

COUNTY NOTICES PURSUANT TO A.R.S. § 49-112

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NOTICE OF PROPOSED RULEMAKING MARICOPA COUNTY AIR POLLUTION CONTROL REGULATIONS RULE 280 – FEES

[M05-74]

PREAMBLE

- 1. Rule Affected**
Rule 280
- Rulemaking Action**
Amend
- 2. Statutory authority for the rulemaking:**
Authorizing statutes: A.R.S. §§ 49-402, 49-473(B), 49-476.01(A), 49-476.01(C), 49-479, 11-251.08(A)
Implementing Statute: A.R.S. §§ 49-480(D), 49-480(E), 49-480(J), 49-112(A), 49-112(B), 11-251.08(B)
- 3. List of all previous notices appearing in the register addressing the proposed rule:**
Notice of Rulemaking Docket Opening: 10 A.A.R. 5223, December 27, 2004
- 4. Name and address of department personnel with whom persons may communicate regarding the rulemaking:**
Name: Dena Konopka, Maricopa County Air Quality Department
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Phoenix, AZ 85004
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- 5. Explanation of the rule, including the department's reasons for initiating the rule:**

Summary: The Maricopa County Air Quality Department (MCAQD) is proposing to change the fees it charges to owners and operators of sources of air pollution. The fees that would be affected are fees for billable permit actions, annual administrative for Title V and Non-title V sources, emissions-based fees for Title V sources, general permit fees, gasoline delivery vessel fees, permit to burn fees, earth moving permit fees, asbestos notification and plan review filing fees, and other miscellaneous administrative fees. MCAQD is proposing to reclassify some sources to different fee table categories based on the Department's experience in applying the revised classifications adopted in May 2003. MCAQD is also proposing to reclassify to a higher fee category sources that receive three complaints on different dates during a one year period from different individuals resulting in violations resolved by an order of abatement by consent or judicial action.

Background: The need for permit fee rules is based on the County's mandate to comply with state law and the federal Clean Air Act. The County is required to develop and implement a permit program in which fees paid by sources will support program development and implementation costs. The program fee requirement is statutorily mandated by Arizona Revised Statutes (A.R.S.) § 49-480(D)(1) and (D)(2). A.R.S. § 49-480(D)(1) requires the County to establish a fee system for Title V sources that is consistent with and equivalent to that prescribed under § 502 of the Clean Air Act (CAA). A.R.S. § 49-480(D)(2) requires the County to determine a permit fee for non-title V sources based on all reasonable direct and indirect costs required to administer the permit, but not to exceed twenty-five thousand dollars. Furthermore, A.R.S. § 49-480(D)(2) requires the County to establish an annual inspection fee, not to exceed the average cost of services. Arizona law and the CAA, both provide for increasing permit fees based on the consumer price index. The proposed revisions to Rule 280 conform to these mandates.

Another objective met by these rules is to assure that the Maricopa County's Title V permit fee program is EPA-approvable, thus avoiding a federally-administered program in this state. Title V of the 1990 Clean Air Act amendments provides for a permit system implemented by states, and requires that states recover costs (direct and indirect) 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)

A complication to County rulemaking authority relates to a statutory provision that links county permit fees to those that the Arizona Department of Environmental Quality (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 the counties may charge for their permit fees to an amount “approximately equal or less than” the 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.” A small number of sources regulated by Maricopa County fall under A.R.S. 49-112(B).

In 1999, ADEQ, Maricopa, Pima, and Pinal Counties developed updated workload analyses of costs associated with all components of the air quality programs and initiated a stakeholder process to develop a modified structure for revenues that would equitably distribute the cost of the programs to the sources those programs cover. The stakeholder process resulted in a recommended structure that decreased revenues from annual emission-based fees, increase revenues from annual fixed fees (based on the relative burden to administer the permits), and updated the revenue basis for processing permit applications. This recommendation led to the modification of the Arizona and Maricopa County fee rules for air pollution permit processing and annual fees. Maricopa County adopted the resulting fee schedule on May 21, 2003 and the rule became effective on July 1, 2003.

In August 2004, the Maricopa County Board of Supervisors approved a supplemental request for 19 additional full-time equivalent positions to work proactively and directly on compliance and enforcement of the earthmoving fugitive dust program. The supplemental request was to address, in part, U.S. EPA’s July 2, 2002, state implementation plan inadequacy finding (67 FR 44369). The Board of Supervisors directed the Department to complete a user fee analysis and obtain Maricopa County Office of Management and Budget (OMB) concurrence of the proposed fees no later than December 31, 2004. The intent of the user fee analysis is to have new fees reviewed and approved by the Board of Supervisors to be effective no later than July 1, 2005.

In September 2004, the Maricopa County Office of Management and Budget (OMB) retained the services of Deloitte Consulting LLP to complete a fee analysis. Deloitte Consulting LLP worked with OMB and the Departments of Air Quality and Environmental Services to develop a structure to establish fees for fiscal year 2006.

On November 17, 2004, the Maricopa County Board of Supervisors approved the creation of a new department, the Maricopa County Air Quality Department. This action separated air quality functions from the Environmental Services Department and allows the new department to focus exclusively on regional air issues.

Deloitte Consulting developed a fee model to calculate the Department’s direct and indirect costs for each of the fees charged. They assisted by analyzing the Departments’ activity structure and developing rates to recover the total costs of each activity, including overhead. This includes additional expenses necessary to achieve projected fiscal year 2006 outputs and results as well as adjustment factors such as salary and benefit increases, increased staffing, vacancy factors, and increased rental costs and changes in space. The fee model is a Microsoft Excel workbook with an input area for budget (or actual) cost items, demands, and adjustment factors, which calculates the direct costs for each fee. The calculation of direct fees reflects the time study information that the Department has completed. The allocation of indirect costs includes the County-wide allocation by fund plus the Departmental and Divisional overhead as determined jointly by the Department, OMB and Deloitte Consulting.

In January 2005, the fee study was completed and MCAQD and OMB concluded that fee increases are necessary to provide sufficient revenue to cover the costs of the air quality program. The increases are due to lower than expected revenues in fiscal year 2004 and 2005 and anticipated increased costs in fiscal year 2006. Specifically, the increases are due to the following:

- Revenues from permit processing fees were lower than expected due to fewer billable hours being available for cost recovery and some billable hours not being tracked and invoiced.
- Revenue from annual administrative fees and emission fees were lower than expected for Title V due to a switch to new cleaner electrical generating units, permit cancellations, and a shift to less expensive permits.
- The prior workload analysis relied on the receipt of grant funds from the Arizona Air Quality Fund established under A.R.S. § 49-551. The grant funds added to the Air Quality Fund have not been appropriated by the Legislature for the past two years indicating that the grant funds cannot be relied upon to fund programs.

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- An estimated 2.5% reduction in grant funding from the U.S. Environmental Protection Agency as a result of congressional reductions to the federal budget.
- The Department anticipates significant increased costs as a result of actions taken to address to U.S. EPA's July 2, 2002, state implementation plan inadequacy finding (67 FR 44369). Namely, increased staffing to work proactively and directly on compliance and enforcement of the earthmoving fugitive dust and vacant lot programs, and increased inspection frequencies at nonmetallic mineral processing facilities.
- The Department anticipates significant increased costs as a result the November 17, 2004, action by the Maricopa County Board of Supervisors to create a new department, the Maricopa County Air Quality Department.
- Increased costs due to increased inspection frequency for all Title V sources from one inspection every two years to one inspection per year to be consistent with Arizona Department of Environmental Quality.
- Increased salaries based on market studies and increased costs associated with employee related benefits.

For a Title V source, the fee structure includes an hourly-based permit processing fee. The source must also pay an annual administrative fee plus an annual emissions-based fee. The proposed fee structure for new and modified Non-Title V sources includes an hourly-based fee not to exceed a total of \$25,000. The Non-title Title V source must also pay an annual administrative which includes a portion of the permit processing fee for permit renewal. 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 fee. The Non-title V and general permit annual fees include 1/5 of permit processing fee for permit renewal as well as the annual costs for inspection, emission inventory, and regulatory activities. The structure allows the Non-title V source to pay approximately the same fee each year and avoid the second fee due every 5 years at permit renewal.

Section by Section Explanation of Changes:

Rule 280, Section 301 Title V Permit Fees The following table illustrates what fees a Title V source would pay under the proposed rule.

Title V Permit Fees

Permit Action	Type of Fee	Fee	Payment Time
New Facility	Permit Processing	\$108.00/hour, \$40,000.00 cap	Prior to permit issuance
	Annual Fees	Fixed Fee + \$13.24/ton, max 4,000 tons per pollutant, excluding certain fugitive emissions, no emissions already counted as VOC or PM ₁₀ , CO exempted	After initial start-up, every anniversary date for fixed fee and April 30th for emission fees
Existing Facility	Permit Processing (Renewals)	\$108.00/hour, \$40,000.00 cap	Prior to issuance
	Annual Fees	Fixed Fee + \$13.24/ton, max 4,000 tons per pollutant, excluding certain fugitive emissions, no emissions already counted as VOC or PM ₁₀ , Co exempted	Every anniversary date for fixed fee and April 30th for emission fees
Permit Revisions	Permit Processing	\$108.00/hour, \$40,000.00 cap	Prior to issuance
Administrative Amendments, Changes per Rule 210, Subsection 403, Transfers	No Fee		

Rule 280, Section 301 Title V Permit Fees, 301.1 Fees for Billable Permit Actions:

This proposed amendment would raise the permit processing fee base from \$66.00 (the 2005 CPI-adjusted fee is \$70.20) to \$108.00 per hour for all permit processing time required for a billable permit action.

Rule 280, Section 301 Title V Permit Fees, 301.2 Annual Fees:

This proposed amendment would raise annual administrative fees as shown below and raise emissions-based fee from \$11.75 (the 2005 CPI-adjusted fee is \$12.49) to \$13.24 per ton of actual emissions of all regulated pollutants emitted during the previ-

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ous calendar year as determined by Section 305. The proposed amendment would also establish a new annual fee for turbines at primary fuel natural gas utilities installed/modified after May 10, 1996 and subject to annual source testing or continuous emissions monitoring relative accuracy test audit (CEM RATA) certifications. These turbines are subject to new source review and prevention of significant deterioration (NSR/PSD) permit conditions that require annual source testing for each unit and audits of their associated continuous emission monitors. These testing requirements consume significant Department resources. The increase of 30 new and modified turbines requiring testing significantly raised the average testing workload per utility in Maricopa County above the average testing hours for natural gas fired utilities permitted by ADEQ. Further due to the significant range from two to eight in the number of turbines at an individual utility, the Department separated the testing workload from the base per utility fee to more equitably assess fees on a per unit tested basis.

Title V Source Category	Annual Administrative Fee
Aerospace	\$10,700 <u>\$13,580</u>
Cement Plants	\$39,500 <u>\$44,520</u>
Combustion/Boilers	\$9,200 <u>\$10,820</u>
Compressor Stations	\$8,700 <u>\$9,420</u>
Expandable Foam	\$9,200 <u>\$9,960</u>
Landfills	\$9,300 <u>\$11,800</u>
Lime Plants	\$37,000 <u>\$41,700</u>
Copper & Nickel Mines	\$9,300 <u>\$10,480</u>
Gold Mines	\$12,700 <u>\$10,480</u>
Paper Mills	\$12,700 <u>\$14,310</u>
Petroleum Products Terminal Facilities	\$10,800 <u>\$17,480</u>
Polymeric Fabric Coaters	\$9,500 <u>\$11,560</u>
Reinforced Plastics	\$4,900 <u>\$9,040</u>
Semiconductor Fabrication	\$10,800 <u>\$18,830</u>
Copper Smelters	\$39,500 <u>\$44,520</u>
Utilities – Primary Fuel Natural Gas	\$11,200 <u>\$8,450 +</u> <u>\$15,130 per turbine installed/modified after</u> <u>May 10, 1996 and subject to annual source</u> <u>testing or CEM RATA * certification.</u>
Utilities - Fossil Fuel Except Natural Gas	\$20,200 <u>\$22,760</u>
Vitamin/Pharmaceutical Manufacturing	\$6,200 <u>\$11,050</u>
Wood Furniture	\$6,200 <u>\$9,820</u>
Others	\$9,900 <u>\$12,250</u>
Others with Continuous Emissions Monitoring	\$12,700 <u>\$14,320</u>

*Continuous emissions monitoring relative accuracy test audit (CEM RATA)

Section 302 Non-title V Permit Fees Subsections 302 detail fees for Non-title V permits. The following tables illustrate what fees Non-title V sources will be responsible to pay.

Non-title V Permit Fees

Permit Action	Type of Fee	Fee	Payment Time
New Facility	Permit Processing	Tables A, B, C, C, E, F, & G \$108.00/hour, \$25,000 cap. The minimum fee due shall be a \$200.00 application fee.	Application Fee and any balance due prior to permit issuance
	Annual Fees	Fixed Fee	After initial start-up, every anniversary date for fixed fee
Existing Facility	Annual Fees, include permit renewals	Fixed Fee	Every anniversary date for fixed fee
Permit Revisions	Permit Processing	Tables A, B, C, D, F, & G \$108.00/hour, \$25,000 cap. The minimum fee due shall be a \$200.00 application fee.	Application Fee and any balance due prior to issuance
Administrative Amendments, Changes per Rule 210, Subsection 403, Transfers	No Fee		

Section 302 Non-title V Permit Fees, 302.1 Fees for Billable Permit Action

The amendments proposed in this section would make several changes to the rule. First, they would add two new fee table categories, Table F and Table G. Second, the proposed amendments would require that a Non-title V source pay the permit processing fee for a billable permit action [except for the renewal of an existing permit] if the final cost of permit processing are greater than the \$200 application fee. The proposed amendments would require a minimum fee of \$200.00 due with an application. Previously Table C, D, and E sources were only required to pay the application fee from the table in subsection 302.1 (a). The table in subsection 302.1 (a) would be deleted. Any amount due over the application fee would be due prior to issuing the permit. Third, they would raise the permit processing fee base from \$66.00 (the 2005 CPI-adjusted fee is \$70.20) to \$108.00 per hour for all permit processing time required for a billable permit action. Fourth, they would lower the application fee for new permit application and non-minor permit revision application from \$350 to \$200. Finally, they would raise the application fee for minor permit revision application from \$150 to \$200.

Section 302 Non-title V Permit Fees, 302.2 Annual Fees

The proposed amendments would raise Non-title V annual administrative fees as shown below and add two new fee table categories (Table F and Table G) and applicable annual administrative fees:

Non-title V Source Type	Annual Administrative Fee
Source listed in Table A	\$3,100 -\$5,880
Source listed in Table B	\$1,300 -\$1,660
Source listed in Tables C-E	\$360
Source listed in Table C-D	\$520
Source listed in Table E	\$370
Source listed in Table F	\$7,380
Source listed in Table G	\$4,780

Section 303 General Permit Fees Subsections 303 detail fees for general permits. The following tables illustrate what fees general permit sources will be responsible to pay.

General Permit Fees

General Permit	Permit Processing	Fixed Fee	Application Fee
	Annual Fee, includes renewal fee	Fixed Fee	Anniversary date of initial authorization to operate (ATO) approval

Section 303 General Permit Fees, 303.1 Fees Due with an Application

These proposed amendments would raise the application fee for a general permit as shown below and add two new fee table categories and applicable application fees:

Source Category Table	Application Fee
Title V General Permits	Administrative —Fee from <u>Section 301.2.a</u> table for <u>Title V</u> source category
Table A	\$3,000 <u>\$3,580</u>
Table B	\$1,000 <u>\$1,190</u>
Table C - D	\$300 <u>\$380</u>
Table D	\$335
Table E	\$290 <u>\$290</u>
Table F	\$6,200
Table G	\$4,030

Section 303 General Permit Fees, 303.2 Annual Fee

These proposed amendments would raise the administrative and permit renewal fee for general permits as shown below and add two new fee table categories and applicable administrative and permit renewal fees:

Source Category Table	Application Fee
Title V General Permits	Administrative Fee from <u>Section 301.2.a</u> table for <u>Title V</u> source category
Table A	\$3,000 <u>\$3,580</u>
Table B	\$1,000 <u>\$1,190</u>
Table C - D	\$300 <u>\$380</u>
Table D	\$335
Table E	\$290 <u>\$290</u>
Table F	\$6,200
Table G	\$4,030

Section 304 Annual Adjustments of Fees

First, the proposed amendment establishes that fees will be adjusted by the Consumer Price Index (CPI) every January 1, beginning on January 1, 2006. Second, the proposed amendment establishes 2004 as base year that will be used to adjust by the CPI.

Section 308 Gasoline Deliver Vessel Fee

This proposed amendment would raise the gasoline delivery vessel fee from \$115.00 to \$280.00.

Section 309 Permit to Burn Fee

These proposed amendments would raise the permit to burn fee as shown below

Fire Category	Permit Period	Fee
Tumbleweeds	30 days	\$50.00 <u>\$100.00</u>
Fire Hazard	30 days	\$50.00 <u>\$100.00</u>
Fire Fighting Instruction	1 year	\$50.00 <u>\$100.00</u>

Ditch Bank/Fence Row	1 year	\$50.00 <u>\$100.00</u>
Disease/Pest Prevention	30 days	\$62.00 <u>\$100.00</u>
Land Clearance	30 days	
Less than 5.0 acres		\$74.00 <u>\$150.00</u>
5.0 acres or greater		\$144.00 <u>\$350.00</u>
Air Curtain Destructor	30 days	\$249.00 <u>\$350.00</u>

Section 310 Earth Moving Permit Fee

The amendments proposed in this section would make several changes to the rule. First, they replaced references to earth moving permit to dust control permit. Second, they would add a Temporary Special Event Permit fee of \$620. Third, they would raise the dust control permit fees as shown below:

Total Surface Area Disturbed	Fee
Annual Block Permit fee	\$2000.00
0.1 to less than one acre	\$75.00 <u>\$150.00</u>
One acre or greater	\$36.00 per acre plus \$110.00 <u>\$150.00</u>

Section 311 Asbestos Notification and Plan Review Filing Fee

The amendments proposed in this section would raise the asbestos notification and plan review filing fee from \$425.00 to \$1,060.00.

Section 312 Late Fee

First, the amendments proposed in this section would raise the late fee from \$70.00 to \$100.00. Second, the amendments propose to require a \$100.00 late fee for an applicant for a required permit who has received a Notice of Violation for failing to file a timely application to renew such permit. Third, the proposed amendments replace references to earth moving permit with dust control permit. Fourth, the proposed amendments replace conducting earth moving activity with engaging in dust generating operations. Lastly, the amendments replace operating the earth moving equipment with engaging in dust generating operations.

Section 313 Delinquency Fee

The amendments proposed in this section would raise the 30-day delinquency fee from \$35.00 to \$50.00 and raise the 60-day delinquency fee from \$70.00 to \$100.00.

Section 400 Administrative Requirements, 401 Transition to Revised Fees

The effective date for the revised fees, except for the emission fee, shall become effective July 1, 2005. The revised emissions fee shall become effective January 1, 2006, beginning with the emissions reported for calendar year 2005.

Section 403 Table A, Table B, Table C, Table D, Table E, Table F, and Table G Sources

The amendments proposed in this section would make several changes to the rule. First, they establish two new fee categories, Table F and Table G. Table F and Table G sources are defined in Section 403.6 and 403.7 of the rule, respectively. Table F and Table G include sources previously contained in Table A and Table B. The proposed amendment raises the annual fees for sources reclassified from Table A and B to Table F or Table G. The sources specifically affected by the proposed new fee categories are shown below:

Sources Reclassified from Table A to Table F:

- Hot Mix Asphalt Plant;
- Semiconductor Manufacturing \geq 25 Tons per Year Potential Uncontrolled VOC Emissions or Facility With Controls

Sources Reclassified from Table B to Table F:

- Aggregate Production/Crushing subject to an NSPS under CAA Section 112

Sources Reclassified from Table B to Table G:

- Aggregate Production/Crushing not subject to an NSPS under CAA Section 112;
- Concrete Batch Plant

Second, the proposed amendments in Section 403 establish a mechanism to reclassify sources to a higher fee category if the Department receives three complaints on different dates during a one year period from different individuals resulting in viola-

tions resolved by an order of abatement by consent or judicial action. The proposed amendments in Section 403 would require that source reclassified to a higher fee category due to the receipt of multiple complaints would remain in that classification until to calendar years pass without complaints resulting in violations resolved by an order of abatement by consent or judicial action.

Third, the proposed amendments remove Tennis Ball Manufacturing from Table A because the only Tennis Ball Manufacturing facility operating in Maricopa County is a Title V source.

Fourth, the proposed amendments add the following source categories to Table B:

- Boiler, gas fired, with ≥ 10 MMbtu/hr (includes units subject to the NSPS)
- Tire shredding/retreading
- Reinforced Plastics
- Rubber Products Manufacturing with only molding

Fourth, the proposed amendments modified the following fee table source categories:

- In Table B, revised “Internal Combustion Engine, cogeneration” to “Internal Combustion Engine, other than emergency”
- In Table B – revised “Plating Tanks, Electrolytic or Electrowinning” to “Plating Tanks, Electrolytic or Electrowinning (includes decorative chrome and hard chrome operations ≤ 60 million amp/hrs per year subject to MACT)”.
- In Table D, revised “Service Station and larger Non-resale dispensing operations” to “Service Station and Non-resale dispensing operations $> 120,000$ gallons per year”

The proposed amendments also separate the following source categories from one fee table into two separate fee tables as shown:

Current Fee Table Category	Proposed Fee Table Category	Proposed Fee Table Category
Table A	Table A	Table B
Polymeric Foam Products	Polymeric Foam Products ≥ 25 tons per year potential uncontrolled VOC emissions or facility with controls	Polymeric Foam Products without control and < 25 tons per year potential uncontrolled VOC emissions
Table A	Table A	Table F
Semiconductor manufacturing	Semiconductor manufacturing without VOC controls and < 25 Tons per year of potential uncontrolled VOC emissions	Semiconductor Manufacturing ≥ 25 tons per year potential uncontrolled VOC emissions or facility with controls

6. Demonstration of compliance with A.R.S. § 49-112:

Based on information and belief, the Control Officer of the Maricopa County Air Quality Department affirms the following:

A. Maricopa County is in compliance with A.R.S. § 49-112(A) in that Maricopa County Air Quality Department is proposing to adopt revisions to fees that fund programs implementing control measures included or proposed for inclusion in the State Implementation Plan (SIP) for the Maricopa County Nonattainment Area. Maricopa County may adopt rules that are more stringent than the state pursuant to A.R.S. § 49-112 as enacted in 1994, provided that the emission standard is required by law or is necessary and feasible to prevent a significant threat to public health or the environment that results from a peculiar local condition.

Maricopa County fails to meet the National Ambient Air Quality Standards (NAAQS) for ozone and particulates. In January 2005, the EPA administrator signed the final rule approving the Carbon Monoxide (CO) Maintenance Plan and redesignating Maricopa County to attainment for CO. In addition, Maricopa County is the only ozone nonattainment area in Arizona.

Maricopa County is also the only PM₁₀ serious nonattainment area in Arizona, consequently stronger regulations must be adopted in this area to address a serious health threat. In July 2002, the Environmental Protection Agency granted Arizona’s request to extend the Clean Air Act deadline for attainment of the annual and 24-hour PM₁₀ standards from 2001 to 2006. With of this deadline extension, Arizona is required to submit to the Environmental Protection Agency a revised PM₁₀ State Implementation Plan (SIP) for the Salt River SIP, which must include control strategies that meet the Best Available Control Measures (BACM) test and the Most Stringent Measures (MSM) test for significant sources and source categories and that demonstrate attainment of the 24-hour federal standard for coarse particulate matter air pollution by December 31, 2006. In addition, the Environmental Protection Agency requires that Best Available Control Measures (BACM) and the Most Stringent Measures (MSM) be applied to similar sources throughout the Maricopa County serious PM₁₀ nonattainment area. Industrial sources were found to be

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significant contributors to PM-10 violations in the Salt River SIP. The increase in fees for these industrial sources will address emission limitations and enhanced enforcement which reduce concentrations of PM-10 and implement control measures proposed for inclusion in the State Implementation Plan (SIP) for the Maricopa County Nonattainment Area.

The Clean Air Act §§ 161,165, 173, and 502 require state and local governments that have jurisdiction over stationary sources to adopt permitting programs for new source review, prevention of significant deterioration, and Title V operating permits. Maricopa County's rules for these programs are substantially identical to procedures for the review, issuance, revision and administration of permits issued by the state. However, these procedures contain requirements that address nonattainment area status, increment consumption analysis and impacts on nearby nonattainment areas. These requirements result in permit conditions that address the specific atmospheric and geographical conditions found at the source's location. § 502(b)(3)(A) of the Clean Air Act also that all sources required to obtain a permit under Title V pay an annual fee sufficient to recover all reasonable (direct and indirect) costs required to develop and administer the permit program. The section specifically mentions that reasonable costs include emissions and ambient monitoring. Maricopa County Rule 270 refers to the Arizona Testing Manual which has been approved in the federally enforceable State Implementation Plan. Section 1.2 of the manual requires that major sources having multiple emission points must submit facility test schedules assuring annual testing of major emission sources and multi-year rotation of minor emission point verification as required by Permit conditions.

The increase in fees for sources covered by rules or programs that fall into the categories described in the paragraphs above will not exceed the reasonable costs of the county to issue and administer that permit or plan approval program.

B. Maricopa County is in compliance with A.R.S. § 49-112(B) in that Maricopa County Air Quality Department is proposing to adopt rules that are as stringent as a provision of A.R.S. Title 49 or rules adopted by the Director of ADEQ or any Board or Commission authorized to adopt rules pursuant to A.R.S. Title 49. The cost of obtaining permits or other approvals from Maricopa County will approximately equal or be less than the fee or cost of obtaining similar permits or approvals under Title 49 or any rule adopted pursuant to Title 49 for sources not covered by rules that fall under paragraph A.

7. Reference to any study relevant to the rule that the department reviewed and either proposes to rely on or not rely on in its evaluation of or justification for the rule, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:

Deloitte Consulting LLP Fee Analysis, February 15, 2005

Maricopa County's Workload and Resource Needs Analysis for Accessing Permit Fees, February 3, 2003

8. 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. Preliminary summary of the economic, small business, and consumer impact:

This rulemaking proposes to amend Rule 280 Fees. MCAQD is soliciting comments on the economic impacts of this rulemaking. If you provide information or data for MCAQD to evaluate, please explain your viewpoint and the assumptions you used in your evaluation, along with appropriate examples. MCAQD will provide a more detailed evaluation of the small business and consumer impact statement in the final rulemaking. Appropriate examples that include assumptions will be included in the final economic, small business, and consumer impact evaluation.

In 2002, Maricopa County Environmental Services Department promulgated a rulemaking that revised the air quality permit fee structure and anticipated that these changes would provide adequate revenues to operate its air pollution program. A permit-fee rule is statutorily mandated providing for fees paid by sources to support the permit program development and implementation costs [A.R.S § 49-480(D)(1) and (D)(2)]. The new fee structure was effective July 1, 2003. However, because revenues were lower than expected and a number of events occurred that will significantly increase costs in the near term the Department has concluded that fee increases are necessary to provide sufficient revenue to cover the costs of the air quality program and to maintain compliance with federal and state law.

The Workload and Resource Needs Analysis completed by Maricopa County in February 2003, estimated the costs associated with administering the air permit program (permitting, compliance, monitoring, and planning) to meet the 1990 CAA requirements to be approximately \$7.6 million. In fiscal year 2004, Maricopa County's air quality fee revenue was approximately \$5.8 million and U.S. EPA air quality grant was approximately \$1.0 million. Based on additional resource needs identified in the workload analysis, MCAQD estimates fiscal year 2006 air quality department expenditures (excluding Trip Reduction Program and Voluntary Vehicle Repair and Retrofit programs which are grant funded) to be approximately \$11.1 million. MCAQD estimates fiscal year 2006 revenues with proposed amendments to be \$11.1 million. The fiscal year 2006 revenue projections include \$9.4 million in fee revenue from proposed amendments, \$1.1 million in U.S. Environmental Protection Agency grant funding, and \$0.6 million in miscellaneous revenues.

An estimated 43% increase in fees for Title V, Non-title V, and general permit sources, gasoline delivery vessels, permits to burn, dust control permits, and asbestos notification/plan reviews, is expected to directly impact the 9,237 sources permitted by MCAQD.

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A 41% increase in annual administrative and emissions-based fees and fees for gasoline delivery vessels, permits to burn, earth moving permits, asbestos notification/plan reviews and a 54% increase in the permit-processing fees are expected to adequately fund MCAQD's air permit program for the near future. MCAQD expects an increase in revenues from these rule changes that will be sufficient to efficiently and effectively operate its air permit program.

Entities impacted include Title V (e.g., utilities, landfills, wood furniture manufactures, petroleum products terminal facilities, and others); Non-title V (e.g. synthetic minors, stationary sources, and small sources) and general permit sources (e.g. dry cleaning, vehicle refinishing, printing facilities, gas stations, and others); gasoline delivery companies (gasoline delivery vessel fee); municipalities, farmers, and property owners (permit to burn fee); construction companies and home builders (dust control permit fee); asbestos removal contractors (asbestos notification and plan review fee).

Permit Processing Revenue

The amendments propose to increase fees for billable permit actions from \$70.20/hour (the 2005 CPI-adjusted fee) to \$108.00/hour. This proposed increase is approximately ten percent above the state permit processing fee of \$98.80/hour. General permits are not included because general permit processing fees are not proposed to be based upon an hourly rate. Total proposed revenue was calculated at an hourly rate of \$108.00. The number of permit actions were estimated based on fiscal year 2003-04 permit applications received. The data was obtained from the department's Environmental Management System. The department assumed that 90% of the estimated permit processing hours are billable for Title V and Non-title V permits actions. Under the proposed amendments, permit processing revenue of approximately \$1,482,572 would be generated from the proposed fees for billable permit actions (\$1,064,709 and \$417,863, respectively for Title V and Non-title V revenue). This represents an increase of approximately \$518,934 annually (\$372,648 and \$146,286, respectively for Title V and Non-title V revenues). Tables 1-9 compare current and proposed permit processing revenues for Title V and Non-title V permit actions.

Table 1 compares Title V permit processing revenue at the current 2005 CPI-adjusted fee (\$70.20 per hour) with projected revenue at the proposed fee (\$108.00 per hour) assuming 90% of the projected billable permit processing hours for Title V new permits, permit revisions, and permit renewals.

Table 1. Comparison of Title V Current and Proposed Permit Processing Revenues

Billable Permit Action	Number of Title V Permit Actions	90% of Projected Billable Permit Processing Hours	Projected Revenue with 2005 CPI-adjusted Fee (\$70.20)	Projected Revenue with Proposed Fee (\$108.00)	Projected Revenue Increase
Minor Revision	16	896	\$62,864	\$96,714	\$33,850
New Permit	3	997	\$70,003	\$107,698	\$37,694
Non-Minor Revision	19	4,753	\$333,654	\$513,313	\$179,660
Renewal	10	3,213	\$225,540	\$346,985	\$121,445
Total	48	9,858	\$692,061	\$1,064,709	\$372,648

Tables 2 and 3 compares Non-title V Table A and B permit processing revenue at the current 2005 CPI-adjusted fee (\$70.20 per hour) with projected revenue at the proposed fee (\$108.00 per hour) assuming 90% of the projected billable permit processing hours for Non-title V Table A and B new permits, and permit revisions.

Table 2. Comparison of Current and Proposed Permit Processing Revenues for Non-title V Table A Sources

Billable Permit Action	Number of Table A Permit Actions	90% of Projected Billable Permit Processing Hours	Projected Revenue with 2005 CPI-adjusted Fee (\$70.20)	Projected Revenue with Proposed Fee (\$108.00)	Projected Revenue Increase
Minor Revision	33	149	\$10,425	\$16,038	\$5,613
New Permit	6	648	\$45,490	\$69,984	\$24,494
Non-Minor Revision	2	61	\$4,296	\$6,610	\$2,313
Total	41	857.7	\$60,211	\$92,632	\$32,421

Table 3. Comparison of Current and Proposed Permit Processing Revenues for Non-title V Table B Sources

Billable Permit Action	Number of Table B Permit Actions	90% of Estimated Billable Permit Processing Hours	Projected Revenue with 2005 CPI-adjusted Fee (\$70.20)	Projected Revenue with Proposed Fee (\$108.00)	Projected Revenue Increase
Minor Revision	24	108	\$7,582	\$11,664	\$4,082
New Permit	24	1,166	\$81,881	\$125,971	\$44,090
Non-Minor Revision	3	92	\$6,444	\$9,914	\$3,470
Total	51	1,366	\$95,907	\$147,550	\$51,642

The proposed amendments would require that Non-title V source facilities listed in Table C, D, and E pay the permit processing fee for a billable permit action [except for the renewal of an existing permit] if the final cost of permit processing are greater than the \$200 application fee. Previously Table C, D, and E sources were only required to pay the application fee from the table in subsection 302.1 (a) of the rule. Tables 4-6 compare the Non-title V Table C, D, and E permit processing revenue at the current billable permit action fee contained in subsection 302.1 (a) with projected revenue at the proposed fee (\$108.00 per hour) assuming 90% of the projected billable permit processing hours for new permits and permit revisions.

Table 4. Comparison of Current and Proposed Permit Processing Revenues for Non-title V Table C Sources

Billable Permit Action	Number of Permit Actions	90% of Estimated Table C Billable Permit Processing Hours	Current Billable Permit Action Fee Contained in Table 302.1(a)	Projected Revenue from Current Billable Permit Action Fee	Projected Revenue with Proposed Fee (\$108.00)	Projected Revenue Increase
Minor Revision	13	59	\$150	\$1,950	\$6,318	\$4,368
New Permit	112	504	\$350	\$39,200	\$54,432	\$15,232
Non-Minor Revision	1	13	\$350	\$350	\$1,361	\$1,011
Total	126	575.1		\$41,500	\$62,111	\$20,611

Table 5. Comparison of Current and Proposed Permit Processing Revenues for Non-title V Table D Sources

Billable Permit Action	Number of Permit Actions	90% of Estimated Table D Billable Permit Processing Hours	Current Billable Permit Action Fee Contained in Table 302.1(a)	Projected Revenue from Current Billable Permit Action Fee	Projected Revenue with Proposed Fee (\$108.00)	Projected Revenue Increase
Minor Revision	1	5	\$150	\$150	\$486	\$336
New Permit	6	27	\$350	\$2,100	\$2,916	\$816
Non-Minor Revision	1	13	\$350	\$350	\$1,361	\$1,011
Total	8	44.1		\$2,600	\$4,763	\$2,163

Table 6. Comparison of Current and Proposed Permit Processing Revenues for Non-title V Table E Sources

Billable Permit Action	Number of Permit Actions	90% of Estimated Table E Billable Permit Processing Hours	Current Billable Permit Action Fee Contained in Table 302.1.a	Projected Revenue from Current Billable Permit Action Fee	Projected Revenue with Proposed Fee (\$108.00)	Projected Revenue Increase
Minor Revision	1	5	\$150	\$150	\$486	\$336
New Permit	1	5	\$350	\$350	\$486	\$136
Non-Minor Revision	1	13	\$350	\$350	\$1,361	\$1,011
Total	3	21.6		\$850	\$2,333	\$1,483

The proposed amendments establish two new Non-title V fee table categories, Table F and G. Table F and G include sources previously contained in Table A and Table B. Tables 7 and 8 below show comparisons of Non-title V Table F and G permit processing revenue at the current 2005 CPI-adjusted fee (\$70.20 per hour) with projected revenue at the proposed fee (\$108.00 per hour) assuming 90% of the projected billable permit processing hours for new permits and permit revisions.

Table 7. Comparison of Current and Proposed Permit Processing Revenues for Non-title V Table E Sources

Billable Permit Action	Number of Permit Actions	90% of Estimated Table F Billable Permit Processing Hours	Projected Revenue with 2005 CPI-adjusted Fee (\$70.20)	Projected Revenue with Proposed Fee (\$108.00)	Projected Revenue Increase
Minor Revision	8	36	\$2,527	\$3,888	\$1,361
New Permit	5	540	\$37,908	\$58,320	\$20,412
Non-Minor Revision	1	31	\$2,148	\$3,305	\$1,157
Total	14	606.6	\$42,583	\$65,513	\$22,929

Table 8. Comparison of Current and Proposed Permit Processing Revenues for Non-title V Table G Sources

Billable Permit Action	Number of Permit Actions	90% of Estimated Table G Billable Permit Processing Hours	Projected Revenue with 2005 CPI-adjusted Fee (\$70.20)	Projected Revenue with Proposed Fee (\$108.00)	Projected Revenue Increase
Minor Revision	6	27	\$1,895	\$2,916	\$1,021
New Permit	7	340	\$23,882	\$36,742	\$12,860
Non-Minor Revision	1	31	\$2,148	\$3,305	\$1,157
Total	14	397.8	\$27,926	\$42,962	\$15,037

Table 9 summarizes current and proposed permit processing revenue for all Non-title V sources combined.

Table 9. Summary of Non-title V Current and Proposed Permit Processing Revenues

Billable Permit Action	Number of Permit Actions	90% of Estimated Non-title V Billable Permit Processing Hours	Projected Revenue with Current Permit Processing Fee	Projected Revenue with Proposed Permit Processing Fee (\$108.00)	Projected Revenue Increase
Minor Revision	86	387	\$24,679	\$41,796	\$17,117
New Permit	161	3230.1	\$230,811	\$348,851	\$118,040
Non-Minor Revision	10	252	\$16,087	\$27,216	\$11,129
Total	257	3,869	\$271,577	\$417,863	\$146,286

Annual Revenue

Under the proposed amendments, Title V revenue of \$1,036,000 would be generated from the proposed Title V annual fixed fee and the proposed Title V annual emissions-based fee. The annual fixed fee would increase substantially from current levels, but not greater than ten percent more than the ADEQ Title V fixed fees. The proposed emissions fee of \$13.24/ton is identical to the ADEQ emissions fee.

Table 10 shows the 49 Title V sources by source category, the 2005 CPI-adjusted Title V fees and estimated annual revenue. Table 11 shows the revenue estimates for the same 49 Title V sources using the proposed Title V annual administrative fee and the proposed Title V annual emissions-based fee.

Comparing Table 10 and 11 shows these same 49 sources would generate approximately \$521,761 more in annual revenue under the proposed rule. This increase better reflects the actual cost attributable to Title V sources.

Table 10. Current Annual Administrative and Emissions-Based Fees for Title V Permitted Sources

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Source Category	Number of Sources Per Category	2005 CPI-Adjusted Annual Administrative Fee (\$)	Annual Administrative Revenue	Annual Emissions Per Category (Tons)	Annual Emissions Fee Revenue @ \$12.49/ton	Annual Revenue Per Category
Aerospace	2	\$11,370	\$22,740	198.2	\$2,476	\$25,216
Compressor Station	1	\$9,250	\$9,250	0	\$0	\$9,250
EPS	2	\$9,780	\$19,560	273	\$3,410	\$22,970
Landfill	9	\$9,890	\$89,010	64.2	\$802	\$89,812
Petroleum Terminal	1	\$11,480	\$11,480	116.7	\$1,458	\$12,938
Polymeric Coating	1	\$10,100	\$10,100	54.6	\$682	\$10,782
Reinforced Plastics	6	\$5,210	\$31,260	229.6	\$2,868	\$34,128
Utility	10	\$11,910	\$119,100	3192.3	\$39,872	\$158,972
Wood	11	\$6,590	\$72,490	854.7	\$10,675	\$83,165
Others	6	\$10,520	\$63,120	311.3	\$3,888	\$67,008
Utility Turbine	30	\$0	\$0	0	\$0	\$0
Total	79		\$448,110	5294.6	\$66,130	\$514,240

*Note this table does not reflect permit processing costs.

Table 11. Proposed Annual Administrative and Emissions-Based Fees for Title V Permitted Sources*

Source Category	Number of Sources Per Category	Proposed Annual Administrative Fee (\$)	Annual Administrative Revenue	Annual Emissions Per Category (Tons)	Annual Emissions Fee Revenue @ \$13.24/ton	Annual Revenue Per Category
Aerospace	2	\$13,580	\$27,160	198.2	\$2,624	\$29,784
Compressor Station	1	\$9,420	\$9,420	0.0	\$0	\$9,420
EPS	2	\$9,960	\$19,920	273.0	\$3,615	\$23,535
Landfill	9	\$11,800	\$106,200	64.2	\$850	\$107,050
Petroleum Terminal	1	\$17,480	\$17,480	116.7	\$1,545	\$19,025
Polymeric Coating	1	\$11,560	\$11,560	54.6	\$723	\$12,283
Reinforced Plastics	6	\$9,040	\$54,240	229.6	\$3,040	\$57,280
Utility	10	\$8,450	\$84,500	3192.3	\$42,266	\$126,766
Wood	11	\$9,820	\$108,020	854.7	\$11,316	\$119,336
Others	6	\$12,250	\$73,500	311.3	\$4,122	\$77,622
Utility Turbine	30	\$15,130	\$453,900	0.0	\$0	\$453,900
Total	79		\$965,900	5294.6	\$70,101	\$1,036,001

*Note this table does not reflect permit processing costs.

In addition to these changes for Title V sources, annual administrative fees for Non-title V and general permitted sources, and fees for burn permits, asbestos plan review and notifications, gasoline deliver vessels and earthmoving permits would increase under the proposed amendments to better reflect the share of costs directly related to these programs. Overall, Maricopa County expects annual revenue from Non-title V and general permitted sources, burn permits, asbestos plan review and notifications, gasoline delivery vessels and earthmoving permits to increase from just under \$5.1 million to approximately \$6.84 million. Most of the categories of permits will be impacted by the

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increased fees; however, the permit fees for Table E individual permits and Table E general permit will decrease slightly.

Table 12 reflects the annual revenue from Non-title V and general permitted sources under the proposed amendments. The Non-title V source must pay an annual administrative fee which includes a portion of the permit processing fee for permit renewal. 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 fee. The Non-title V and general permit annual fees include 1/5 of permit processing fee for permit renewal as well as the annual costs for inspection, emission inventory, and regulatory activities. The structure allows the Non-title V source to pay approximately the same fee each year and avoid the second fee due every 5 years at permit renewal. For the number of permit renewal actions, the department assumed 1/5 of the existing permits would be renewed per year.

Table 12. Current and Proposed Annual Administrative Revenue for Permitted Non-title V and General Permitted Sources

Source Category	Number of Sources	Current Annual Administrative Fee	Estimated Current Annual Administrative Revenue	Proposed Annual Administrative Fee	Proposed Annual Administrative Revenue	Projected Revenue Increase
Table A	152	\$3,300	\$501,600	\$5,880	\$893,760	\$392,160
Table B	351	\$1,380	\$484,380	\$1,660	\$582,660	\$98,280
Table C-D	839	\$380	\$318,820	\$520	\$436,280	\$117,460
Table E	86	\$380	\$32,680	\$370	\$31,820	(\$860)
Table F	42	\$3,300	\$138,600	\$7,380	\$309,960	\$171,360
Table G	65	\$1,380	\$89,700	\$4,780	\$310,700	\$221,000
General Permit Table A	0	\$0	\$0	\$3,580	\$0	\$0
General Permit Table B	0	\$0	\$0	\$1,190	\$0	\$0
General Permit Table C	497	\$320	\$159,040	\$380	\$188,860	\$29,820
General Permit Table D	1,246	\$360	\$448,560	\$380	\$473,480	\$24,920
General Permit Table E	348	\$310	\$107,880	\$290	\$100,920	(\$6,960)
Total	3,626		2,281,260		3,328,440	1,047,180

Table 13 shows the annual revenue estimates for burn permits, asbestos plan review and notification, and gasoline delivery vessel fees.

Table 13. Current and Proposed Annual Fees for Burn Permits, Asbestos, and Tank Trucks

Source Category	Number of Permits	Current Fee	Current Estimated Annual Revenue	Proposed Fee	Proposed Annual Revenue	Projected Revenue Increase
Burn Permit Tumbleweeds	7	\$50	\$350	\$100	\$700	\$350
Burn Permit Fire Hazard	1	\$50	\$50	\$100	\$100	\$50
Burn Permit Fire Fighting Instruction	9	\$50	\$450	\$100	\$900	\$450
Burn Permit Ditch Bank/Fence Row	78	\$50	\$3,900	\$100	\$7,800	\$3,900

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Burn Permit Disease/Pest prevention	1	\$62	\$62	\$100	\$100	\$38
Burn Permit Land Clearance (< 5 acres)	30	\$74	\$2,220	\$150	\$4,500	\$2,280
Burn Permit Land Clearance (>= 5 acres)	3	\$144	\$432	\$350	\$1,050	\$618
Burn Permit Land Clearance (Air Curtain Destructor 30 days)	1	\$249	\$249	\$350	\$350	\$101
Asbestos	550	\$425	\$233,750	\$1,060	\$583,000	\$349,250
Tank Trucks	721	\$115	\$82,915	\$280	\$201,880	\$118,965
Total	1,401		\$324,378		\$800,380	\$476,002

Finally, Table 14 shows the annual revenue estimates from dust control permits.

Table 14. Current and Proposed Annual Fees for Dust Control Permits

Source Category	Number of Permits	Acreage	Current Flat Fee Per Permit	Current Per Acre Fee	Current Total Annual Revenue	Proposed Flat Fee	Proposed Per Acre Fee	Proposed Total Revenue	Projected Revenue Increase
Annual Block Permit	28	0	\$2,000	\$0	\$56,000	\$2,000	\$0	\$56,000	\$0
Dust Control Permit (0.1<1.0 acres)	1637	942.6	\$75	\$0	\$122,775	\$150	\$0	\$245,550	\$122,775
Dust Control Permit (1.0 to 10 acres)	1468	5520.6	\$110	\$36	\$360,223	\$150	\$36	\$418,943	\$58,720
Dust Control Permit (> 10 acres)	1016	50772.8	\$110	\$36	\$1,939,580	\$150	\$36	\$1,980,220	\$40,640
Temporary Special Event Permit	12	0	\$0	\$0	\$0	\$620	\$0	\$7,440	\$7,440
Total	4,161	57236.1			\$2,478,578			\$2,708,153	\$229,575

Summary

In summary, MCAQD estimates in fiscal year 2006 air quality department expenditures (excluding Trip Reduction and Voluntary Vehicle Repair and Retrofit programs which are grant funded) to be approximately \$11.1 million. MCAQD estimates fiscal year 2006 revenues with proposed amendments to be \$11.1 million. The fiscal year 2006

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revenue projections include \$9.4 million in fee revenue from proposed fee amendments, \$1.1 million in U.S. Environmental Protection Agency grant funding, and \$0.6 million in miscellaneous revenues. MCAQD expects an increase in revenues from these rule amendments will be sufficient to efficiently and effectively operate its air permit program.

Table 15 summarizes the fiscal year 2006 fee revenue projections with the proposed amendments.

Table 15. Fiscal Year 2006 Fee Revenue Projections

<u>Permit Processing Fees</u>	Estimated Current Revenue	Estimated Proposed Revenue	Projected Revenue Increase
Title V	\$692,061	\$1,064,709	\$372,648
Non-title V Table A	\$60,211	\$92,632	\$32,421
Non-title V Table B	\$95,907	\$147,550	\$51,642
Non-title V Table C	\$41,500	\$62,111	\$20,611
Non-title V Table D	\$2,600	\$4,763	\$2,163
Non-title V Table E	\$850	\$2,333	\$1,483
Non-title V Table F	\$42,583	\$65,513	\$22,929
Non-title V Table G	\$27,926	\$42,962	\$15,037
Non-title V Subtotal	\$271,577	\$417,863	\$146,286
Permit Processing Subtotal	\$963,638	\$1,482,572	\$518,934
<u>Annual Fees</u>			
Title V Administrative Fee	\$448,110	\$965,900	\$517,790
Title V Emission Based Fee	\$66,130	\$70,101	\$3,971
Title V Subtotal	\$514,240	\$1,036,001	\$521,761
Non-title V Table A	\$501,600	\$893,760	\$392,160
Non-title V Table B	\$484,380	\$582,660	\$98,280
Non-title V Table C-D	\$318,820	\$436,280	\$117,460
Non-title V Table E	\$32,680	\$31,820	(\$860)
Non-title V Table F	\$138,600	\$309,960	\$171,360
Non-title V Table G	\$89,700	\$310,700	\$221,000
General Permit Table A	\$0	\$0	\$0
General Permit Table B	\$0	\$0	\$0
General Permit Table C	\$159,040	\$188,860	\$29,820
General Permit Table D	\$448,560	\$473,480	\$24,920
General Permit Table E	\$107,880	\$100,920	(\$6,960)
Non-title V and General Permit Subtotal	\$2,281,260	\$3,328,440	\$1,047,180
Burn Permit Tumbleweeds	\$350	\$700	\$350
Burn Permit Fire Hazard	\$50	\$100	\$50
Burn Permit Fire Fighting Instruction	\$450	\$900	\$450
Burn Permit Ditch Bank/Fence Row	\$3,900	\$7,800	\$3,900
Burn Permit Disease/Pest prevention	\$62	\$100	\$38
Burn Permit Land Clearance (< 5 acres)	\$2,220	\$4,500	\$2,280
Burn Permit Land Clearance (>= 5 acres)	\$432	\$1,050	\$618

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Burn Permit Land Clearance (Air Curtain Destructor 30 days)	\$249	\$350	\$101
Asbestos	\$233,750	\$583,000	\$349,250
Tank Trucks	\$82,915	\$201,880	\$118,965
Burn Permit, Asbestos, Tank Truck Subtotal	\$324,378	\$800,380	\$476,002
Annual Block Permit	\$56,000	\$56,000	\$0
Dust Control Permit (parcels 0.1<1.0 acres)	\$122,775	\$245,550	\$122,775
Dust Control Permit (parcels 1.0 to 10 acres)	\$360,222	\$418,942	\$58,720
Dust Control Permit (> 10 acres)	\$1,939,581	\$1,980,221	\$40,640
Temporary Special Event Permit	\$0	\$7,440	\$7,440
Dust Control Subtotal	\$2,478,577	\$2,708,152	\$229,575
Annual Fee Subtotal	\$5,598,455	\$7,872,973	\$2,274,518
Grand Total	\$6,562,093	\$9,355,545	\$2,793,452

Small Business Impact

MCAQD has considered a variety of methods to reduce the impact of this rule on small businesses, as prescribed in A.R.S. § 41-1035. These methods include: establishing less stringent compliance or reporting requirements, establishing less stringent schedules and deadlines for compliance or reporting requirements, consolidating or simplifying the rulemaking's reporting requirements, establishing performance requirements to replace design or operational standards, and exempting small businesses from some or all of the rule requirements. The statutory directive that permit fees must be related to costs prohibits MCAQD from implementing almost any of these methods for determining fees for small businesses. As a result, permit fees are based on regulatory costs rather than size of the source.

Two possible exceptions have already been implemented. As evident in Rule 230 (General Permits), authority to operate under general permits is available at a somewhat reduced cost when compared to individual permits. General permits tend to be used by smaller sources. In addition, no source under a general permit is subject to the permit-processing fee. The Department reduced the inspection frequency for Non-title V sources in 2003 and is not proposing to increase frequency in this action. Most small sources fall into Non-title V categories that will not be subject to increased inspection frequency.

10. The name and address of agency personnel with whom persons may communicate regarding the accuracy of the economic, small business, and consumer impact statement:

Name: Dena Konopka, Air Quality Department
 Address: 1001 N. Central Ave., Suite #695
 Phoenix, AZ 85004
 Telephone: (602) 506-4057
 Fax: (602) 506-6179
 E-mail: dkonopka@mail.maricopa.gov

11. Time, place, and nature of the proceedings for the making, amendment, or repeal of the rule, or if no proceeding is scheduled, where, when, and how persons may request an oral proceeding on the proposed rule:

Oral Proceeding: Monday, May 2, 2005, 9:00 a.m.
 Close of comment: Tuesday, May 3, 2005, 5:00 p.m.
 Location: Maricopa County Air Quality Department
 1001 N. Central Ave., Phoenix, AZ
 Conference Room 560

Please call (602) 506-6443, for special accommodations pursuant to the American Disabilities Act

12. 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:

40 CFR 60, Appendix F Rule 280, Section 305.1(a)(1)

40 CFR 75, and all accompanying appendices Rule 280, Section 305.1(a)(1)

14. The full text of the rule follows:

REGULATION II - PERMITS AND FEES

RULE 280

FEES

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SECTION 500 - MONITORING AND RECORDS (NOT APPLICABLE)

Revised 07/13/88
Revised 08/05/91
Revised 11/15/93
Revised 08/19/98
Revised 03/15/00
Revised 05/21/03
Revised 04/07/04

MARICOPA COUNTY
AIR POLLUTION CONTROL REGULATIONS

REGULATION II - PERMITS AND FEES

RULE 280

FEES

SECTION 100 - GENERAL

101 **PURPOSE:** To establish fees to be charged to owners and operators of sources of air pollution subject to these rules.

102 **APPLICABILITY:** Every person owning/operating equipment or engaged in activities that may cause or contribute to air pollution is subject to the prescribed fees in this rule.

SECTION 200 - **DEFINITIONS:** For the purpose of this rule, the following definitions shall apply:

201 **ANNUAL ADMINISTRATIVE FEE** – Paid annually by a source to recover the average cost of services required to administer the permit and conduct inspections.

202 **BILLABLE PERMIT ACTION** - The review, issuance or denial of a new permit, significant permit revision, or minor permit revision, or the renewal of an existing permit.

203 **EXISTING SOURCE** - A source that has commenced construction and has been issued a permit pursuant to A.R.S. § 49-480 after September 1, 1993.

204 **ITEMIZED INVOICE** - A breakdown of the permit processing time into the categories of pre-application activities, completeness review, substantive (technical) review, and public involvement activities, and within each category, a further breakdown by employee name.

205 **NON-MAJOR TITLE V SOURCE** – A source required to obtain a Non-title V permit under Rule 200 to which both of the following apply:

205.1 The source is classified as a Synthetic Minor Source, and

205.2 The source has a permit that contains allowable emissions greater than or equal to 50% of the major source threshold.

206 **REGULATED AIR POLLUTANT** - For the purposes of Section 305, consists of the following air pollutants:

206.1 Any conventional air pollutant as defined in A.R.S. § 49-401.01, which means any pollutant for which

the Administrator of EPA has promulgated a primary or a secondary national ambient air quality standard (NAAQS) except carbon monoxide (i.e., for nitrogen oxides (NO_x), lead, sulfur oxides (SO_x) measured as sulfur dioxides (SO₂), ozone, and particulates).

206.2 Nitrogen oxides (NO_x) and volatile organic compounds (VOCs).

206.3 Any air contaminant that is subject to a standard contained in Rule 360 (New Source Performance Standards) of these rules or promulgated under Section 111 (Standards Of Performance For New Stationary Sources) of the Act.

206.4 Any hazardous air pollutant (HAP) as defined in A.R.S. § 49-401.01 or listed in Section 112(b) (Hazardous Air Pollutants; List Of Pollutants) of the Act.

206.5 Any Class I or II substance listed in Section 602 (Stratospheric Ozone Protection; Listing Of Class I And Class II Substances) of the Act.

207 SOURCES REQUIRED TO HAVE A TITLE V PERMIT - The following sources shall be considered sources required to have a Title V permit:

207.1 Any source required to have a Title V permit under Rule 200, Section 302;

207.2 Any source that qualifies for a Non-title V permit but that elects to have a Title V permit under Rule 200, Section 302.

SECTION 300 - STANDARDS

301 TITLE V PERMIT FEES: The owner or operator of a source required to have a Title V permit shall pay fees according to the following provisions:

301.1 Fees for Billable Permit Actions: The owner or operator of a Title V source shall pay ~~\$66.00~~ **\$108.00** per hour, adjusted annually under Section 304, for all permit processing time required for a billable permit action. The fee shall be paid as follows:

a. An application shall be submitted with the applicable fee from the table below

Type of Application	Application Fee
New permit application	\$7,000
Significant permit revision application that is a result of a major modification	\$7,000
Other significant permit revision applications	\$1,000
Minor permit revision application	\$150
Permit renewal application	\$3,500

b. At any time after submittal of the application, the Control Officer may request additional application fees based on the cost to date of reviewing and acting on the application, minus all fees previously submitted for the application.

c. When permit processing is completed for a facility, the Control Officer shall send an itemized invoice. The invoice shall indicate the total actual cost of reviewing and acting upon the application, all fees previously submitted, and the balance due.

d. The maximum fee for processing permit applications listed in subsection 301.1 is \$40,000.00.

e. The Control Officer shall not issue a permit or permit revision until the balance due on the itemized invoice is paid in full.

301.2 Annual Fees: The owner or operator of a Title V source shall pay an annual administrative fee plus an emissions-based fee as follows:

a. The applicable annual administrative fee from the table below, as adjusted annually under Section 304. The fee is due on the first anniversary date of the initial permit covering construction and startup of operations and annually thereafter on that date.

Title V Source Category	Annual Administrative Fee
Aerospace	\$10,700 \$13,580
Cement Plants	\$39,500 \$44,520
Combustion/Boilers	\$9,200 \$10,820
Compressor Stations	\$8,700 \$9,420
Expandable Foam	\$9,200 \$9,960
Landfills	\$9,300 \$11,800
Lime Plants	\$37,000 \$41,700
Copper & Nickel Mines	\$9,300 \$10,480
Gold Mines	\$9,300 \$10,480
Paper Mills	\$12,700 \$14,310
Petroleum Products Terminal Facilities	\$10,800 \$17,480
Polymeric Fabric Coaters	\$9,500 \$11,560

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Reinforced Plastics	\$4,900 <u>\$9,040</u>
Semiconductor Fabrication	\$10,800 <u>\$18,830</u>
Copper Smelters	\$39,500 <u>\$44,520</u>
Utilities – Primary Fuel Natural Gas	\$11,200 <u>\$8,450 + \$15,130 per turbine installed/modified after May 10, 1996 and subject to annual source testing or CEM RATA* certifications</u>
Utilities - Fossil Fuel Except Natural Gas	\$20,200 <u>\$22,760</u>
Vitamin/Pharmaceutical Manufacturing	\$6,200 <u>\$11,050</u>
Wood Furniture	\$6,200 <u>\$9,820</u>
Others	\$9,900 <u>\$12,250</u>
Others with Continuous Emissions Monitoring	\$12,700 <u>\$14,320</u>

*Continuous emissions monitoring relative accuracy test audit (CEM RATA)

b. An emissions-based fee of ~~\$11.75~~ \$13.24 per ton of actual emissions of all regulated pollutants emitted during the previous calendar year as determined by Section 305. The fee is adjusted annually under Section 304.

302 NON-TITLE V PERMIT FEES: The owner or operator of a source required to have a Non-title V permit under Rule 200, Section 303 shall pay fees according to the following provisions:

302.1 Fees for Billable Permit Actions: Except for the renewal of an existing permit, the owner or operator of a Non-title V source ~~listed in Table A (subsection 403.1) or Table B (subsection 403.2)~~ shall pay to the Control Officer ~~\$66.00~~ \$108.00 per hour, adjusted annually under Section 304 of this rule, for all permit processing time required for a billable permit action. The minimum fee due shall be \$200.00. ~~The owner or operator of a Non-Title V source facility listed in Table C, D, or E (subsection 403.3-5) shall pay the applicable fees from the table in subsection 302.1(a) below for a billable permit action.~~ The fee shall be paid as follows:

~~a.~~ An application shall be submitted with ~~the applicable~~ an application fee from the table below: of \$200.00.

Type of Application	Application Fee
New permit application	\$350
Non-minor permit revision application	\$350
Minor permit revision application	\$150
Permit renewal application	Not required

b. At any time after the submittal of an application ~~for a facility listed in Table A or Table B,~~ the Control Officer may request an additional application fee based on the cost to date of reviewing and acting on the application, minus all fees previously submitted for the application.

c. When permit processing is completed ~~for a facility listed in Table A and Table B~~ and final costs are greater than the fee submitted with the application under subsection 302.1(a), the Control Officer shall send an itemized invoice. The invoice shall indicate the total cost of reviewing and acting upon the application, all fees previously submitted, and the balance due.

d. The maximum fee for processing permit applications listed in subsection 302.1 is \$25,000.00.

e. The Control Officer shall not issue a permit or permit revision until the balance due on the itemized invoice is paid in full.

302.2 Annual Fees: The owner or operator of an existing Non-title V source shall pay the applicable annual administrative fee from the table below, as adjusted annually under Section 304. The annual administrative fee covers the cost of renewing a Non-title V permit. The fee is due on the first anniversary date of the initial permit covering construction and startup of operations and annually thereafter on that date. Source categories designated as Tables A-G are listed in subsections 403.1-7

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Non-title V Source Type	Annual Administrative Fee
Source listed in Table A	\$3,100 \$5,880
Source listed in Table B	\$1,300 \$1,660
Source listed in Tables C – E	\$360
Source listed in Table C – D	\$520
Source listed in Table E	\$370
Source listed in Table F	\$7,380
Source listed in Table G	\$4,780

303 GENERAL PERMIT FEES: The owner or operator of a source required to obtain a permit pursuant to these rules who elects to be covered by a general permit shall pay fees according to the following provisions:

303.1 Fees Due with an Application: The owner or operator of a source initially applying for authorization to operate under a General Permit shall pay the applicable fee from the table below with the submittal of the application. Source categories designated as Tables ~~A-E~~ A-G are listed in subsections ~~403.1-5~~ 403.1-7 of this rule.

Source Category Table	Application Fee
Title V General Permits	Administrative Fee from <u>Section 301.2.a</u> Title V table for Title V source category
Table A	\$3,000 \$3,580
Table B	\$1,000 \$1,190
Table C - D	\$300 \$380
Table D	\$335
Table E	\$290 \$290
Table F	\$6,200
Table G	\$4,030

303.2 Annual Fee: The owner or operator of a source with an authorization to operate under a General Permit shall pay the applicable annual administrative fee from the table below, as adjusted annually under Section 304. The annual administrative fee covers the cost of reapplying for authorization to operate under a General Permit. The fee is due on the first anniversary date of the initial approval to operate under a General Permit and annually thereafter on that date. Source categories designated as Tables A-E are listed in subsections 403.1-5

Source Category Table	Administrative & Permit Renewal Fee
Title V General Permits	Administrative Fee from <u>Section 301.2.a</u> Title V table for Title V source category
Table A	\$3,000 \$3,580
Table B	\$1,000 \$1,190
Table C - D	\$300 \$380
Table D	\$335
Table E	\$290 \$290
Table F	\$6,200
Table G	\$4,030

304 ANNUAL ADJUSTMENT OF FEES:

- 304.1 The Control Officer shall adjust the hourly rate every January 1, to the nearest 10 cents per hour, beginning on January 1, ~~2004-2006~~. The Control Officer will multiply ~~\$66.00~~ \$108.00 by the Consumer Price Index (CPI) for the most recent year as described in subsection 304.4, and then divide by the CPI for the year ~~2001-2004~~.
- 304.2 The Control Officer shall adjust the administrative or permit processing fees listed in Sections 301-303 every January 1, to the nearest \$10, beginning on January 1, ~~2004-2006~~. The Control Officer will multiply the administrative or permit processing fee by the Consumer Price Index (CPI) for the most recent year as described in subsection 304.4, and then divide by the CPI for the year ~~2001-2004~~.
- 304.3 The Control Officer shall adjust the rate for emission-based fees every January 1, beginning on January 1, ~~2004~~ 2006. The Control Officer will multiply ~~\$11.75~~ \$13.24 by the Consumer Price Index (CPI) for the most recent year as described in subsection 304.4, and then divide by the CPI for the year ~~2001~~ 2004.
- 304.4 The Consumer Price Index for any year is the average of the monthly 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.

305 CALCULATION AND PAYMENT OF EMISSION FEES:

- 305.1** For purposes of this subsection, actual emissions means the actual quantity of regulated air pollutants emitted over the preceding calendar year or any other period determined by the Control Officer to be representative of normal source operations, determined as follows:
- a. Emissions quantities, including fugitive emissions, reported under Rule 100, Section 500 shall be used for purposes of calculating the permit fee to the extent they are calculated in a manner consistent with this paragraph. Acceptable methods for calculating actual emissions under Rule 100, Section 500 include the following:
 - (1) Emissions estimates calculated from continuous emissions monitors certified under 40 CFR Part 75, Subpart C and referenced appendices, or data quality assured pursuant to Appendix F of 40 CFR, Part 60. 40 CFR Part 75 and referenced appendices and 40 CFR Part 60 Appendix F adopted as of July 1, 2001, (and no future additions) are incorporated by reference.
 - (2) Emissions estimates calculated from source performance test data.
 - (3) Emissions estimates calculated from material balance using engineering knowledge of process.
 - (4) Emissions estimates calculated using AP-42 emissions factors.
 - (5) Emissions estimates calculated by equivalent methods approved by the Control Officer. The Control Officer shall only approve methods that are demonstrated as accurate and reliable as the applicable method in items (1) through (4) of this paragraph.
 - b. Actual emissions shall be determined for each source on the basis of actual operating hours, production rates, in-place process control equipment, operational process control data, and types of materials processed, stored, or combusted.
- 305.2** The following emissions of regulated air pollutants shall be excluded from a source's actual emissions for purposes of this section:
- a. Emissions of a regulated air pollutant from the source in excess of 4,000 tons per year.
 - b. Emissions of any regulated air 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 under Rule 210.
 - d. Fugitive emissions of PM₁₀ from activities other than crushing, belt transfers, screening, or stacking.
 - e. Fugitive emissions of VOC from solution-extraction units.

305.3 A notice to pay the fee specified in subsection 301.2.b. and a declaration of emissions form will be mailed annually to the owner or operator of a source to which this subsection applies, along with the annual emission inventory questionnaire. The emission fee is due and payable by April 30 each year or by the ninetieth (90th) day following the date of notice, whichever is later.

306 HEARING BOARD FILING FEE: A person filing a petition with the Hearing Board shall pay a fee of \$100.00. This fee may be refunded by a majority vote of the Hearing Board upon a showing of undue hardship.

307 CONDITIONAL ORDER FEE: Any person applying for a conditional order pursuant to Rule 120 shall pay a conditional order fee. The amount of a conditional order fee shall be equal to the amount of the applicable permit fee as specified in this rule.

308 GASOLINE DELIVERY VESSEL FEE: A person wishing to obtain a decal for each gasoline delivery vessel that passes the required annual test under Rule 352 shall pay a fee of ~~\$115.00~~ \$280.00.

309 PERMIT TO BURN FEE: A person applying for a Permit to Burn shall pay a fee as set forth in the following fee schedule:

Fire Category	Permit Period	Fee
Tumbleweeds	30 days	\$50.00 <u>\$100.00</u>
Fire Hazard	30 days	\$50.00 <u>\$100.00</u>
Fire Fighting Instruction	1 year	\$50.00 <u>\$100.00</u>
Ditch Bank/Fence Row	1 year	\$50.00 <u>\$100.00</u>
Disease/Pest Prevention	30 days	\$62.00 <u>\$100.00</u>
Land Clearance	30 days	
Less than 5.0 acres		\$74.00 <u>\$150.00</u>
5.0 acres or greater		\$144.00 <u>\$350.00</u>
Air Curtain Destructor	30 days	\$249.00 <u>\$350.00</u>

310 ~~EARTH MOVING PERMIT DUST CONTROL PERMIT FEE:~~ A person applying for an ~~Earth Moving Permit~~ a Dust Control Permit shall pay an annual fee as set forth in the following fee schedule, based on the total surface area that is disturbed:

Total Surface Area Disturbed	Fee
Annual Block Permit	\$2000.00
<u>Temporary Special Event Permit</u>	<u>\$620.00</u>
0.1 to less than one acre	\$75.00 <u>\$150.00</u>
One acre or greater	\$36.00 per acre plus \$110.00 <u>\$150.00</u>

Example: 6 acres = 6 x \$36.00 + ~~\$110~~ \$150.00 = ~~\$326~~ \$366

311 ASBESTOS NOTIFICATION AND PLAN REVIEW FILING FEE: Any person required to file notification under the provisions of Rule 370 of these rules shall pay a fee as follows:

311.1 Any person filing notification of a project to renovate regulated asbestos-containing materials shall pay a nonrefundable notification and plan review filing fee of ~~\$425.00~~ \$1,060.00.

311.2 Any person filing notification of a project to demolish a facility (as defined in 40 CFR 61, Subpart M) shall pay a nonrefundable notification and plan review filing fee of ~~\$425.00~~ \$1060.00.

312 LATE FEE: The Control Officer shall assess the following fees in addition to all other applicable fees:

312.1 TITLE V, NON-TITLE V OR GENERAL PERMIT: ~~An applicant for a required permit for a source that has been constructed without such permit and who has received a Notice of Violation shall pay a late fee of \$70.00. An applicant for a required permit who has received a Notice of Violation for constructing without such permit or for failing to file a timely application to renew such permit shall pay a late fee of \$100.00.~~

312.2 ~~EARTH MOVING PERMIT DUST CONTROL PERMIT:~~ Any person who is ~~conducting earth moving activity~~ engaging in dust generating operations without an ~~Earth Moving~~ a Dust Control Permit and has received a Notice of Violation for ~~operating the earth moving equipment~~ engaging in a dust generating operations without an ~~Earth Moving~~ a Dust Control Permit shall pay a late fee of ~~\$70.00~~ \$100.00.

- 313 DELINQUENCY FEE:** An applicant or permittee who fails to pay any required fee(s) by 30 days after invoice due date shall pay a delinquency fee of ~~\$35.00~~ \$50.00 or a delinquency fee of ~~\$70.00~~ \$100.00 if delinquent over 60 days from the invoice due date. Applicants and permittees will be notified by mail of any permit delinquency fees that are due and payable.
- 314 SUBSCRIPTION FEE FOR RULE REVISIONS:** A person requesting to be placed on a mailing list to receive copies of new and revised rules shall pay to the Control Officer an annual subscription fee of \$35.00.
- 315 ACCELERATED PERMIT PROCESSING:** An applicant requesting accelerated permit processing shall pay fees to the Control Officer according to the following provisions:
- 315.1** Such a request shall be accompanied by an initial fee of \$15,000. The fee is nonrefundable to the extent of the Control Officer's costs for accelerating the processing if the Control Officer undertakes to provide accelerated processing as described in Rule 200, Section 313 of these rules.
- 315.2** At any time after an applicant has requested accelerated permit processing, the Control Officer may request an additional advance payment fee based on the most recent estimated cost of accelerating the processing of the application.
- 315.3** Upon completion of permit processing activities but before issuing or denying a permit or permit revision, the Control Officer shall send notice of the decision to the applicant along with a final invoice. The final invoice shall include all regular permit processing and other fees due, as well as the difference between the actual cost of accelerating the permit application, including any costs incurred by the Control Officer 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 Control Officer shall refund the excess advance payments.
- 315.4** Any additional costs incurred as a result of accelerated permit processing shall not be applied toward any applicable maximum fee described in this rule.
- 316 FAILURE TO PAY REQUIRED FEES:** Nonpayment of fees required by this rule constitutes a violation as provided in A.R.S. 49-502, 49-511 and 49-513.

SECTION 400 - ADMINISTRATIVE REQUIREMENTS

- 401 TRANSITION TO REVISED FEES:** The revised fees, except for the emissions fee, in this rule shall become effective July 1, ~~2003~~ 2005. The revised emissions fee shall become effective January 1, ~~2004~~ 2006, beginning with the emissions reported for calendar year ~~2003~~ 2005.
- 402 PAYMENT OF FEES:** All fees required by this rule shall be payable to Maricopa County ~~Environmental Services~~ Air Quality Department.
- 402.1 Annual Administrative Fees:**
- a. Title V and Non-title V Permits:** The Control Officer shall mail the owner or operator of a Title V or Non-title V source an invoice for the annual administrative fee due under subsections 301, 302, and 303 at least 30 days prior to the anniversary date of the permit.
- b. General Permits:** The Control Officer shall mail the owner or operator of source authorized to operate under a General Permit an invoice for the annual administrative fee due under subsection 303 at least 30 days prior to the anniversary date of the authorization to operate.
- 402.2 Gasoline Delivery Vessel Decal Fee:** Gasoline delivery vessel decal fee shall be paid at the time the application is submitted showing satisfactory test results prior to the issuance of the sticker required in the provisions of Rule 352.
- 402.3 Asbestos Removal Notification and Plan Review Fee:** The asbestos removal notification and plan review filing fee shall be paid at the time the notification is submitted. The notification is not considered filed until the appropriate filing fee is paid.
- 402.4 Other Fees:** Other fees shall be paid in the manner and at the time required by the Control Officer.
- 403 TABLE A, TABLE B, TABLE C, TABLE D, ~~AND~~ TABLE E, TABLE F, AND TABLE G SOURCES:** For processes and equipment not listed below, the Control Officer will designate either Table A, Table B, Table C, Table D, ~~or~~ Table E, Table F, or Table G applicability. Sources reclassified to a higher fee category due to the receipt of three complaints on different dates during a one year period from different individuals resulting in violations resolved by an order of abatement by consent or judicial action shall remain in that classification until

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two calendar years pass without complaints against the facility resulting in violations resolved by an order of abatement by consent or judicial action.

403.1 Table A Sources:

Aircraft Manufacturing
Chemical Manufacturing, Dry
Chemical Manufacturing, Liquid
Circuit Board Manufacturing ≥ 5 Tons per Year VOC
Coating Line, Can/Coil/Fabric/Film/Glass/Paper
Ethylene Oxide Sterilization
Gypsum, Calcining
~~Hot Mix Asphalt Plant~~
Incinerator, Medical Waste
Incinerator, Hazardous Material
Insulation Manufacturing
Jet Engine Manufacturing
Non-Major Title V Source
Pesticide/Herbicide Production
Petroleum Loading Racks and Storage Tanks at Bulk Terminals
Pharmaceutical Manufacturing
Polymeric Foam Products ≥ 25 Tons per Year Potential Uncontrolled VOC Emissions or Facility with Controls
Printing Facilities ≥ 25 Tons per Year Potential Uncontrolled VOC Emissions or Facility with Controls
Rendering
Rubber Products Manufacturing
Semiconductor Manufacturing without VOC Control and < 25 Tons per Year of Potential Uncontrolled VOC Emissions
Solid Waste Landfill
Source Subject to BACT Determination
Source Subject to a MACT, NESHAPS or NSPS standard under
CAA Section 111 or 112 unless otherwise identified in another table
Source with three or more Table B Processes
~~Tennis Ball Manufacturing~~
Vegetable Oil Extraction

403.2 Table B Sources:

Aerospace Products Manufacturing & Rework not subject to MACT
~~Aggregate Production/Crushing, All~~
Aggregate Screening
Animal Feed Processing
Auto Body Shredding
Bakery with Oven of 25 Tons per year of Potential Uncontrolled VOC emissions or facility with controls
Boiler, gas fired, with ≥ 10 MMbtu/hr (includes units subject to the NSPS)
Chemical/Fertilizer Storage, Mixing, Packaging and Handling
~~Concrete Batching~~
Concrete Product Manufacturing
Cotton Gin
Cotton Seed Processing

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Crematory
Cultured Marble
Fiberglass Product Manufacturing
Flour Milling
Foundry
Furnace, Metals
Furnace, Burn-Off
Furnace, Electric Arc
Furnace, Other
Gas Turbine, Non-Utility (Utility in Table A)
Grain Cleaning/Processing
Grain Storage
Incinerator, Non-Hazardous Material
Internal Combustion Engine, ~~Cogeneration~~ Cogeneration other than Emergency
Pipeline Transmission Facility
Plating Tanks, Electrolytic or Electrowinning (includes decorative chrome and hard chrome operations 60 million amp/hrs per year subject to MACT)
Polymeric Foam Products without control and < 25 Tons per Year Potential Uncontrolled VOC Emissions
Reinforced Plastics
Rubber Products Manufacturing with only Molding
Soil Treatment/Remediation
Soil Solvent Extraction System with Package Thermal/Catalytic Oxidizer/Carbon Adsorption
Solvent Degreasing/Cleaning System, Solvent Use >3 gallons per day
Solvent Reclaiming
Source with three or more Table C Processes
Stage I Vapor Recovery, Bulk Plants with Loading Racks
Stripping Operation, Equipment or Furniture Refurbishment
Stripping Operation, Liquid Chemical Groundwater/Wastewater Remediation
Tire Shredding/Retreading
Wood Coating Operation subject to RACT including Furniture/Millwork Sources larger than 10 TPY VOC
Any Table C source that receives three complaints on different dates during a one year period from different individuals resulting in violations resolved by an order of abatement by consent or judicial action.

403.3

Table C Sources:

Abrasive Blasting
Asphalt Day Tanker/Kettle
Cement Products Packaging
Circuit Board Assembly
Circuit Board Manufacturing <5 Tons per Year of VOC
Dry Cleaning
Emergency Internal Combustion Engine
Incinerator, Paper and Cardboard Products
Miscellaneous Solvent Use
Packaging, Mixing & Handling, Granular or Powdered Material other than Cement or Grain
Petroleum Storage, Non-retail Dispensing Operations exempted from Stage I Vapor Recovery by Rule 353
Plastic or Metal Extrusion
Plating, Electroless

Powder Coating
Printing Facilities without Control and < 25 Tons per Year of Potential Uncontrolled VOC Emissions

Solvent Cleaning, < 3 Gallons Per Day

Spray Coating

Bulk Plant Loading Facilities as Defined by Rule 351, Section 305.1

Storage Tank, Non-Petroleum Volatile Organic Compounds

Vehicle Refinishing

Wood Furniture/ Millwork/ Small Source less than 10 TPY VOC

403.4 Table D Sources:

Service Station and ~~larger~~ Non-resale Dispensing Operations > 120,000 gallons per year

403.5 Table E Sources:

Fuel Burning Equipment

403.6 Table F Sources:

Aggregate Production/Crushing subject to an NSPS under CAA Section 112

Hot Mix Asphalt Plants

Semiconductor Manufacturing ≥ 25 Tons per Year Potential Uncontrolled VOC Emissions or Facility with Controls

Any Table A or Table G source that receives three complaints on different dates during a one year period from different individuals resulting in violations resolved by an order of abatement by consent or judicial action.

403.7 Table G Sources:

Aggregate Production/Crushing not subject to NSPS under CAA Section 112

Concrete Batch Plant

Any Table B source that receives three complaints on different dates during a one year period from different individuals resulting in violations resolved by an order of abatement by consent or judicial action.

SECTION 500 - MONITORING AND RECORDS (NOT APPLICABLE)

NOTICE OF FINAL RULEMAKING

RULE 325

MARICOPA COUNTY AIR POLLUTION CONTROL REGULATIONS

[M05-75]

PREAMBLE

- 1. Rules Affected** **Rulemaking Action**
Rule 325 – Brick and Structural Clay Products (BSCP) Manufacturing New Rule
- 2. The statutory authority for the rulemaking, including both the authorizing statute (general) and the statutes the rule is implementing (specific):**
Authorizing Statutes: Arizona Revised Statutes (A.R.S.) § 49-112 (A) and § 49-479
Implementing Statute: Arizona Revised Statutes (A.R.S.) § 49-479
- 3. The effective date of the rule:**
March 9, 2005
- 4. A list of all previous notices appearing in the Register addressing the final rule:**
Notice of Rulemaking Docket Opening: 10 A.A.R. 2949, July 23, 2004
Notice of Proposed Rulemaking: 10 A.A.R 4492, November 5, 2004
- 5. The name and address of department personnel with whom persons may communicate regarding this rulemaking:**
Name: Patricia P. Nelson or Jo Crumbaker, Air Quality Division
Address: 1001 N. Central Ave., Suite # 695

Phoenix, AZ 85004

Telephone: (602) 506-6709 or (602) 506-6705

Fax: (602) 506-6179

E-mail: pnelson@mail.maricopa.gov or jcrumbak@mail.maricopa.gov

6. An explanation of the rule, including the department's reasons for initiating the rule:

Maricopa County is promulgating a new rule, Rule 325, Brick and Clay Structural Products (BCSP) Manufacturing to regulate industries that are now regulated by Rule 311, Particulate Matter from Process Industries. Maricopa County will incorporate Best Available Control Measures (BACM) and Most Stringent Measures (MSM) proposed in the Salt River PM₁₀ State Implementation Revision by implementation of this rule.

Section by Section Explanation of Changes:

Section 101	This text lists the purpose of the rule.
Section 102	This text outlines the applicability of the rule.
Section 103	This text lists the exemptions to the rule.
Section 201	This text defines a "brick and structural clay manufacturing facility".
Section 202	This text defines a "continuous kiln."
Section 203	This text defines the term "existing kiln."
Section 204	This text defines the term "kiln feed."
Section 205	This text defines the term "periodic kiln."
Section 206	This text defines the term "research and development kiln."
Section 207	This text defines the term "tunnel kiln."
Section 301	This text states the opacity limitation for all tunnel kilns subject to the rule.
Section 302	This text lists the particulate matter limitations for existing kilns.
Section 303	This text lists the two different particulate matter limitations for existing kilns with a capacity of less than 10 tons per hour throughput and of those with greater than 10 tons per hour.
Section 401	This text lists the compliance time schedule for the rule.
Section 501	This text lists the method for proving compliance with the rule.
Section 502	This text states the fact that records shall be kept for 5 years.
Section 502.1	This text states that daily records of kiln fees and hours of operation shall be kept.
Section 502.2	This text states the type of monthly records of materials delivered and product reports that shall be kept.
Section 503	This text lists where the test methods in the Code of Federal Regulations are kept at Maricopa County.
Section 503.1	This text lists EPA reference Method 9.
Section 503.2	This text lists EPA reference Method 5.

7. A reference to any study relevant to the rule that the agency reviewed and either relied on or did not rely on in its evaluation of or justification for the rule, where the public may obtain or review the study, all data underlying each study, any analysis of the study, and other supporting material:

1. "Economic Impact Analysis on Particulate Matter Emissions for Brick and Structural Clay Products Manufacturing" by David Lillie, Economist at Arizona Department of Environmental Quality, September 28, 2004.

2. *National Emission Standards for Hazardous Air Pollutants for Brick and Structural Clay Products Manufacturing; and National Emission Standards for Hazardous Air Pollutants for Clay Ceramics Manufacturing*; Final Rule, Federal Environmental Protection Agency, 40 CFR, Part 63, May 16, 2003.

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:

Arizona Department of Environmental Quality (ADEQ) has prepared an extensive economic impact analysis on this rule on September 20, 2004 which is summarized in the following text: There are two brick and structural clay product manufacturing facilities that have the potential to be regulated by this rule in Arizona and only one tunnel kiln in Maricopa County. The common materials used in both are clay minerals. Kilns used in these industries to dry and cure brick may be either periodic or batch kilns or continuous kilns such as tunnel kilns. The facility has been manu-

facturing brick in its present location since 1935. Its actual production rates of brick in 2002 and 2003 were approximately 45,400 tons and 40,500 tons, respectively. Reported PM emissions from curing and firing for those respective years were about 39,500 pounds and 35,200 pounds. These PM emissions from the tunnel kiln represent about 80 percent of total PM emissions at this facility. This rule will address tunnel kilns. Uncontrolled particulate matter emissions from these tunnel kilns range from 0.0350 lb/ton to 0.9756 lb/ton with an average of 0.492 lb/ton. Air pollution control devices for these kilns are dry lime scrubbers with fabric filter (DFLS) and dry injection fabric filter (DIFF) which can achieve 99% control efficiency for PM. DLA (dry lime adsorption) technology is less efficient and is basically an acid gas device yet can provide some control for particulate matter in the range of 50% for an upper range. The MACT (Maximum Achievable Control Technology) was established by EPA in the rulemaking process and the MACT floor was based upon the use of DIFF, DLS and WS (wet scrubbers). DLA was not considered at that time. Because of several retrofitting concerns with DIFF, DLS and WS, EPA now believes that DLA is the only technology currently that can be used to retrofit existing sources without significant impacts on the production process.

The average cost per ton of PM removed for a medium-sized tunnel kiln using DLS/FF control technology is approximately \$21,125. For installing DIFF in a medium-sized tunnel kiln, the cost per ton of removing PM is estimated at \$18,300. DLS data and kiln test results show that DLS/FF and DIFF control technology can achieve a 99 percent control efficiency for PM. Although DLA is an acid gas device, it does provide some control for PM. The upper bound of control of PM is probably 50 percent, according to EPA. DLA control devices are used around the world to control emissions from brick kilns. EPA test data from four DLAs, which control emissions from six kilns, revealed outlet PM emissions ranged from 0.0732 lb/ton to 0.411 lb/ton. If the removal efficiency of a DLA was 50 percent with uncontrolled PM emissions averaging 0.492 lb/ton, the cost per ton to remove PM for a medium-sized tunnel kiln would be about \$20,400. Caution should be used in evaluating the cost effectiveness for a DLA control device because the removal efficiency may be less than 50 percent.

Health benefits accrue to the general public whenever enforcement of environmental laws takes place. Adverse health effects from air pollution result in a number of economic and social consequences, including:

1. **Medical Costs:** These include personal out-of-pocket expenses of the affected individual (or family), plus costs paid by insurance or Medicare, for example.
2. **Work loss:** This includes lost personal income, plus lost productivity whether the individual is compensated for the time or not. For example, some individuals may perceive no income loss because they receive sick pay, but sick pay is a cost of business and reflects lost productivity.
3. **Increased costs for chores and caregiving:** These include special caregiving and services that are not reflected in medical costs. These costs may occur because some health effects reduce the affected individual's ability to undertake some or all normal chores, and she or he may require caregiving.
4. **Other social and economic costs:** These include restrictions on or reduced enjoyment of leisure activities, discomfort or inconvenience, pain and suffering, anxiety about the future, and concern and inconvenience to family members.

The purpose of the NESHAP is to protect public health. Control technologies for protecting public health are governed through EPA's MACT standards. These standards are based on the emission levels achieved by the best-performing similar facilities in the U.S. using a performance-based approach for reducing toxic emissions as well as PM. It also ensures that facilities operating with good pollution controls are not disadvantaged relative to their competitors with none or less effective controls. Likewise, Maricopa County's Rule 325 is designed to protect public health by reducing PM.

Improvement in air quality will generate cost-saving benefits by avoiding adverse-health effects, such as emergency room visits, hospital admissions, acute pediatric bronchitis, chronic adult bronchitis, acute respiratory symptom days, and even premature death. Potential benefits arising from a reduction PM and other pollutants emitted into the atmosphere can be inferred from data associated with the reduction of any airborne PM.

Some of the health effects of human exposure to PM can be quantified while others cannot. Quantified adverse-health effects include: mortality, bronchitis (chronic and acute), new asthma cases, hospital admissions (respiratory and cardiovascular), emergency room visits for asthma, lower and upper respiratory illness, shortness of breath, respiratory symptoms, minor restricted activity days, days of work loss, moderate or worse asthma status of asthmatics. Unquantifiable adverse-health effects include: neonatal mortality, changes in pulmonary function, chronic respiratory diseases (other than chronic bronchitis), morphological changes, altered host defense mechanisms, cancer, and non-asthma respiratory emergency room visits (U.S. EPA, "The Benefits and Costs of the Clean Air Act 1990 to 2010," Chapter 5, "Human Health Effects of Criteria Pollutants," Table 5-1, Report to Congress, November 1999).

Epidemiological evidence shows that particulates have negative health impacts in a variety of ways, including: increased mortality and morbidity; more frequent hospital admissions, emergency room and clinician visits; increased need and demand for medication; and lost time from work and school. There is also increasing evidence that ambient air pollution can precipitate acute cardiac episodes, such as angina pectoris, cardiac arrhythmia, and myocardial infarction, although the majority of PM-related deaths are attributed to cardiovascular disease (The EPA's Particulate Matter (PM) Health Effects Research Center Program, prepared by PM Centers Program staff, January 2002).

New evidence also links exposure to ambient PM concentrations to airway inflammation that in turn produces systemic effects, such as acute phase response with increased blood viscosity and coagulability, as well as increased risk of myocardial infraction in patients with coronary artery disease. Chronic effects of repeated airway inflammation may also cause airway remodeling, leading to irreversible lung disease. Individuals with asthma and chronic obstructive pulmonary disease may be at even higher risk from repeated exposure to particulates (The EPA's Particulate Matter (PM) Health Effects Research Center Program).

The Health Effects Institute confirmed the existence of a link between particulate matter and human disease and death (premature mortality). The data revealed that long-term average mortality rates, even after accounting for the effects of other health effects, were 17-26% higher in cities with higher levels of airborne PM (Health Effects of Particulate Air Pollution: What Does The Science Say? Hearing before the Committee on Science, House of Representatives, 107th Congress of the U.S., second session, May 8, 2002). Data further reveal that every 10-microgram increase in fine particulates per cubic meter produces a 6% increase in the risk of death by cardiopulmonary disease, and an 8% increase for lung cancer. Even very low concentrations of PM can increase the risk of early death, particularly in elderly populations with preexisting cardiopulmonary disease (STAPPA and ALAPCO, Controlling Particulate Matter Under the Clean Air Act: A Menu of Options, July 1996).

In 2002 alone, chronic obstructive pulmonary disease cost the U.S. more than \$32 million, a sum not including costs attributable to asthma (American Lung Assoc., Trends in Chronic Bronchitis and Emphysema: Morbidity and Mortality, Epidemiology and Statistics Unit, Research and Scientific Affairs, March 2003). In Arizona, deaths attributable to asthma have equaled or exceeded national rates from 1991-1998. In 1998, some 316,200 Arizonans suffered breathing discomfort or asthma related stress (Arizona Department of Health Services, Asthma Control Program, Office of Nutrition and Chronic Disease Prevention Services, October, 2002).

ADEQ expects that a reduction in PM potentially will create commensurate cost-saving benefits to the general public by contributing towards reducing these emissions-related health problems. Maricopa County's Rule 325 will help improve the general quality of life for citizens of Arizona, particularly those residing near sources that have reduced PM emissions and other air pollutants associated with the manufacturing processes.

Because the installation of air pollution control devices also will reduce other air pollutants, additional health effects may accrue to the public and kiln employees due to reduced exposure levels. It has been demonstrated that exposure to HAPs (mainly HF, HCL, and associated HAP metals) causes adverse chronic and acute health effects. Chronic health disorders include irritation to lung, skin and mucus membranes, certain effects on central nervous system, and damage to kidneys. Acute health effects include lung irritation and congestion, alimentary effects (e.g., nausea and vomiting), and effects on kidney and central nervous system (68 FR 26692-26694, May 16, 2003).

Table 6 -1

Adverse-Health Effect	Per Case Valuation (1990 dollars)	Per Case Valuation (2003 dollars)
Mortality	\$4,800,000	\$7,122,600
Chronic bronchitis	\$260,000	\$385,800
Hospital admissions for respiratory conditions	\$6,900	\$10,240
Hospital admissions for cardiovascular conditions	\$9,500	\$14,100
Emergency room visits for asthma	\$194	\$288
Acute Bronchitis	\$45	\$67
Asthma attack	\$32	\$48
Moderate or worse asthma day	\$32	\$48
Adverse-Health Effect	Per Case Valuation (1990 dollars)	Per Case Valuation (2003 dollars)
Acute respiratory symptom	\$18	\$27
Upper respiratory symptom	\$19	\$28
Lower respiratory symptom	\$12	\$18
Shortness of breath, chest tightness, or wheeze	\$5	\$7
Work loss day	\$83	\$123
Mild restricted activity day	\$38	\$56

Health benefits can be expressed as avoided cases of PM related-health effects and assigned a dollar value. EPA used an average estimate of value for each adverse-health effect of criteria pollutants. Table 6-1 contains valuation estimates from the literature reported in dollars per case of chronic bronchitis avoided air. An individual's health status and age prior to exposure impacts his/her susceptibility. At risk persons include those who have suffered a stroke or have cardiovascular disease. Some age cohorts are more susceptible to air pollution than others i.e. children and the elderly.

Mortality in Table 6 actually refers to statistical deaths, or inferred deaths due to premature mortality. The values have been adjusted for inflation. According to the Consumer Price Index for all urban consumers (U.S. Department of Labor, Bureau of Labor Statistics), the purchasing power of the dollar has declined about 48 percent between 1990 and 2003.

A small decline in the risk for premature death will have a certain monetary value for individuals, and as such, they will be willing to pay a certain amount to avoid premature death. For instance, if PM emissions are reduced so that the mortality risk on the exposed population is decreased by one in one-hundred thousand, then among 100,000 persons, one less person will be expected to die prematurely. If the average willingness-to-pay (WTP) per person for such a risk reduction were \$75.00, the implied value of the statistical premature death avoided would be 7.5 million.

Potential PM Control Costs Offset by Potential PM Control Benefits:

An Illustrative Example

A reduction in PM, as well as associated HAPs, from a tunnel kiln operating in Maricopa County, theoretically, can contribute to avoided health incidents by the general public, and employees that would be exposed during the course of their employment as well. The problem is that it is not possible to calculate the share of adverse-health effects that would be avoided as a direct result of a brick producer reducing PM, and associated air pollutants.

One may conclude that a reduction in PM from a brick kiln would contribute an unknown proportion of overall improvements in the general health of a population. It is likely that a reduction of 20 tons per year of PM would generate some degree of health benefits in Maricopa County. The health benefits, for example, could be as simple as reduced asthma attacks or hospital admissions; reduced emergency room visits and lost work days; or fewer restricted activity days. Health benefits also could include avoided or reduced respiratory symptoms and chronic bronchitis, and reduced premature mortality. The reduction of a single premature death could be worth \$4.8 million to \$7.1 million dollars in benefits.

If a minimum of one of each of the adverse-health effects shown in Table 6 were to be avoided, the aggregated value of adverse-health effects avoided in 2003 dollars would be \$7,533,450. If the impact is such that no effect is contributed toward reduced premature mortality, the minimum value of improved health benefits, as a result of avoided adverse-health effects, would be \$410,850. However, a reduction in PM emissions is likely to lead to more than a single health-effect avoided in Table 6-1. Therefore, it is logical to conclude that annual health benefits may be much greater than this minimum value.

A single case of chronic bronchitis avoided (\$385,800) generates health benefits that are approximately equal to the dollar amount in the estimated annualized compliance cost for installing and operating a DIFF control device. Furthermore, if a combination of multiple health effects, as listed in Table 6-1, were avoided due to reduced PM emissions, a significant increase in the dollar value of health benefits as a result of Rule 325 would accrue to the general public. For instance, if a single chronic bronchitis condition could be avoided (\$385,800), as well as ten cases each of the other adverse-health effects listed in Table 6-1, excluding premature mortality, the aggregated value of avoided-health benefits would be \$636,300.

If the entire value of \$636,300 in estimated health benefits could be contributed to the 20-ton reduction in PM from the brick producer, this would translate into a per ton health benefit of \$31,815. Taking this argument one step further, if the aggregated value of the adverse-health benefits avoided due to a reduction of 20 tons annually of PM, ranged from even a low of \$385,800 to a high of \$7,533,450, the health benefit would range from \$19,290 to \$376,672 per ton. Compare the estimated annual abatement cost of \$19,500 to remove one ton of PM (from p. 9) to the estimated health benefits gained from reduced PM emissions the range of \$19,290 to \$376,672 per ton. A logical conclusion of this analysis is that probable benefits will exceed the probable costs of Rule 325.

Considering the annualized cost of \$390,000 for DIFF and the potential of passing on part of this cost to brick consumers, the cost effectiveness of removing 20 tons of PM under the two scenarios discussed on p. 9, results in a cost of \$4,650 per ton or \$9,600 per ton of PM removed. If the actual amount of PM removed annually exceeds 20 tons, the cost effectiveness would be even lower than these estimated values.

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

In Section 401 of the rule, we inserted December 31, 2006 instead of the 36 months from the date of adoption.

11. A summary of the comments made regarding the rule and the agency response to them:

Comment #1: The Most Stringent Measure (MSM) used as the basis for the Particulate Matter (PM) emission standard (0.42 pounds per ton of fired brick) in Rule 325 was taken from 40 CFR 63 Subpart JJJJJ – National Emission Standards for Hazardous Air Pollutants for Brick and Structural Clay Products Manufacturing. This emission stan-

ard was intended as a surrogate to control metals that are Hazardous Air Pollutants, not PM. It does not apply to existing small (<10 tons per hour (tph) of finished product) tunnel kilns or existing tunnel kilns that have accepted production limits to stay under 10 tph. Phoenix Brick's pending Title V permit has this limit. The reason EPA uses this limit is that the contribution of HAPs from tunnel kilns operating <10 tph is not considered to be significant.

Response #1: The County recognizes that 40 CFR 63 Subpart JJJJ applies only to large existing tunnel kilns (> 10 tons per hour of fired product) and new and reconstructed tunnel kilns regardless of capacity. In order to satisfy Most Stringent Measures (MSM) however, the Arizona Department of Environmental Quality (ADEQ) is required to benchmark all rules that may be applicable to a similar source category. In this case ADEQ identified 40 CFR 63 Subpart JJJJ as a rule that is applicable to similar source categories and thus considered it for inclusion in the proposed State Implementation Plan (SIP). Since the source category in question is under the jurisdiction of Maricopa County, then the County is tasked with implementing the rule.

Comment #2: The Arizona Department of Environmental Quality's Salt River PM-10 State Implementation Plan did not consider the significance of the source contribution in establishing the requirement for MSM for Brick and Structural Clay Products. This Rule written as a requirement from the SIP is an arbitrary application of a stringent rule on a source that has not been proven to be a significant source of PM₁₀. There is no site specific PM monitoring data that proves that this MSM for Phoenix Brick is merited. There is no physical proof that this application of MSM to brick manufacturing will provide any significant reduction in PM₁₀ emissions.

Response #2: ADEQ did not make determinations upon whether or not the emissions from a single source were considered to be significant or not. According to the modeling analysis presented in the "Proposed Revised PM₁₀ State Implementation Plan for the Salt River Area Technical Support Document (Proposed TSD)," a series of emissions sources were identified as being significant contributors to the overall nonattainment of the study area. While every facility, when considered independently of the sources surrounding it, should be capable of demonstrating compliance with state and county air quality standards, those sources, when considered collectively, contribute to the overall nonattainment of the study area. ADEQ has made the demonstration in the proposed TSD that when all of the proposed control measures and work practice standards are applied collectively, the ambient concentrations of PM₁₀ in the study area will demonstrate compliance with the National Ambient Air Quality Standards for PM₁₀ by 2006.

Comment #3: ADEQ's Salt River PM-10 State Implementation Plan states that a baghouse could be used to meet the PM emission standard. The AP-42 PM Emission factor (AP-42 Chapter 11.3, Tables 11.3-1 and 11.3-2, 10/1997) for Gas-fired Tunnel Kilns is derived by the addition of filterable PM (0.37 pounds/ton of fired product) plus Condensible Inorganic PM (0.48 pounds/ton) plus Condensible Organic PM (0.11 pounds/ton) for a total PM emission factor of 0.96 pounds/ton. From this emission factor only 0.37 pounds/ton of PM emissions are controllable with a baghouse or fabric filter. The remaining PM emissions (0.59 pounds/ton) are condensible. The proposed emission limitation cannot be achieved with a baghouse or fabric filter.

Response #3: Section 302.1 places a limitation on existing tunnel kilns at brick or structural product manufacturing facilities of 0.42 lbs of particulate matter (PM) per ton of fired product from a tunnel kiln with a capacity of ≥ 1.0 tons per hour throughput. This standard, which is based on the Maximum Achievable Control Technology (MACT) standard for PM, is based on filterable PM and not condensibles. The EPA Reference Method 5, "Determination of Particulate Emissions from Stationary Sources," is incorporated by reference into the rulemaking. The applicable part is the front-half analysis of Method 5.

Significant control of condensible PM is not expected from the installation of a fabric filter. A decrease in temperature across a fabric filter potentially could cause some of the condensible PM to condense and be removed from the exhaust by the fabric filter. However, if the exhaust is cooled too much, the acid gases could condense and damage the fabric filter. Therefore, condensibles may not be reduced following the installation of a fabric filter. In the absence of test data from Phoenix Brick Yard, the current amount of uncontrolled filterable and condensible PM emissions is unknown. In fact, it is possible that condensible PM emissions from Phoenix Brick Yard may not represent a significant proportion of the facility's total PM emissions. A variety of factors affect emissions: raw materials (composition and moisture), kiln fuel, kiln operating parameters, and plant design. Therefore, actual condensibles for a specific facility could be less than the emissions factors in the AP-42.

Based on EPA test data there is a range of condensible values from one facility to another. For example, one facility had much higher condensibles (inorganic and organic PM) than the other six facilities used in the calculations. Excluding this one facility, average condensible inorganic PM emission factor was 0.105 lb/ton, and condensible organic PM emission factor was 0.031 lb/ton. If median emission factors are used, which may better represent PM emissions at brick kilns, the values from these same test facilities would be 0.13 lb/ton for condensible inorganic PM and 0.048 lb/ton for condensible organic PM. Of the available EPA test data for PM emissions, total uncontrolled PM emissions from tunnel kilns at 19 facilities ranged from 0.0350 lb/ton to 0.976 lb/ton with an average of 0.492 lb/ton.

Dry lime scrubbers with fabric filters (DLS/FF) and dry injection fabric filters (DIFF) are capable of achieving 99 percent control efficiency for filterable PM. Dry limestone absorbers (DLA), however, may achieve up to 50 percent control efficiency for filterable PM. As a result, the PM emission standard should be achievable with the available control technology.

Comment #4: ADEQ in the "Economic Impact Analysis or Particulate Matter Emission for Brick and Structural Clay Product Manufacturing" recommends the application of abatement equipment typically applied to treat acid

gases, not PM. In fact the use of a Dry Injection Fabric Filter (DIFF) will increase the amount of PM producing materials used at the facility (dry limestone in raw and waste products). The other commonly used acid gas treatment method, Dry Limestone Absorber (DLA), is not an effective method for PM emissions. Neither abatement methods are practical or effective methods of PM emission control.

Response #4: While the control technologies referenced in “Economic Impact Analysis on Particulate Matter Emissions for brick and Structural Clay Products Manufacturing Proposed Rule 325” (DLS/FF and DIFF), are used to treat acid gasses, they also remove filterable PM at 99 percent efficiency. Although a DIFF will increase the amount of PM producing materials used at a facility, it will not increase a facility’s PM emissions. Therefore, we disagree with the statement that the DIFF is an impractical or ineffective technology for PM emission control. We agree that a dry limestone absorber (DLA) is not an effective technology for controlling PM.

Comment #5: Nonetheless, Phoenix Brick Yard obtained a budgetary quote for a high temperature baghouse from Griffin Environmental, Syracuse, New York. The exhaust gases from a tunnel kiln approach 500 degrees F and have a low pH. These conditions require pretreatment prior to the baghouse. The budgetary quote includes a baghouse, spray cooler, ID fan, injector system, mixing venturi, absorbent chemical supply system, duct work, instrumentation (PLC based), exhaust stack and structural supports for a budgetary cost of \$2,000,000, not including installation. Chemicals are used to neutralize the exhaust gas prior to the baghouse, essentially providing a system comparable to a Dry Injection Fabric Filter (DIFF). Estimated annual operating costs for a DIFF are \$180,000 to \$360,000, not including maintenance or monitoring costs. The cost of this emission control for 5 years of operation (using the capital and an average annual operating cost, with 0.37 pounds per ton of PM removed and 9.9 tons per hour of material processed in the kiln) would be \$41,875 per ton of PM removed. This is an unreasonable control cost.

Response #5: Although a cost of \$2 million, excluding installation costs, is quoted for a baghouse, EPA estimated capital costs (in 2000 dollars for tunnel kilns < 10 tons/hr throughput) of about \$1.2 million for a DLS/FF and \$940,000 for a DIFF. Annualized, these costs would be \$450,000 and \$390,000, respectively. In these cases, annualized costs include the following: labor (operating, supervisory, maintenance, and replacement of components), materials, electricity, lime, compressed air, replacement bags, waste disposal, overhead, administrative charges, property taxes, insurance, and capital recovery calculated for 10 years at 7% interest.

Based on this estimate for Phoenix Brick Yard, the cost per ton of PM removed would be \$41,875, which is claimed to be an unreasonable control cost. However, this cost represents the cost over only five years of operation as opposed to the 10-year time period calculated for the EPA costs presented in Table 3 of the “Economic Impact Analysis on Particulate Matter Emissions for brick and Structural Clay Products Manufacturing Proposed Rule 325.” In comparison, the cost per ton of PM removed from EPA data is \$21,100 for DLS/FF and \$18,300 for DIFF, as shown in Table 5 of the above-referenced analysis. These calculations were based on removing 99 percent of filterable PM emissions of 0.492 lb/ton.

According to EPA’s model data, the cost to install a DIFF for a medium-sized tunnel kiln (<10 ton/hr throughput) is \$940,000. The estimated annualized cost (O&M and capital recovery) is \$390,000 (from Table 3). Of the total amount of annualized cost, \$132,630 represents the amount of capital recovery while the remaining \$257,370 is allocated to O&M costs.

If the brick producer is able to pass on about two-thirds of the increase in compliance costs to brick consumers by increasing the price of a brick by \$0.015, it would generate additional sales revenues of \$297,000.

This example illustrates that by increasing the price of bricks by 1.5 cents, whether it be in the retail or wholesale price, additional sales revenues could be generated. The remaining compliance cost of \$93,000 would be borne by the brick producer. This cost would represent the “effective” cost of controlling filterable PM.

In the event, that marketed conditions were such that the brick producer could only increase the price per brick by only 1.0 cent (2.9% cost increase), the additional sales revenues would generate \$198,000. In this alternative example, this would mean \$192,000 would have to be borne by the brick producer. This translates into passing on about one-half of the increase in compliance costs to the brick consumer, as opposed to two-thirds of the costs.

In each of these cases, the annualized costs of installing PM technologies potentially would be reduced by the additional sales revenues generated. Thus, either \$93,000 or \$192,000 would represent the annual cost of installing the PM control technology, after part of the increased compliance costs were passed on to the buyers. In these cases, the cost per ton of PM removed would be \$4,366 or \$9,014, which is a very reasonable control cost. If annualized costs are greater than expected, these costs would increase, but conceivably they would remain significantly below an \$18,000 per ton of PM removed.

Not only should the cost per ton on PM removed be considered, but potential improvements in air quality. Improvements in air quality will generate cost-saving benefits by persons avoiding adverse-health effects, such as emergency room visits, hospital admissions, acute pediatric bronchitis, chronic adult bronchitis, acute respiratory symptom days, and even premature death. Potential benefits arising from a reduction PM and other pollutants emitted into the atmosphere can be inferred from data associated with the reduction of any airborne PM.

Quantified adverse-health effects include the following: mortality, bronchitis (chronic and acute), new asthma cases, hospital admissions (respiratory and cardiovascular), emergency room visits for asthma, lower and upper respiratory illness, shortness of breath, respiratory symptoms, minor restricted activity days, days of work loss, moderate or

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worse asthma status of asthmatics. Unquantifiable adverse-health effects include: neonatal mortality, changes in pulmonary function, chronic respiratory diseases (other than chronic bronchitis), morphological changes, altered host defense mechanisms, cancer, and non-asthma respiratory emergency room visits.

Epidemiological evidence shows that particulates have negative health impacts in a variety of ways, including: increased mortality and morbidity; more frequent hospital admissions, emergency room and clinician visits; increased need and demand for medication; and lost time from work and school. There is also increasing evidence that ambient air pollution can precipitate acute cardiac episodes, such as angina pectoris, cardiac arrhythmia, and myocardial infarction, although the majority of PM-related deaths are attributed to cardiovascular disease.

Comment #6: In addition to considerable capital and operating costs, retrofitting abatement equipment on older tunnel kilns creates significant problems. The addition of emission control impacts the kiln airflow, which affects the brick color and changes the recipes for brick manufactured in a tunnel kiln. Brick manufacturers may not be able to produce brick that matches existing product lines. Retrofit of emission control equipment will cause a significant amount of kiln downtime and permanent reductions in production capacities with loss of profit.

Response #6: We realize that the application of emissions control to any process may require facilities to re-engineer their processes in order to optimize the operating efficiency of the plant, while reducing emissions. Because reducing both PM₁₀ and hydrogen fluoride emissions from this facility is expected to result in positive effects on public health, ADEQ had determined that an investment in additional pollution controls is appropriate.

Comment #7: Phoenix Brick Yard operates the sole brick manufacturing company in the state of Arizona. The facility has been manufacturing brick in this location since 1935. The facility has a total of 92 employees. The economic burden of installing and operating the equipment discussed in this letter will force Phoenix Brick to discontinue operation.

Response #7: According to EPA's projection, the annual social costs of the final NESHAP rule will be \$23.3 million. Consumers of bricks are expected to pay 63% of these costs, while brick producers are expected to pay 37% of the total costs (68 FR 26711, May 16, 2003). Although the actual proportion of compliance costs that producers will be able to pass on to brick consumers is unknown, it is likely that it will fall within the range of one-half to three-fourths. As a result, numerous brick kiln operations in the U.S. will face compliance-cost decisions, and as such, any single brick kiln located in Maricopa County would not be in isolation relative to other facilities in the nation that must make compliance-cost decisions about installing air pollution control equipment, as well as decisions about passing on increased compliance costs to consumers. Annualized costs for more than 100 existing large tunnel kilns in the nation are expected to be \$24 million. New sources are expected to spend \$1.14 million in annualized costs

in the first year following promulgation of the rule. Costs include capital investments on control and monitoring equipment, O&M, emission testing, and recordkeeping and reporting (68 FR 26711, May 16, 2003).

Economic impacts on the brick producers and the market in general have been projected by EPA. Compliance costs for the NESHAP rule are expected to increase the price of bricks and reduce output and consumption. As a result, consumers of brick will buy fewer bricks and pay slightly higher prices. The law of demand states that as the price of a good rises, the quantity demanded will fall.

On the production side, brick manufacturers will reduce output and pass on about two-thirds of the increased compliance costs to brick consumers, according to EPA. The brick producers are expected to bear the remaining one-third of the compliance. The reduction in domestic brick production and higher prices are expected to result in a 10 percent decrease in operating profits. However, the majority of the brick producers (71%) in the nation are expected to experience a profit increase, compared to 21 percent of the brick producers expected to generate a loss in profits (68 FR 26711, May 16, 2003).

Although the economic impact of Rule 325 to the brick producer in Maricopa County is unknown, a likely scenario has been developed to illustrate what could be a possibility. According to EPA's model data, the cost to install a DIFF for a medium-sized tunnel kiln is \$940,000. The estimated annualized cost (O&M and capital recovery) is \$390,000 (refer to Table 3). Of the total amount of annualized cost, \$132,630 represents the amount of capital recovery while the remaining \$257,370 is allocated to O&M costs.

If the brick producer is able to pass on about two-thirds of the increase in compliance costs to brick consumers by increasing the price of a brick by \$0.015, it would generate additional sales revenues of \$297,000. This annualized cost translates into a cost effectiveness of \$19,500 per ton if 20 tons of PM were reduced per year.

This example illustrates that by increasing the price of bricks by 1.5 cents, whether it be in the retail or wholesale price, additional sales revenues can be generated. The remaining compliance cost of \$93,000 would be borne by the brick producer. This cost could impact operating profits. An option of the producer would be to increase production throughput to offset any reductions in operating profits, but still remain under the ten ton per hour limit.

If the brick producer decides to increase the price per brick by only 1.0 cent (2.9% cost increase), the additional sales revenues would generate \$198,000. In this second case, this would leave \$192,000 to be borne by the producer. This translates into passing on about one-half of the increase in compliance costs to the brick consumer. Again, the producer could increase production, provided the market for bricks was sufficiently strong, to compensate for increased

compliance and production costs. Management decisions also could be made to reduce costs by making the production activities more efficient thereby potentially increasing operating profits.

Comment #8: EPA Region IX commented that the compliance date in Section 401 must be changed from 36 months to no later than Dec. 31, 2006 for the proposed rule to be approved as BACM/MSM for brick manufacturing. The December 31, 2006 date matches the attainment date in the Salt River SIP.

Response #8: The County is changing the compliance date to December 31, 2006. The approximately 21 month period more closely matches EPA policy on compliance periods. It provides for a complete budget cycle to program the necessary capital purchases and time to install and bring the new controls on line. Furthermore, the County and ADEQ informed the brick manufacturers in the Spring of 2004 that industrial emissions were a significant contributor to violations of the National Ambient Air Quality Standards (NAAQS) in the Salt River. This identification triggered the Clean Air Act requirement for BACM/MSM. The industry has been aware of those requirements since that time.

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:

	<u>Location</u>
EPA Reference Method 9 (Visual Determination of the Opacity of Emissions from Stationary Sources)	Section 503.1
EPA Reference Method 5 (Determination of Particulate Emissions from Stationary Sources)	Section 503.2

Incorporations by reference updated to 7/1/03:

	<u>Location</u>
40 CFR Part 60 Appendix A	Section 503

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

No

15. The full text of the rule follows:

REGULATION III - CONTROL OF AIR CONTAMINANTS

RULE 325

BRICK AND STRUCTURAL CLAY PRODUCTS (BSCP) MANUFACTURING

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MARICOPA COUNTY
AIR POLLUTION CONTROL REGULATIONS
REGULATION III - CONTROL OF AIR CONTAMINANTS
RULE 325
BRICK AND STRUCTURAL CLAY PRODUCTS (BSCP) MANUFACTURING

SECTION 100 – GENERAL

- 101 **PURPOSE:** To limit particulate matter emissions from the use of tunnel kilns for curing in the brick and structural clay product (BSCP) manufacturing processes.
- 102 **APPLICABILITY:** This rule applies to any existing, new or reconstructed tunnel kiln, used in the commercial and industrial brick and structural clay product manufacturing processes. Compliance with the provisions of this rule shall not relieve any person subject to the requirements of this rule from complying with any other federally enforceable New Sources Performance Standards (NSPS). In such cases, the most stringent standard shall apply.
- 103 **EXEMPTIONS:** Existing, new or reconstructed tunnel kilns that are used exclusively for research and development and are not used to manufacture products for commercial sale are not subject to this rule.

SECTION 200 – DEFINITIONS: See Rule 100 (General Provisions And Definitions) of these rules for definitions of terms that are used but not specifically defined in this rule. For the purpose of this rule, the following definitions shall apply:

- 201 **BRICK AND STRUCTURAL CLAY PRODUCTS (BSCP) MANUFACTURING FACILITY-** A site that manufactures brick including, but not limited to: face brick, structural brick and brick pavers; claypipe; roof tile; extruded floor and wall tile; and/or other extruded, dimensional, clay products. Brick products manufacturing facilities typically process raw clay and shale, form the processed materials into bricks or shapes, and dry and fire the bricks or shapes.
- 202 **CONTINUOUS KILN –** A heated chamber that heats dense loads uniformly and efficiently, and can be used without interruption for high volume production. Continuous kilns are kilns that perform well in the consistent high production

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of wares. Continuous kilns include tunnel kilns, shuttle kilns, fixed-hearth kilns, bee hive kilns, roller kilns, sled kilns, decorating kilns, and pusher slab kilns. Most continuous kilns are tunnel kilns.

203 **EXISTING KILN** – A kiln that is in operation before the date of adoption of this rule.

204 **KILN FEED** – All materials except fuel entering the tunnel kiln, including raw feed and recycle dust, measured on a dry basis.

205 **PERIODIC KILN** – A kiln that operates on an intermittent basis to heat wares, holding them at a uniform peak temperature and cool the wares. Periodic kilns are best for inconsistent or low-volume production.

206 **RESEARCH AND DEVELOPMENT TUNNEL KILN**- Any tunnel kiln whose purpose is to conduct research and development for new processes and products and is not engaged in the manufacture of commercial products for sale.

207 **TUNNEL KILN** – Any continuous kiln that is used to fire brick and structural clay products. Tunnel kilns may have two process streams, including a process stream that exhausts directly to the atmosphere or to an Air Pollution Control Device, and a process stream in which the kiln exhaust is ducted to a brick dryer where it is used to dry bricks before the exhaust is emitted to the atmosphere.

SECTION 300 – STANDARDS

301 **OPACITY LIMITATIONS FOR ALL TUNNEL KILNS SUBJECT TO THIS RULE:** No person shall discharge into the ambient air from any single source of emissions any air contaminant, other than uncombined water, in excess of 20% opacity.

302 **LIMITATIONS FOR EXISTING TUNNEL KILNS AT BRICK OR STRUCTURAL PRODUCT (BSCP) MANUFACTURING FACILITIES:**

302.1 No owner or operator shall emit more than 0.42 lbs. of particulate matter per ton of fired product from a tunnel kiln with a capacity of 1 tons per hour throughput.

303 **LIMITATIONS FOR NEW OR RECONSTRUCTED TUNNEL KILNS AT BRICK OR STRUCTURAL PRODUCT (BSCP) MANUFACTURING FACILITIES:**

303.1 No owner or operator shall emit more than 0.42 lbs. of particulate matter per ton of fired product from a tunnel kiln with a capacity of < 10 tons per hour throughput.

303.2 No owner or operator shall emit more than 0.12 lbs. of particulate matter per ton of fired product from a tunnel kiln with a capacity of ≥ 10 tons per hour throughput.

SECTION 400 - ADMINISTRATIVE REQUIREMENTS

401 **COMPLIANCE SCHEDULE:** Any owner or operator of a tunnel kiln subject to this rule shall be in full compliance by December 31, 2006.

SECTION 500 - MONITORING AND RECORDS

501 **COMPLIANCE DETERMINATION:** Compliance shall be demonstrated through measurement of particulate matter concentration by performance of the test methods listed in Section 503 no later than September 9, 2005.

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- 502** **RECORDKEEPING/RECORDS RETENTION:** The owner or operator of any kiln subject to this rule shall comply with the following requirements and keep records for a period of five years:
- 502.1** Daily records of kiln feed fired and hours of operation; and
- 502.2** Monthly records of material delivered to the site for processing in the tunnel kiln and the amount of product produced reported in tons.
- 503** **TEST METHODS:** The Environmental Protection Agency (EPA) test methods as they exist in the Code of Federal Regulations (CFR) (July 1, 2003), as listed below, are adopted by reference. These adoptions by reference include no future editions or amendments. Copies of test methods referenced in this Section of this rule are available at the Maricopa County Environmental Services Department, 1001 North Central Avenue, Suite 201, Phoenix, Arizona, 85004-1942.
- 503.1** EPA Reference Method 9 (“Visual Determination of the Opacity of Emissions from Stationary Sources”), (40 CFR 60, Appendix A).
- 503.2** EPA Reference Method 5 (“Determination of Particulate Emissions from Stationary Sources”), (40 CFR 60, Appendix A) and possibly, if requested by the Control Officer, EPA Reference Method 202 (“Determination of Condensable Particulate Emissions from Stationary Sources”), (40 CFR 51, Appendix A).