner.

R18-13-1205. Burial Cell Closure Certification

~~An operator shall file with the Director a burial cell closure certification Within within 30 days after placement of placing final cover in accordance with over mining industry off-road motor vehicle waste tires under R18-13-1203(B), the mining facility operator shall file with the Director a burial cell closure certification. The mining facility operator shall certify certificate shall contain a statement by the operator that no more additional tires will be buried in the burial cell. A registered professional, and a statement by an Arizona registered engineer shall certify that the operator has satisfied cover material has been placed in accordance with the cover requirements of R18-13-1205 R18-13-1203 are met.~~

R18-13-1209. Definition Repealed

In addition to the definitions provided in A.R.S. § 44-1301, the following definition applies in this Article:

~~“Waste tire daily cover” means waste tires which have been removed from a site to abate a public or environmental nuisance, in accordance with A.R.S. Title 49, Chapter 1, Article 3, and which have been chopped or shredded into pieces which do not exceed 4 inches in diameter.~~

R18-13-1210. Use of Waste Tire Daily Cover

~~If Waste tire daily cover may be waste tires are used as daily cover at a solid waste landfill in accordance with they shall be used according to the solid waste facility plan required by set forth pursuant to A.R.S. § 49-762. An operator shall not permit Waste tire daily cover waste tires shall to be used as daily cover by at a solid waste landfill as a daily cover for not more than 2 consecutive days at a time.~~