

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

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NOTICE OF PROPOSED RULEMAKING

Rule 325

Maricopa County Air Pollution Control Regulations

[M05-147]

PREAMBLE

- Rules Affected** **Rulemaking Action**
Rule 325 – Brick and Structural Clay Products (BSCP) Manufacturing New Rule
- 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
- A list of all previous notices appearing in the Register addressing the proposed rule:**
Notice of Rulemaking Docket Opening: 11 A.A.R. 2497, July 1, 2005
- 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 North Central Avenue, Suite # 695, Phoenix, AZ 85004
Telephone Number: 602-506-6709 or 602-506-6705
Fax Number: 602-506-6179
E-Mail Address: pnelson@mail.maricopa.gov or jcrumbak@mail.maricopa.gov
- An explanation of the rule, including the department’s reasons for initiating the rule:**
Maricopa County is proposing to promulgate 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 is proposing to incorporate Best Available Control Measures (BACM) and Most Stringent Measures (MSM) proposed in the Salt River PM10 State Implementation Revision.

Section by Section Explanation of Changes:

Section 101	This proposed text lists the purpose of the rule.
Section 102	This proposed text outlines the applicability of the rule.
Section 103	This proposed text lists the exemptions to the rule.
Section 201	This proposed text defines a “brick and structural clay manufacturing facility.”
Section 202	This proposed text defines a “continuous kiln.”
Section 203	This proposed text defines the term “existing kiln.”
Section 204	This proposed text defines the term “kiln feed.”
Section 205	This proposed text defines the term “periodic kiln.”
Section 206	This proposed text defines the term “research and development kiln.”
Section 207	This proposed text defines the term “tunnel kiln.”
Section 301	This proposed text states the opacity limitation for all tunnel kilns subject to the proposed rule.
Section 302	This proposed text lists the particulate matter limitations for existing tunnel kilns.

Section 303	This proposed text lists the two different particulate matter limitations for new or reconstructed tunnel 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 proposed text lists the compliance time schedule for the rule.
Section 501	This proposed text lists the method for proving compliance with the proposed rule.
Section 502	This proposed text states the fact that records shall be kept for 5 years.
Section 502.1	This proposed text states that daily records of kiln feed and hours of operation shall be kept.
Section 502.2	This proposed text states the type of monthly records that shall be kept: both product amount and materials delivered.
Section 503	This proposed text lists where the tests methods in the Code of Federal Regulations is kept at Maricopa County.
Section 503.1	This proposed text lists EPA reference Method 9.
Section 503.2	This proposed text lists EPA reference Method 5.
Section 503.3	This proposed text lists EPA reference Method 202.

6. **A reference to any study that the department proposes to rely on its evaluation of or justification for the proposed rules and where the public may obtain or review the study, all data underlying each study, any analysis of the study, and other supporting material:**

“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; and the “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.

7. **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.

8. **The preliminary summary of the economic, small business, and consumer impact:**

Arizona Department of Environmental Quality (ADEQ) has prepared an extensive economic impact analysis on the proposed rule on September 20, 2004 which is summarized in the following text: There are 2 brick and structural clay product manufacturing facilities that have the potential to be regulated by this proposed 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 manufacturing 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 proposed 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 proposed rulemaking 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

Arizona Administrative Register / Secretary of State
County Notices Pursuant to A.R.S. § 49-112

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.

This preliminary economic statement (EIS) was developed to estimate the impact of proposed rule. This impact statement, comprised of potential costs and benefits, represents an estimate. Maricopa County solicits input from stakeholders that are small businesses and organizations on the administrative and other costs required for compliance with the proposed rulemaking, and any other information relevant to the economic, small business and consumer impact statement.

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

Name: Patricia P. Nelson or Jo Crumbaker, Air Quality Division
Address: 1001 North Central Avenue, Suite #695, Phoenix, AZ 85004
Telephone Number: 602-506-6705 or 602-506-6705
Fax Number: 602-506-6179
E-Mail Address: pnelson@maricopa.mail.gov or jcrumbak@mail.maricopa.gov

10. The time, place, and nature of the proceedings for the adoption, amendment, or repeal of the rules or, if no proceeding is scheduled, where, when, and how persons may request an oral proceeding on the proposed rules:

Oral Proceeding Date: Monday, August 1, 2005 at 9 a.m.
Location: Maricopa County Environmental Services Department
5th Floor Conference Room #560
1001 North Central Avenue, Phoenix, Arizona 85004

Nature: Public hearing with the opportunity for formal comments on the record regarding the proposed rules. Call (602) 506-0169 for current information. Please call (602) 506-6443 for special accommodations under the Americans with Disabilities Act.

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

Not applicable.

12. 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
EPA Reference Method 202 (Determination of Condensable Particulate Emissions from Stationary Sources)	Section 503.3

Incorporations by reference updated to 7/1/04:

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

13. The full text of the rule follows:

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

INDEX

SECTION 100 – GENERAL

- 101 PURPOSE
- 102 APPLICABILITY
- 103 EXEMPTIONS

SECTION 200 – DEFINITIONS

- 201 BRICK AND STRUCTURAL CLAY PRODUCTS (BSCP) MANUFACTURING FACILITY
- 202 CONTINUOUS KILN
- 203 EXISTING KILN
- 204 KILN FEED
- 205 PERIODIC KILN
- 206 RESEARCH AND DEVELOPMENT KILN
- 207 TUNNEL KILN

SECTION 300 – STANDARDS

- 301 OPACITY LIMITATIONS FOR TUNNEL KILNS SUBJECT TO THIS RULE
- 302 LIMITATIONS FOR EXISTING TUNNEL KILNS AT BRICK OR STRUCTURAL PRODUCT (BSCP) MANUFACTURING FACILITIES
- 303 LIMITATIONS FOR NEW OR RECONSTRUCTED TUNNEL KILNS AT BRICK OR STRUCTURAL PRODUCT (BSCP) MANUFACTURING FACILITIES

SECTION 400 - ADMINISTRATIVE REQUIREMENTS

- 401 COMPLIANCE SCHEDULE

SECTION 500 - MONITORING AND RECORDS

- 501 COMPLIANCE DETERMINATION
- 502 RECORDKEEPING/RECORDS RETENTION
- 503 TEST METHODS

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 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 meet the following milestones:

401.1 Submit a compliance plan, by December 31, 2005, to the Control Officer for approval which describes the method(s) used to achieve full compliance with the rule. This plan shall specify dates for completing increments of progress, such as the contractual arrival date of new control equipment. The Control Officer may require an owner or operator submitting the compliance plan to also submit subsequent reports on progress in achieving compliance; and

401.2 Attain full compliance with all of the standards in this rule by December 31, 2006.

SECTION 500 - MONITORING AND RECORDS

501 **COMPLIANCE DETERMINATION:** Compliance shall be demonstrated as follows:

501.1 Compliance with Section 301 shall be demonstrated by performance of Method 9 listed in Section 503.1; and

501.2 Compliance with Sections 302 and 303 shall be demonstrated by performance of the test methods listed in Section 503.2 and 503.3.

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 5 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, 2004), 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).

503.3 EPA Reference Method 202 (“Determination of Condensable Particulate Emissions from Stationary Sources”),(40 CFR 51, Appendix A).

NOTICE OF TERMINATION OF RULEMAKING

MARICOPA COUNTY AIR QUALITY DEPARTMENT

RULE 325

[M05-145]

1. The Register citation and the date of the Notice of Proposed Rulemaking:

Notice of Proposed Rulemaking: 11 A.A.R. 2041, May 27, 2005

2. Rules, Parts and Sections Affected:

Rule 325

Rulemaking Action

New Rule

NOTICE OF FINAL RULEMAKING

MARICOPA COUNTY AIR POLLUTION CONTROL REGULATIONS

RULE 280 – FEES

[M05-141]

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 Statutes: A.R.S. §§ 49-480(D), 49-480(E), 49-480(J), 49-112(A), 49-112(B), 11-251.08(B)

3. The effective date of the rules:

July 1, 2005

4. List of all previous notices appearing in the Register addressing the proposed rule:

a. Notice of Rulemaking Docket Opening: 10 A.A.R. 5223, December 27, 2004

b. Notice of Proposed Rulemaking: 11 A.A.R. 1291, April 1, 2005

5. Name and address of department personnel with whom persons may communicate regarding the rulemaking:

Name: Dena Konopka or Jo Crumbaker, Maricopa County Air Quality Department

Address: 1001 North Central Avenue, Suite 695, Phoenix, AZ 85004

Telephone: 602-506-4057 or 602-506-6705

Fax: 602-506-6179

E-Mail: dkonopka@mail.maricopa.gov or jcrumbak@mail.maricopa.gov

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

Summary: The Maricopa County Air Quality Department (MCAQD) is changing the fees it charges to owners and operators of sources of air pollution. The affected fees are for billable permit actions, annual administrative fees 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, and other miscellaneous administrative fees. MCAQD reclassified some sources to different fee table categories based on the Department's experience in applying the revised classifications adopted in May 2003. MCAQD also established a mechanism in Rule 280 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).

Arizona Administrative Register / Secretary of State
County Notices Pursuant to A.R.S. § 49-112

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 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.

Arizona Administrative Register / Secretary of State
County Notices Pursuant to A.R.S. § 49-112

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 MCAQD has completed. The allocation of indirect costs includes the County-wide allocation by fund plus the Departmental and Divisional overhead as determined jointly by MCAQD, 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 can not be relied upon to fund programs.
- 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 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 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.

On April 1, 2005, MCAQD proposed changes to the permit fee rule. A comment was received in relation to another rulemaking that was germane to this rulemaking. This comment is discussed in Section 10 of this rulemaking.

Section by Section Explanation of Changes:

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

Arizona Administrative Register / Secretary of State
County Notices Pursuant to A.R.S. § 49-112

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:

The amendment to this section raises 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:

The amendments to this section 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 previous calendar year as determined by Section 305.

The amendments 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. Testing requirements for turbines and natural gas power plants specify each performance test consist of three separate test runs and two to four different capacity tests per turbine resulting in six to twelve separate test reports per turbine. These testing requirements and report reviews consume significant Department resources. The Department updated its workload analysis and determined that the workload associated with conducting source performance testing and CEM RATA certifications at utility sources was substantially underestimated in the 2002 workload analysis. The underestimate resulted because the 2002 workload analysis calculated the hours associated with source testing and CEM

Arizona Administrative Register / Secretary of State
County Notices Pursuant to A.R.S. § 49-112

RATA certifications per utility (assuming 11 utilities) rather than per utility turbine. The number of turbines at an individual utility ranges from 2 to 8 turbines per utility. There are thirty new and modified turbines permitted by MCAQD which are subject to performance testing. The requirement to test each turbine significantly increased the testing workload per utility above the average testing hours for natural gas fired utilities permitted by ADEQ. For this reason, MCAQD separated the testing workload from the base per utility administrative 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 + \$15,130 per turbine installed/modified after May 10, 1996 and subject to annual source 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 the 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 in this section make several changes to the rule. First, they add two new fee table categories, Table F and Table G. Second, the amendments 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 amendments 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) is deleted. Any amount due over the application fee is due prior to issuing the permit. Third, they 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 lower the application fee for new permit application and non-minor permit revision application from \$350 to \$200. Finally, they 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 amendments in this section 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 <u>\$5,880</u>
Source listed in Table B	\$1,300 <u>\$1,660</u>
Source listed in Tables C—E	\$360
Source listed in Table C-D	<u>\$520</u>
Source listed in Table E	<u>\$370</u>
Source listed in Table F	<u>\$7,380</u>
Source listed in Table G	<u>\$4,780</u>

Section 303 General Permit Fees Subsections 303 detail fees for general permits. The following tables illustrate the 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 amendments 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 Title V 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	<u>\$6,200</u>
Table G	<u>\$4,030</u>

Section 303 General Permit Fees, 303.2 Annual Fee

These amendments 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 Title V 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	<u>\$6,200</u>
Table G	<u>\$4,030</u>

Section 304 Annual Adjustments of Fees

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

Section 308 Gasoline Deliver Vessel Fee

This amendment raises the gasoline delivery vessel fee from \$115.00 to \$280.00.

Section 309 Permit to Burn Fee

The amendments 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 Less than 5.0 acres	30 days	\$74.00 <u>\$150.00</u>
Land Clearance 5.0 acres or greater	30 days	\$144.00 <u>\$350.00</u>
Land Clearance Air Curtain Destructor	30 days	\$249.00 <u>\$350.00</u>

Section 310 Earth Moving Permit Fee

The amendments in this section replace references to “earth moving permit” with “dust control permit” and they 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 312 Late Fee

First, the amendments in this section raise the late fee from \$70.00 to \$100.00. Second, the amendments 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 amendments replace references to “earth moving permit” with “dust control permit.” Fourth, the 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 in this section 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 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 new fee categories are shown below:

Arizona Administrative Register / Secretary of State
County Notices Pursuant to A.R.S. § 49-112

Sources Reclassified from Table A to Table F:

- Hot Mix Asphalt Plant;
- Semiconductor Manufacturing ≥ 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 amendments in Section 403 establish a mechanism to reclassify sources to a higher fee category if MCAQD receives three (3) 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. The amendments in Section 403 require that sources reclassified to a higher fee category due to the receipt of multiple complaints would remain in that classification until two calendar years pass without complaints resulting in violations resolved by an order of abatement by consent or judicial action.

Third, the 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 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

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

Previous Fee Table Category	New Fee Table Category	New 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

Arizona Administrative Register / Secretary of State
County Notices Pursuant to A.R.S. § 49-112

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 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 Maricopa 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 in its evaluation of or justification for the rule or proposes not to 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 28, 2005

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

Available for review by contacting:

Dena Konopka, Maricopa County Air Quality Department

1001 N. Central Ave., Suite 695

Phoenix, AZ 85004

dkonopka@mail.maricopa.gov

602-506-4057

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

A. Rule Identification

This rulemaking amends Rule 280 Fees.

B. Background

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 MCAQD 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 \$9.0 million in fee revenue from proposed amendments, \$1.3 million in U.S. Environmental Protection Agency grant funding, and \$0.8 million in miscellaneous revenues.

C. Entities Directly Affected

An estimated 37% increase in fees for Title V, Non-Title V, and general permit sources, gasoline delivery vessels, permits to burn, and dust control permits is expected to directly impact approximately 8,700 sources permitted by MCAQD.

A 34% increase in annual administrative and emissions-based fees and fees for gasoline delivery vessels, permits to burn, earth moving permits, 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).

D. Potential Costs and Benefits

Permit Processing Revenue

The amendments increase fees for billable permit actions from \$70.20/hour (the 2005 CPI-adjusted fee) to \$108.00/hour. This 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 based upon an hourly rate. Total projected revenue was calculated at an hourly rate of \$108.00. The number of permit actions was estimated based on fiscal year 2003-04 permit applications received. The data was obtained from MCAQD's Environmental Management System. MCAQD assumed that 90% of the estimated permit processing hours are billable for Title V and Non-Title V permits actions. Under the amendments, permit processing revenue of approximately \$1,482,572 would be generated from the 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 projected revenue for 2005 and 2006 based on existing and new permit processing fees for Title V and Non-Title V permit actions.

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

Table 1 Comparison of Title V Permit Processing Revenue

Billable Permit Action	Number of Title V Permit Actions	Billable Permit Processing Hours	Projected Revenue with 2005 CPI-adjusted Fee (\$70.20)	Projected Revenue with New Fee (\$108.00)	Projected Revenue Increase
Minor Revision	16	895.5	\$62,864	\$96,714	\$33,850
New Permit	3	997.2	\$70,003	\$107,698	\$37,694
Non-Minor Revision	19	4,752.9	\$333,654	\$513,313	\$179,660
Renewal	10	3,212.8	\$225,540	\$346,985	\$121,445
Total	48	9,858.4	\$692,061	\$1,064,709	\$372,648

Tables 2 and 3 compare Non-Title V Table A and B permit processing revenue with the 2005 CPI-adjusted fee (\$70.20 per hour) and the new fee (\$108.00 per hour) assuming 90% of the permit processing hours for Non-Title V Table A and B new permits and permit revisions are billable.

Table 2 Comparison of Permit Processing Revenues for Non-Title V Table A Sources

Billable Permit Action	Number of Table A Permit Actions	Billable Permit Processing Hours	Projected Revenue with 2005 CPI-adjusted Fee (\$70.20)	Projected Revenue with New Fee (\$108.00)	Projected Revenue Increase
Minor Revision	33	148.5	\$10,425	\$16,038	\$5,613
New Permit	6	648.0	\$45,490	\$69,984	\$24,494
Non-Minor Revision	2	61.2	\$4,296	\$6,610	\$2,313
Total	41	857.7	\$60,211	\$92,632	\$32,421

Arizona Administrative Register / Secretary of State
County Notices Pursuant to A.R.S. § 49-112

Table 3 Comparison of Permit Processing Revenue for Non-Title V Table B Sources

Billable Permit Action	Number of Table B Permit Actions	Billable Permit Processing Hours	Projected Revenue with 2005 CPI-adjusted Fee (\$70.20)	Projected Revenue with New Fee (\$108.00)	Projected Revenue Increase
Minor Revision	24	108.0	\$7,582	\$11,664	\$4,082
New Permit	24	1,166.4	\$81,881	\$125,971	\$44,090
Non-Minor Revision	3	91.8	\$6,444	\$9,914	\$3,470
Total	51	1,366.2	\$95,907	\$147,550	\$51,642

The amendments 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 with the existing application fee and the new fee (\$108.00 per hour) assuming 90% of the projected permit processing hours for new permits and permit revisions are billable.

Table 4 Comparison of Permit Processing Revenues for Non-Title V Table C Sources

Billable Permit Action	Number of Permit Actions	Table C Billable Permit Processing Hours	Existing Application Fee Contained in Table 302.1(a)	Projected Revenue from Existing Application Fee	Projected Revenue with New Fee (\$108.00)	Projected Revenue Increase
Minor Revision	13	58.5	\$150	\$1,950	\$6,318	\$4,368
New Permit	112	504.0	\$350	\$39,200	\$54,432	\$15,232
Non-Minor Revision	1	12.6	\$350	\$350	\$1,361	\$1,011
Total	126	575.1		\$41,500	\$62,111	\$20,611

Table 5 Comparison of Permit Processing Revenues for Non-Title V Table D Sources

Billable Permit Action	Number of Permit Actions	Table D Billable Permit Processing Hours	Existing Application Fee Contained in Table 302.1(a)	Projected Revenue from Existing Application Fee	Projected Revenue with New Fee (\$108.00)	Projected Revenue Increase
Minor Revision	1	4.5	\$150	\$150	\$486	\$336
New Permit	6	27.0	\$350	\$2,100	\$2,916	\$816
Non-Minor Revision	1	12.6	\$350	\$350	\$1,361	\$1,011
Total	8	44.1		\$2,600	\$4,763	\$2,163

Arizona Administrative Register / Secretary of State
County Notices Pursuant to A.R.S. § 49-112

Table 6 Comparison of Permit Processing Revenues for Non-Title V Table E Sources

Billable Permit Action	Number of Permit Actions	Table E Billable Permit Processing Hours	Existing Application Fee Contained in Table 302.1(a)	Projected Revenue from Existing Application Fee	Projected Revenue with New Fee (\$108.00)	Projected Revenue Increase
Minor Revision	1	4.5	\$150	\$150	\$486	\$336
New Permit	1	4.5	\$350	\$350	\$486	\$136
Non-Minor Revision	1	12.6	\$350	\$350	\$1,361	\$1,011
Total	3	21.6		\$850	\$2,333	\$1,483

The 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 compare the Non-Title V Table F and G permit processing revenue with the 2005 CPI-adjusted fee (\$70.20 per hour) and the new fee (\$108.00 per hour) assuming 90% of the projected permit processing hours for new permits and permit revisions are billable hours.

Table 7 Comparison of Permit Processing Revenues for Non-Title V Table E Sources

Billable Permit Action	Number of Permit Actions	Table F Billable Permit Processing Hours	Projected Revenue with 2005 CPI-adjusted Fee (\$70.20)	Projected Revenue with New Fee (\$108.00)	Projected Revenue Increase
Minor Revision	8	36.0	\$2,527	\$3,888	\$1,361
New Permit	5	540.0	\$37,908	\$58,320	\$20,412
Non-Minor Revision	1	30.6	\$2,148	\$3,305	\$1,157
Total	14	606.6	\$42,583	\$65,513	\$22,929

Table 8 Comparison of Permit Processing Revenues for Non-Title V Table G Sources

Billable Permit Action	Number of Permit Actions	Table G Billable Permit Processing Hours	Projected Revenue with 2005 CPI-adjusted Fee (\$70.20)	Projected Revenue with New Fee (\$108.00)	Projected Revenue Increase
Minor Revision	6	27.0	\$1,895	\$2,916	\$1,021
New Permit	7	340.2	\$23,882	\$36,742	\$12,860
Non-Minor Revision	1	30.6	\$2,148	\$3,305	\$1,157
Total	14	397.8	\$27,926	\$42,962	\$15,037

Table 9 compares permit processing revenue for all Non-Title V sources combined at the 2005 CPI-adjusted fee (\$70.20 per hour) and at the new fee (\$108.00 per hour) assuming 90% of the projected permit processing hours for new permits and permit revisions are billable hours.

Arizona Administrative Register / Secretary of State
County Notices Pursuant to A.R.S. § 49-112

Table 9 Summary of All Non-Title V Permit Processing Revenues

Billable Permit Action	Number of Permit Actions	Billable Permit Processing Hours	Projected Revenue with Existing Permit Processing Fee	Projected Revenue with New Permit Processing Fee (\$108.00)	Projected Revenue Increase
Minor Revision	86	387.0	\$24,679	\$41,796	\$17,117
New Permit	161	3230.1	\$230,811	\$348,851	\$118,040
Non-Minor Revision	10	252.0	\$16,087	\$27,216	\$11,129
Total	257	3869.1	\$271,577	\$417,863	\$146,286

Annual Revenue

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

Table 10 shows the 49 Title V sources by source category, the existing 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 new Title V annual administrative fee and annual emissions-based fee.

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

Table 10. 2005 CPI-Adjusted Annual Administrative and Emissions-Based Fees for Title V Permitted Sources*

Source Category	Number of Sources Per Category	2005 CPI-Adjusted Annual Administrative Fee (\$)	Annual Administrative Revenue	Annual Emissions Per Category (Tons)	2005 CPI-Adjusted 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

Arizona Administrative Register / Secretary of State
County Notices Pursuant to A.R.S. § 49-112

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. New Annual Administrative and Emissions-Based Fees for Title V Permitted Sources*

Source Category	Number of Sources Per Category	New Annual Administrative Fee (\$)	Annual Administrative Revenue	Annual Emissions Per Category (Tons)	New 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, gasoline deliver vessels and earthmoving permits increase under the 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 \$6.48 million. Most of the categories of permits will be impacted by the increased fees; however, the permit fees for Table E individual permits and Table E general permit decrease slightly and the asbestos plan review and notification fees remain unchanged.

Table 12 reflects the annual revenue from Non-Title V and general permitted sources under the 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, MCAQD assumed 1/5 of the existing permits would be renewed per year.

Arizona Administrative Register / Secretary of State
County Notices Pursuant to A.R.S. § 49-112

Table 12. Comparison of Annual Administrative Revenue for Non-Title V and General Permitted Sources

Source Category	Number of Sources	Existing Annual Administrative Fee	Projected Revenue from Existing Annual Admin. Fee	New Annual Administrative Fee	Projected Revenue from New Annual Admin. Fee	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. Comparison of Fees for Burn Permits, Asbestos, and Tank Trucks

Source Category	Number of Permits	Existing Fee	Projected Revenue from Existing Fee	New Fee	Projected Revenue from New Fee	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
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

Arizona Administrative Register / Secretary of State

County Notices Pursuant to A.R.S. § 49-112

Burn Permit Land Clearance (Air Curtain Destructor 30 days)	1	\$249	\$249	\$350	\$350	\$101
Asbestos	550	\$425	\$233,750	\$425	\$233,750	\$0
Tank Trucks	721	\$115	\$82,915	\$280	\$201,880	\$118,965
Total	1,401		\$324,378		\$451,130	\$126,752

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

Table 14. Existing and New Proposed Fees for Dust Control Permits

Source Category	Number of Permits	Acreage	Existing Flat Fee Per Permit	Existing Per Acre Fee	Projected Revenue from Existing Fees	New Flat Fee	New Per Acre Fee	Projected Revenue from New Fees	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
Total	4,149	57236.1			\$2,478,578			\$2,700,713	\$222,135

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 amendments to be \$11.1 million. The fiscal year 2006 revenue projections include \$9.0 million in fee revenue from fee amendments, \$1.3 million in U.S. Environmental Protection Agency grant funding, and \$0.8 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 amendments.

Table 15. Fiscal Year 2006 Fee Revenue Projections

Permit Processing Fees	Estimated Revenue with Existing Fees	Estimated Revenue with New Fees	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

Arizona Administrative Register / Secretary of State
County Notices Pursuant to A.R.S. § 49-112

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
Annual Fees			
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
Burn Permit Land Clearance (Air Curtain Destructor 30 days)	\$249	\$350	\$101

County Notices Pursuant to A.R.S. § 49-112

Asbestos	\$233,750	\$233,750	\$0
Tank Trucks	\$82,915	\$201,880	\$118,965
Burn Permit, Asbestos, Tank Truck Subtotal	\$324,378	\$451,130	\$126,752
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
Dust Control Subtotal	\$2,478,577	\$2,700,713	\$222,135
Annual Fee Subtotal	\$5,598,455	\$7,516,283	\$1,917,828
Grand Total	\$6,562,093	\$8,998,855	\$2,436,762

Small Business Impact

MCAQD 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. MCAQD 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. A description of the changes between the proposed rules, including supplemental notices, and final rules:

In Rule 280, Section 310, the “Temporary Special Event Permit” and the applicable fee “\$620” were deleted. MCAQD removed the temporary special event permit fee from Rule 280 in response to a comment received pertaining to another rulemaking that is germane to this rulemaking. The temporary special event permit fee was removed from Rule 280 because the definition of a temporary special event and the applicable permit thresholds has yet to be defined in Rule 200. MCAQD intends to continue to research, define, and eventually establish a dust control permit for temporary special events.

In Rule 280, Section 311 Asbestos Notification and Plan Review Filing Fee, Subsections 311.1 and 311.2, the proposed \$1,060 fee has been withdrawn. The existing fee of \$425 in Subsections 311.1 and 311.2 for the Asbestos Notification and Plan Review Filing Fee remains in place. Based on comments received and issues identified in the fee model pertaining to overhead cost allocations, MCAQD decided to withdraw the \$1,060 proposed asbestos plan review and notification filing fee. The existing \$425 asbestos plan review and notification filing fee will remain in place until MCAQD revisits the workload analysis and fee model in the next year or two. MCAQD commits to working with stakeholders, at that time, to determine if an alternative fee structure for the Asbestos NESHAP program would be more appropriate.

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

The Maricopa County Air Quality Department conducted four public workshops throughout the rulemaking process for Rule 280 – September 2004 through April 2005 and received formal comments during the formal comment period – April

Arizona Administrative Register / Secretary of State
County Notices Pursuant to A.R.S. § 49-112

through May 2005 - from Salt River Project (SRP), Arizona Public Service (APS), The City of Phoenix, and the Demolition Contractors' Association. The formal comments and Maricopa County's responses to comments are provided below:

Comment #1: The proposed fee structure is unreasonable and the proposed annual fee structure disproportionately burdens electric utilities. The original intent of the fee rule changes was to provide equitable relief to the larger Title V sources. In particular, electric utilities were burdened by increasing annual administrative permit fees and costly emission fees. However, it now appears that MCAQD intends to revert back to the old fee structure, contrary to the original intent of the rule revision. In 2004, for example, APS paid MCAQD a total of \$23,280 in administrative fees for its West Phoenix and Redhawk Power Plants. Under proposed Rule 280, APS's administrative fees would increase to \$138,000 for these plants. This represents an increase of more than \$114,000 in administrative fees in one year, and the commenter believes this is unwarranted. The commenter understands the need to periodically increase fees to reflect the increased costs of program administration; however, believes the proposed increase goes beyond any reasonable increase in administrative costs and is not justifiable.

Response: In 2003, Maricopa County implemented a new fee structure that decreased revenues from annual emission-based fees, increased revenues from annual administrative fees, and updated the revenue basis for processing permit applications. The revised fee structure remains in place. The new annual administrative fee for utility turbines is not the result of a revised fee structure. The new fee is the result of an updated workload analysis. MCAQD updated its workload analysis and determined that the workload associated with conducting source performance testing and continuous emissions monitoring relative accuracy test audit certifications (CEM RATA) at utility sources was substantially underestimated in the 2002 workload analysis. One reason this underestimate resulted was because the 2002 workload analysis calculated the hours associated with source testing and CEM RATA certifications per utility rather than per utility turbine subject to performance testing. The number of turbines at an individual utility ranges from 2 to 8 turbines per utility. 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. Currently, there are 30 Maricopa County permitted utility turbines that are subject to performance and/or CEM RATA testing. Testing requirements for turbines specify each performance test consist of 3 separate test runs per capacity test and 2 to 4 different capacity tests per turbine. These testing requirements consume significant Department resources. For the most part, testing requirements for other source categories only require a single operating scenario/capacity test per unit or facility not multiple operating scenario/capacity tests per unit. The requirement to test each turbine at multiple operating scenario/capacities significantly increased the testing workload per utility above the average testing hours for other source categories. For this reason, MCAQD separated the testing workload from the base per utility administrative fee to more equitably assess fees on a per unit tested basis.

Comment #2: The proposed fee structure is contrary to state law and is substantially more stringent than the state fee structure. The commenter compares the Arizona Department of Environmental Quality administrative fee of \$11,490 per plant (including all turbine units) with MCAQD's proposed fee of \$15,130 per turbine and states that because MCAQD's proposed rule is more stringent than corresponding state requirements, MCAQD must satisfy A.R.S. § 49-112.(2)(a) and (2)(b).

Another comment states that in the Notice of Proposed Rulemaking on proposed Rule 280, published April 1, 2005, MCAQD explained its position that the revised fee rule and corresponding significant fee increases meet the statutory requirement because Maricopa County fails to meet the National Ambient Air Quality Standards for ozone and particulates. Maricopa County is the only ozone nonattainment area and only PM10 serious nonattainment area in Arizona. The commenter states that the statute, however, requires more than just a "peculiar local condition." MCAQD is also required by state law to demonstrate that the proposed fee rule is "necessary to prevent a significant threat to public health or the environment that results from a peculiar local condition and is technically and economically feasible." [A.R.S. 49-112.A.2(a)] The commenter states that MCAQD has not made this demonstration. First, MCAQD has failed to demonstrate how a substantial increase in administrative fees will "prevent" a significant threat to public health or the environment resulting from nonattainment. If increase administrative fees would indeed "prevent" a significant threat resulting from nonattainment, the MCAQD presumably would have raised its fees long ago. Any attempt to link a revised fee structure to the "prevention" of significant health or environmental threats simply has no merit.

MCAQD also has not demonstrated how the increased fee structure is "technically and economically feasible." The plan meaning of "technical feasibility" is that a proposed technology is available and viable for the source. We believe that

Arizona Administrative Register / Secretary of State
County Notices Pursuant to A.R.S. § 49-112

administrative fees cannot be “technically feasible” and thus were not intended to fall within the scope of this provision. MCAQD also has not attempted to demonstrate how its proposed fee increase is economically feasible for regulated sources. The fee increase is extremely onerous, particularly for utility sources. From our perspective, proposed Rule 280 is not economically feasible.

Response: A.R.S. § 49-112(A) authorizes the County to promulgate rules that are more stringent than state requirements if the following conditions are met:

1. *The rule, ordinance or other regulation is necessary to address a peculiar local condition.*
2. *There is credible evidence that the rule, ordinance or other regulation is **either** (emphasis added):*
 - (a) *Necessary to prevent a significant threat to public health or the environment that results from a peculiar local condition and is technically and economically feasible.*
 - (b) *Required under a federal statute or regulation, or authorized pursuant to an intergovernmental agreement with the federal government to enforce federal statutes or regulations if the county rule, ordinance or other regulation is equivalent to federal statutes or regulations.*

MCAQD believes that Rule 280 meets the requirements of A.R.S. § 49-112(A)(1) and (2)(b) and as such is not required to meet requirements specified under A.R.S. § 49-112(A)(2)(a). Rule 280 meets A.R.S. § 49-112(A)(1), necessary to address a peculiar local condition, in that Maricopa County fails to meet the National Ambient Air Quality Standards for ozone and particulates and Maricopa County is the only ozone nonattainment area and only serious PM₁₀ nonattainment area in Arizona.

Rule 280 meets the requirements of A.R.S. § 49-112 (A)(2)(b), required under a federal statute or regulation, or authorized pursuant to an intergovernmental agreement, in that the federal 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, Maricopa County’s rules and procedures contain requirements specific to nonattainment area status, increment consumption analysis and impacts on nearby nonattainment areas. These requirements result in permit conditions that address the source’s proximity to the ozone and PM₁₀ nonattainment areas and specific atmospheric and geographical conditions found at the source’s location.

Specific to electric utilities, the provisions of 40 CFR Part 60 Subparts GG (Performance for Stationary Gas Turbines) and Da (Standards of Performance for Electric Utility Steam Generating Units for Which Construction is Commenced After September 18, 1978) require performance testing and testing at different load scenarios. Further, Maricopa County Rule 270, which has been approved in the federally enforceable State Implementation Plan, refers to the Arizona Testing Manual. 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.

Lastly, the federal Clean Air Act § 502(b)(3)(A) requires 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. MCAQD believes the proposed utility turbine fee which resulted from the updated workload hours associated with conducting source performance testing and CEM RATA at utility sources more realistically reflects the testing workload per utility and more equitably assess fees on a per unit tested basis.

Comment #3: The proposed fee structure exceeds the reasonable costs to administer the program. A.R.S. § 49-112.A.3 provides that fees must not exceed the reasonable costs of the County to administer the program. MCAQD has failed to demonstrate how the proposed substantial fee increase is commensurate with its reasonable program administration costs. The proposed fee increase is projected to result in a substantial budget surplus (\$349,000, based upon recent estimates). This surplus plainly exceeds the reasonable costs of the County to administer the program and is thus contrary to state law. The proposed increase from the electric utilities is not necessary to assure that the reasonable administration costs of the County are covered.

Arizona Administrative Register / Secretary of State
County Notices Pursuant to A.R.S. § 49-112

Response: The \$348,958 budget surplus mentioned in the above comment was based on fee revenue estimates contained in the April 1, 2005, Notice of Proposed Rulemaking. The estimated surplus was made up of \$21,073 from fee revenue and the federal EPA grant combined, and \$327,885 from Trip Reduction Program (TRP) and Voluntary Vehicle Repair and Retrofit (VVRR) program grants. Monies from the TRP and VVRR grants can only be used for costs related to those specific programs. Further, the \$327,885 surplus would exist only if all projected revenues are collected and all budgeted expenditures would occur. MCAQD believes the surplus of \$21,073 from fee revenue and federal EPA grant is insubstantial and does not exceed the reasonable costs of the County to administer the program.

Overall, MCAQD estimates air quality department expenditures in fiscal year 2006 (excluding Trip Reduction and Voluntary Vehicle Repair and Retrofit programs which are grant funded) will be approximately \$11.1 million and revenues with the proposed fee amendments in fiscal year 2006 will be approximately \$11.1 million. The fiscal year 2006 revenue projections comprise \$9.0 million in fee revenue from the proposed fee amendments, \$1.3 million in federal EPA grant funding, and \$0.8 million in miscellaneous revenues. MCAQD believes the increase in fees for sources covered by MCAQD rules or programs does not exceed the reasonable costs of the county to issue and administer that permit or plan approval program.

Comment #4: The annual administrative fees for new and modified utility turbines should be reduced to reflect a more realistic time estimate for providing compliance oversight of utility turbines by MCAQD. The annual administrative fee amount of \$15,130 is based on the amount of time estimated for MCAQD inspectors to observe the tests and review test reports. Specifically, MCAQD staff estimated that it will take up to 54 hours to review each test report. This estimate appears excessive given the format and conciseness of the test reports. It has been suggested that submission of electronic versions of the test reports might make the review time shorter. The commenter supports this idea and request MCAQD to engage the stakeholders in discussions leading to implementation of this suggestion.

Response: MCAQD estimates it takes 54 hours to review test reports for a single turbine because testing requirements for turbines at natural gas power plants specify each performance test consist of 3 separate test runs per operating scenario/capacity test and 2 to 4 different operating scenario/capacity tests per turbine resulting in 6-12 separate test reports per turbine. This equates to 4.5 to 9 hours of review time per test report. MCAQD conducts a thorough review of each test report and issues a detailed test report review. MCAQD currently receives all test reports in paper form but believes that the review process could be more efficient if specific data, such as VOC analyzer data and turbine operating parameter data, were also submitted electronically. MCAQD commits to working with stakeholders to streamline the testing process and will revisit the workload and fees in the next year or two.

Comment #5: Comment #5 pertains to the applicability of the annual administrative fee to SRP's four existing turbines (Units S1-S4) at the Santan Generating Station. Each of these turbines was modified in recent years. However, only one out of the four turbines is tested per year, on a rotational basis. The commenter believes that since only one out of the four turbines is tested per year, the \$15,130 fee should be charged only for that turbine and not for all four turbines. The commenter is requesting a written confirmation of this interpretation.

Response: In February 2005, MCAQD revised the rule language in the table contained in Rule 280 § 301.2 (a) to clarify that the annual fee for turbines at primary fuel natural gas utilities specifically applies to "turbines installed/modified after May 10, 1996 and subject to annual source testing or continuous emissions monitoring relative accuracy test audit (CEM RATA) certifications". Because only one of the four existing turbines at Santan Generating Station is tested per year, MCAQD concurs that the \$15,130 fee will only be charged for the turbine that is subject to testing in a given year.

Comment #6: An increase in the asbestos (NESHAP) notification fees, at the magnitude that the County is proposing, will result in less compliance within Maricopa County. The regulated industry has always been aggravated by one primary issue, the lack of compliance by less than reputable renovation or remodeling contractors who never notify the County of their activities, do not inspect for asbestos as required, performing their work indoors, often at night or on the weekend and almost always in non-compliance. The County NESHAP coordinators have tried to bring these contractors into compliance; however, very little progress has been made. The increase in fees that the County is proposing will hurt those who notify and have no affect on those who do not. The industry strongly believes that this increased fee will push the "non-compliers" further away and may push some who do notify to cease doing so.

Arizona Administrative Register / Secretary of State
County Notices Pursuant to A.R.S. § 49-112

Another comment asked if the increase in NESHAP notification fees will increase the amount of NESHAP compliance officers in the field. If it will not, then an increase, of more than double, in Asbestos NESHAP Notification fees would be unacceptable. It is unreasonable for the asbestos industry to pay higher notification fees and see not return in increased compliance and enforcement of the asbestos regulations. The asbestos industry does not want to see increased NESHAP Notification fees going toward other air quality programs with little or nothing going to the Asbestos NESHAP program. The department should exercise caution so the increase is not implemented in a manner that is counter productive to the programs missions of protecting public health and the environment.

Another comment suggested establishing a fee structure that considers the overall project size and minimizes excessive notification fees on small projects was suggested. The newly proposed Clark County, Nevada NESHAP Notification fees were used as an example. Clark County is proposing to charge \$75.00 for notification of the removal of RACM and where the removal of RACM equals or exceeds 160 square feet, 260 linear feet or 35 cubic feet, an additional fee of 1.0 percent of the total contract cost will be assessed. Demolitions will have a flat \$50.00 fee. Maricopa County should maintain the current \$425 fee for demolition notifications.

Another comment stated that the current NESHAP penalty policy is no longer in step with the federal NESHAP Penalty Policy for which it is based on. When originally drafted, the policy was to be approximately 50% of the federal policy. Over the years US EPA has increased their penalty policy several times. Maricopa County has not and as a result has fallen behind. Increased penalties for non-compliance are one step in assuring better compliance of the Asbestos NESHAP.

Response: Based on comments received and issues identified in the fee model pertaining to overhead cost allocations, MCAQD withdrew the \$1,060 proposed asbestos plan review and notification filing fee. The existing \$425 asbestos plan review and notification filing fee will remain in place until MCAQD revisits the workload analysis and fee model in the next year or two. MCAQD commits to working with stakeholders at that time to determine if an alternative fee structure for the Asbestos NESHAP program would be more appropriate.

MCAQD currently calculates Asbestos NESHAP violation penalties by following the “Arizona Asbestos NESHAP Civil Penalty Policy Computation Worksheet” developed by the Arizona Department of Environmental Quality and contained in ADEQ’s draft “Air Quality Civil Penalty Policy” dated 4-19-04. We acknowledge that the ADEQ Asbestos NESHAP Civil Penalty Policy differs from U.S. EPA’s Asbestos Demolition and Renovation Civil Penalty Policy (dated May 5, 1992). MCAQD is in the process of reviewing and revising both the “Air Quality Violation Reporting and Enforcement Policy” and the “Air Quality Violation Penalty Policy” and we will consider your comment further during this process.

Comment #7: When will affected parties be able to voice their opinions on the matter?

Response: The public had several opportunities to make comments on the proposed revisions to Rule 280. First, an oral proceeding was held on May 2, 2005, following a formal 30-day public comment period (April 1 to May 3, 2005). The formal 30-day comment period and the oral proceeding provide the public an opportunity to submit data and views regarding the proposed amendments to Rule 280. The Maricopa County Air Quality Department (MCAQD) published the notice of proposed rulemaking and the oral proceeding in the Arizona Administrative Code on April 1, 2005, in accordance with Arizona Revised Statutes Section 49-471.06.

The public had a second opportunity to make comments on the proposed Rule 280 revisions during a May 18, 2005, public hearing held by the Maricopa County Board of Supervisors. The public hearing was scheduled to discuss adopting the revisions proposed in Rule 280. A formal 30-day comment period (April 15, 2005 to May 18, 2005) preceded the May 18, public hearing. MCAQD published notices of the May 18, 2005, public hearing in the Arizona Business Gazette and the Record Reporter on April 13, 14, 20, and 21

Comment #8: What is the current budget for the NESHAP department and how many persons are on the staff?

Arizona Administrative Register / Secretary of State
County Notices Pursuant to A.R.S. § 49-112

Response:

MCAQD Department currently employs 1 supervisor, 2 inspectors, and 0.5 administrative assistant in the Asbestos NESHAP program. MCAQD estimates fiscal year 2006 Asbestos NESHAP program budget, assuming four full-time equivalent staff (FTE), to be approximately \$366,000.00.

Comment #9:

What warrants a 254% increase in fees?

Response:

Based on comments received and issues identified in the fee model pertaining to overhead cost allocations, MCAQD has decided to withdraw the \$1,060 proposed asbestos plan review and notification filing fee. The existing \$425 asbestos plan review and notification filing fee will remain in place until MCAQD revisits the workload analysis and fee model in the next year or two. MCAQD commits to working with stakeholders at that time to determine if an alternative fee structure for the Asbestos NESHAP program would be more appropriate.

Comment #10: How many, if any, enforcement persons will be added to the staff?

Response: MCAQD anticipates adding 3 new enforcement officers to the Air Quality Enforcement Unit bringing that unit to a total of 5 enforcement officers, 1 enforcement manager, and 1 administrative assistant. The Air Quality Enforcement Unit provides legal remedies for violations of all air pollution control regulations.

Comment #11: Will there be a new application? If so, what is the purpose and what burden will it put on applicants?

Response: The MCAQD Asbestos NESHAP coordinator is in the process of redesigning the application; however, the only additional information that will be requested to be provided by the applicants is location information, such as plat number or township/range and an email address. MCAQD does not believe this will cause applicants additional burden.

Comment #12: When will NESHAP Notifications be able to be filed and revised on-line?

Response:

Federal regulations require the original notification be submitted by either: U.S. postal service, commercial delivery service, or hand delivery. Therefore, MCAQD is unable to accept notifications via the internet or e-mail until the federal requirements are changed. However, it may be possible for revisions to be submitted on-line if the technology is available and accessible to MCAQD. MCAQD will consider this possibility during its transition from the Environmental Services Department's Environmental Management System to Permits Plus.

Comment #13: Are there any new enforcement rules above and beyond 40 CFR 61 subpart M?

Response:

MCAQD anticipates proposing revisions to Maricopa County Rule 370 Federal Hazardous Air Pollutant Program in the near future. MCAQD anticipates holding several informal stakeholder workshops, beginning in June 2005, on the proposed revisions prior to publishing a notice of proposed rulemaking and 30-day public comment period. The contact information for the companies that submitted comments on behalf of the Arizona Demolition Contractors' Association will be added to the Rule 370 stakeholder list.

At this time, MCAQD anticipates that the proposed revisions to Rule 370 will maintain consistency and compliance with the requirements of 40 CFR part 61 subpart M and requirement found in the Asbestos Hazard Emergency Response Act (AHERA) regulation (40 CFR part 763).

Comment #14: Will there be a seminar explaining these changes and when?

Response:

MCAQD anticipates holding several informal stakeholder workshops for proposed revisions to Maricopa County Rule 370, beginning in June 2005, prior to publishing a notice of proposed rulemaking and formal 30-day public comment

Arizona Administrative Register / Secretary of State
County Notices Pursuant to A.R.S. § 49-112

period. The contact information for the companies that submitted comments on behalf of the Arizona Demolition Contractors' Association will be added to the Rule 370 stakeholder list.

Comment #15: Will there be penalties for incomplete applications?

Response: MCAQD currently calculates Asbestos NESHAP violation penalties by following the "Arizona Asbestos NESHAP Civil Penalty Policy Computation Worksheet" developed by the Arizona Department of Environmental Quality and contained in ADEQ's draft "Air Quality Civil Penalty Policy" dated 4-19-04. The ADEQ Asbestos NESHAP Civil Penalty Policy includes notification penalties of between \$500 - \$2000 for notices that lack information such as owner or contractor information, facility location, removal start and completion dates, and other required information.

Comment #16: What advantages does this county program provide rather than being part of ADEQ NESHAP Department?

Response: Maricopa County has been delegated authority from the United States Environmental Protection Agency to administer the air quality program within Maricopa County and the Arizona Revised Statutes § 49-402 establishes that Maricopa County has jurisdiction over asbestos NESHAP sources within Maricopa County.

Comment #17: How can ADEQ NESHAP Department operate without fees and MCESD cannot?

Response:

ADEQ funds its Asbestos NESHAP program with federal grant funding from the United States Environmental Protection Agency (EPA). Maricopa County also receives federal grant funding from EPA; however, MCAQD funds a large portion of its ambient air monitoring network with these federal funds. In 2004, MCAQD operated and maintained 25 ambient air quality monitoring sites designed to measure concentrations of particulates, carbon monoxide, sulfur dioxide, nitrogen dioxide, ozone, lead and meteorological parameters throughout Maricopa County. MCAQD can only allocate to fees a portion of air monitoring costs, the portion associated with permitted sources contribution to the various pollutants being monitored. For example, MCAQD cannot charge industry to recover costs associated with the vehicular contribution to air pollution. The EPA grant is not enough to cover both the ambient air monitoring and the Asbestos NESHAP program. Therefore, MCAQD proposed fees to recover the program costs associated with handling 500 plus NESHAP asbestos notifications and nearly 200 inspections.

Comment #18: Are these new fees approved by ADEQ and EPA Region IX?

Response: Because MCAQD is withdrawing the proposed asbestos plan review and notification filing fee, this comment is no longer applicable. However, 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.

Comment #19: Are there other U.S. counties that such an increase is being modeled after?

Response:

MCAQD did not research Asbestos NESHAP fees in other areas of the U.S. Because MCAQD is withdrawing the proposed asbestos plan review and notification filing fee, this comment is no longer applicable.

Comment #20: What will the fines be for non-compliance?

Response: Fines are outside the scope of Rule 280. However, MCAQD calculates Asbestos NESHAP violation penalties by following the "Arizona Asbestos NESHAP Civil Penalty Policy Computation Worksheet" developed by the Arizona

Department of Environmental Quality and contained in ADEQ's draft "Air Quality Civil Penalty Policy" dated 4-19-04. The ADEQ Asbestos NESHAP Civil Penalty Policy. MCAQD is in the process of reviewing and revising both the "Air Quality Violation Reporting and Enforcement Policy" and the "Air Quality Violation Penalty Policy". If you'd like to be involved in that process, contact Dena Konopka by e-mail at dkonopka@mail.maricopa.gov to be added to the stakeholder list.

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

None

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

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

No

15. **The full text of the rule follows:**

REGULATION II - PERMITS AND FEES

**RULE 280
FEES**

INDEX

SECTION 100 - GENERAL

101 PURPOSE
102 APPLICABILITY

SECTION 200 - DEFINITIONS

201 ADMINISTRATIVE FEE
202 BILLABLE PERMIT ACTION
203 EXISTING SOURCE
204 ITEMIZED INVOICE
205 NON-MAJOR TITLE V SOURCE
206 REGULATED AIR POLLUTANT
207 SOURCES REQUIRED TO HAVE A TITLE V PERMIT

SECTION 300 - STANDARDS

301 TITLE V PERMIT FEES
302 NON-TITLE V PERMIT FEES
303 GENERAL PERMIT FEES
304 ANNUAL ADJUSTMENT OF FEES
305 CALCULATION AND PAYMENT OF EMISSION FEES
306 HEARING BOARD FILING FEE
307 CONDITIONAL ORDER FEE
308 GASOLINE DELIVERY VESSEL FEE
309 PERMIT TO BURN FEE
310 ~~EARTH MOVING~~ DUST CONTROL PERMIT FEE
311 ASBESTOS NOTIFICATION AND PLAN REVIEW FILING FEE
312 LATE FEE
313 DELINQUENCY FEE

- 314 SUBSCRIPTION FEE FOR RULE REVISIONS
- 315 ACCELERATED PERMIT PROCESSING
- 316 FAILURE TO PAY REQUIRED FEES

SECTION 400 - ADMINISTRATIVE REQUIREMENTS

- 401 TRANSITION TO REVISED FEES
- 402 PAYMENT OF FEES
- 403 TABLE A, TABLE B, TABLE C, TABLE D, ~~AND~~ TABLE E, TABLE F, AND TABLE G SOURCES

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 ARS § 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 ARS § 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 ARS § 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

Arizona Administrative Register / Secretary of State

County Notices Pursuant to A.R.S. § 49-112

- 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 <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	\$9,300 <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 + \$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>

Arizona Administrative Register / Secretary of State
County Notices Pursuant to A.R.S. § 49-112

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 ~~\$41.75~~ \$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.

Arizona Administrative Register / Secretary of State
County Notices Pursuant to A.R.S. § 49-112

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

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

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 Section 301.2.a Title V table for Title V source category
Table A	\$ 3,000 <u>\$3,580</u>
Table B	\$1,000 <u>\$1,190</u>

Arizona Administrative Register / Secretary of State
County Notices Pursuant to A.R.S. § 49-112

Table C - D	\$300 <u>\$380</u>
Table D	<u>\$335</u>
Table E	\$290 <u>\$290</u>
Table F	<u>\$6,200</u>
Table G	<u>\$4,030</u>

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 ~~2004~~ 2006.
- 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 ~~2004~~ 2006.
- 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 ~~2004~~ 2006.
- 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	\$74.00 <u>\$150.00</u>
Less than 5.0 acres		

Arizona Administrative Register / Secretary of State
County Notices Pursuant to A.R.S. § 49-112

Land Clearance 5.0 acres or greater	30 days	\$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
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.

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.

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 ARS 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 3 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 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 3 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
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~~ 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 3 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 3 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 3 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 3 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 RULEMAKING DOCKET OPENING

MARICOPA COUNTY AIR QUALITY DEPARTMENT

PLANNING AND ANALYSIS DIVISION

[M05-146]

- Title and its heading:** Maricopa County Air Pollution Control Regulations
Regulation and its heading: Regulation III Control Of Air Contaminants
Rule and its heading: Rule 325, Brick and Structural Clay Products Manufacturing

- The subject matter of the proposed rule(s):**
Maricopa County is proposing new Rule 325 in order to regulate particulate matter emissions from tunnel kilns used in the brick and structural clay industries for curing materials so as to address Best Available Control measures (BACM) and Most Stringent Measures (MSM) proposed in the Salt River PM₁₀ State Implementation Plan Revision.

- A citation to all published notices relating to this proceeding:**
None to date.

4. **The name and address of agency personnel with whom persons may communicate regarding the proposed rule(s):**

Name: Patricia P. Nelson or Jo Crumbaker
Address: Maricopa County Air Quality Department
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

5. **The time during which the department will accept written comments and the time and place where oral comments may be made:**

To be announced in the Notice of Proposed Rulemaking.

6. **A timetable for department decisions or other action on the proceeding, if known:**

To be announced in the Notice of Proposed Rulemaking.

NOTICE OF FINAL RULEMAKING

PINAL COUNTY AIR QUALITY CONTROL DISTRICT

[M05-142]

1. Preamble

A.

Table with 2 columns: Section Affected, Rulemaking Action. Rows include § 1-1-105 and § 2-8-300, both marked as Amend.

B. Those wishing further information regarding any aspect of this rule may contact Donald P. Gabrielson, Director, Pinal County Air Quality, 31 North Pinal St., Building F, Florence, Arizona, 520-866-6929. To the extent possible, the District will also post information on the County’s website, www.co.pinal.az.us, under the “air quality” link.

C. The rule making process consisted of an initial administrative rule development process, including the Notice of Docket Opening, Notice of Proposed Rulemaking, a stakeholders meeting, a 30 day public comment period, and an oral proceeding before the Control Officer or his designee. The oral proceedings were conducted on April 11 and 20th in the Emergency Operations Center Hearing Room, Administration Building F, 31 North Pinal Street, Florence, Arizona.

D. The revisions include the following:

1. SIP List

Code § 1-1-105 is amended to identify the rules revised by this final rule and intended to constitute elements of the Arizona State Implementation Plan.

2. Visibility Limiting Standard Revisions

The EPA formally objected to the current 40% standard (§ 2-8-300), at least in the PM10 nonattainment areas in Pinal County. See 69 Fed. Reg. 23103 (4/28/04). That notice formally triggered an 18-month sanction clock, requiring submittal of a curative SIP-revision prior to November 28, 2005.

Arizona Administrative Register / Secretary of State
County Notices Pursuant to A.R.S. § 49-112

In response to a parallel notice from the EPA, ADEQ has already adopted corresponding revisions to that agency's opacity standard. See 9 A.A.R. 5550 (12/26/2003). Apart from the EPA threat of sanctions, under the "at least as stringent as" mandate of A.R.S. § 49-479, Pinal County must conform to those ADEQ changes.

- E. There are no specific studies relied upon to justify the proposed changes.
- F. Economic, small business and consumer impact statement

Given the "at least as stringent" mandate of A.R.S. § 49-479, the District has not attempted to assess any added costs associated with the conforming changes discussed in 1.D.2 above.

- G. In accord with A.R.S. § 49-471.07(F), the rule changes took effect upon approval by the Board of Supervisors on May 18, 2005.
- H. Compliance with the Fee-limitations of A.R.S. § 49-112 (A) or (B).

Based on information and belief, the Director of the Pinal County Air Quality Control District affirms the following:

Initially, the total of the fees and other charges currently assessed in connection with the administration of the County's air quality program do not now equal the budgeted cost of program administration. To the extent that both the County and ADEQ impose parallel fees, the County's fees are capped by rule at ADEQ's rates, which implicitly affirms that the County's fees are reasonable. To the extent the County's program affects certain sources that ADEQ either does not regulate or does not charge, these changes do not impose any additional fees on those sources.

- I. A Notice of Docket Opening for this action was published in Volume 11, Issue 7 of A.A.R., February 11, 2005.

A Notice of Proposed Rulemaking and Notice of Oral Proceeding were published in Volume 11, Issue 10 of A.A.R., March 4, 2005.

2. The full text of the rules follows:

1-1-105. SIP list

- A. As a declaration of Board policy rather than a rule, and subject to the limitations of paragraphs B. and C. of this section, the Board of Supervisors expressly designates the following list of sections within this Code, to be presented to the Governor of Arizona for transmittal to the Administrator of the EPA with a request that they be included as elements in the Arizona SIP:

- 1. Chapter 1
 - a. Article 1. (As amended 5/14/97 and 5/27/98), except for §§ 1-1-105 and 1-1-107.
 - b. Article 2 (As amended 5/14/97 and 7/12/00) except for § 1-2-110.
 - c. Article 3. (As amended 5/14/97 and 5/27/98, except for § 1-3-130 and the definition in § 1-3-140.81 (10/12/95) of "maximum achievable control technology.")
- 2. Chapter 2
 - a. Article 1. (As amended 10/12/95).
 - b. Article 2. (As amended 5/14/97).
 - c. Article 3. (As amended 10/12/95).
 - d. Article 4. (As amended 10/12/95).
 - e. Article 5. (As amended 10/12/95).
 - f. Article 6. (As amended 10/12/95).
 - g. Article 7. (As amended 10/12/95).
 - h. Article 8. (As amended 5/18/05).
- 3. Chapter 3
 - a. Article 1. (As amended 5/14/97, and 5/27/98 and 7/12/00), excluding:
 - i. § 3-1-020

- ii. § 3-1-045
 - iii. § 3-1-080
 - iv. § 3-1-100
 - b. Article 2. (As amended 10/12/95, 5/27/98 and 7/29/98).
 - c. Article 3. (As amended 10/12/95).
 - d. Article 8. (As amended 10/12/95 and 10/27/04).
 - 4. Chapter 4
 - a. Article 1. (As amended 2/22/95).
 - b. Article 2. (As amended 5/14/97 and 7/12/00).
- B. Notwithstanding the approval as elements of the SIP of those provisions of the Code identified in paragraph A of this section, those provisions, save § 3-1-084 which shall be expressly exempted from the limitation of this paragraph, shall operate as elements of the SIP only insofar as they pertain to:
 - 1. “construction,” as defined in Nov. ‘93 Code § 1-3-140.28; or
 - 2. “modification,” as defined in Nov. ‘93 Code § 1-3-140.84; and
- C. Notwithstanding the approval as elements of the SIP of those provisions of the Code identified in paragraph A of this section, neither those provisions nor any permit conditions imposed pursuant to those provisions shall:
 - 1. Operate as elements of the SIP insofar as they pertain to other than “conventional pollutants,” as defined in § 1-3-140.33;
 - 2. Operate as elements of the SIP insofar as they pertain only to a requirement arising under, or pertain to a source subject to regulation exclusively by virtue of a requirement arising under:
 - a. § 111 of the Clean Air Act; or
 - b. Title IV of the 1990 amendments to the Clean Air Act; or
 - c. Title VI of the 1990 amendments to the Clean Air Act; or
 - d. Any section of this Code that is not a part of the SIP;
 - 3. Operate as an element of the SIP, at least insofar as they impose a “fee”;
 - 4. Operate as an element of the SIP, at least insofar as they require a “certification”;
 - 5. Operate as an element of the SIP, at least insofar as they impose obligations pertaining to “renewals”;
 - 6. Operate as an element of the SIP, at least insofar as they impose requirements regarding “excess emissions”;
 - or
 - 7. Operate as an element of the SIP, at least insofar as they impose requirements regarding “compliance plans.”
- D. As a renumbering and reconciliation of previously approved SIP provisions as elements of this Code, the Board of Supervisors additionally designates the following list of sections within this Code, to be presented to the Governor of Arizona for transmittal to the Administrator of the EPA with a request that they be included as elements in the Arizona SIP without operational limitation:
 - 1. §§ 1-1-010.C (2/22/95) and 1-1-010.D (2/22/95) *Declaration of Policy*
 - 2. Chapter 2, Article 8 (As amended 5/14/97) *Visibility Limiting Standard*
 - 3. Chapter 3, Article 8 (2/22/95) *Open Burning*
 - 4. [Reserved]
 - 5. [Reserved]
 - 6. [Reserved]
 - 7. [Reserved]
 - 8. [Reserved]
 - 9. [Reserved]
 - 10. [Reserved]
 - 11. [Reserved]
 - 12. § 5-18-740 (2/22/95) *Storage of Organic Compounds - Organic Compound Emissions*
 - 13. § 5-19-800 (2/22/95) *Loading of Volatile Organic Compounds - Organic Compound Emissions*
 - 14. § 5-21-920 (2/22/95) *Fossil Fuel Fired Industrial and Commercial Equipment Standard Applicability*
 - 15. § 5-21-930 (2/22/95 and 7/12/00) *Fossil Fuel Fired Industrial and Commercial Equipment Particulate Emission Standard*

Arizona Administrative Register / Secretary of State

County Notices Pursuant to A.R.S. § 49-112

16. § 5-22-950 (2/22/95) *Fossil Fuel Fired Steam Generator Standard Applicability*
17. § 5-22-960 (2/22/95) *Fossil Fuel Fired Steam Generator Sulfur Dioxide Emission Limitation*
18. § 5-24-1030.F (2/22/95) *Generally Applicable Federally Enforceable Minimum Standard of Performance - Organic Compound Emissions*
19. § 5-24-1030.I (2/22/95) *Generally Applicable Federally Enforceable Minimum Standard of Performance - Carbon Monoxide*
20. § 5-24-1032 (2/22/95) *Federally Enforceable Minimum Standard of Performance - Process Particulate Emissions*
21. § 5-24-1040 (2/22/95) *Carbon Monoxide Emissions - Industrial Processes*
22. § 5-24-1045 (2/22/95) *Sulfite Pulp Mills - Sulfur Compound Emissions*
23. § 5-24-1050 (2/22/95, as amended June 20, 1996) *Reduced Sulfur Emissions - Default Limitation*
24. § 5-24-1055 (2/22/95) *Pumps and Compressors - Organic Compound Emissions*

[Adopted effective June 29, 1993. Amended effective November 3, 1993. Amended August 29, 1994. Amended February 22, 1995. Amended October 12, 1995. Amended June 25, 1997. Amended May 27, 1998 and ratified July 29, 1998. Amended July 29, 1998; any conditional changes prior to 12/20/00 made final by SIP revision at 65 FR 79742 (12/20/00). Revised 7/12/00, with changes effective upon adoption. Revised 12/19/01, with changes effective upon adoption. Amended October 27, 2004. Amended May 18, 2005.]

2-8-300. Performance standards

~~No person shall discharge into the atmosphere from any single source of emissions any air contaminant, other than uncombined water vapor, of a shade or density darker than 40 percent, unless otherwise restricted.~~

A. The provisions of this Article shall only apply to a source that is all of the following:

1. An existing source, which for purposes of this rule, means any source that does not have an applicable new source performance standard adopted under Chapter 6 of this Code;
2. A point source. For the purposes of this section, "point source" means a source of air contaminants that has an identifiable plume or emissions point; and
3. A stationary source, which, for purposes of this rule, means any building, structure, facility or installation subject to regulation pursuant to A.R.S. § 49-426(A) which emits or may emit any air pollutant. "Building," "structure," "facility," or "installation" means all of the pollutant-emitting activities which belong to the same industrial grouping, are located on one or more contiguous or adjacent properties, and are under the control of the same person or persons under common control. Pollutant-emitting activities shall be considered as part of the same industrial grouping if they belong to the same "Major Group" as described in the "Standard Industrial Classification Manual, 1987".

B. Except as otherwise provided in Chapter 5 of this code relating to opacity standards for specific types of sources, the opacity of any plume or effluent, from a source described in subsection (A), as determined by Reference Method 9 in 40 CFR 60, Appendix A, shall not be:

1. Greater than 20% in an area that is nonattainment or maintenance for any particulate matter standard, unless an alternative opacity limit is approved by the Control Officer and Administrator as provided in subsections (C) and (D), after June 2, 2005;
2. Prior to April 23, 2006 greater than 40% in an area that is attainment or unclassifiable for each particulate matter standard; and
3. On and after April 23, 2006, greater than 20% in any area that is attainment or unclassifiable for each particulate matter standard except as provided in subsections (C) and (D).

C. A person owning or operating a source may petition the Control Officer for an alternative applicable opacity limit. The petition shall be submitted to the Control Officer by September 15, 2005.

Arizona Administrative Register / Secretary of State
County Notices Pursuant to A.R.S. § 49-112

1. The petition shall contain:
 - a. Documentation that the affected facility and any associated air pollution control equipment are incapable of being adjusted or operated to meet the applicable opacity standard. This includes:
 - i. Relevant information on the process operating conditions and the control devices operating conditions during the opacity or stack tests;
 - ii. A detailed statement or report demonstrating that the source investigated all practicable means of reducing opacity and utilized control technology that is reasonably available considering technical and economic feasibility; and
 - iii. An explanation why the source cannot meet the present opacity limit although it is in compliance with the applicable particulate mass emission rule.
 - b. If there is an opacity monitor, any certification and audit reports required by all applicable subparts in 40 CFR 60 and in Appendix B, Performance Specification 1.
 - c. A verification by a responsible official of the source of the truth, accuracy, and completeness of the petition. This certification shall state that, based on information and belief formed after reasonable inquiry, the statements and information in the document are true, accurate, and complete.
 2. If the unit for which the alternative opacity standard is being applied is subject to a stack test, the petition shall also include:
 - a. Documentation that the source conducted concurrent EPA Reference Method stack testing and visible emissions readings or is utilizing a continuous opacity monitor. The particulate mass emission test results shall clearly demonstrate compliance with the applicable particulate mass emission limitation by being at least 10% below that limit. For multiple units that are normally operated together and whose emissions vent through a single stack, the source shall conduct simultaneous particulate testing of each unit. Each control device shall be in good operating condition and operated consistent with good practices for minimizing emissions.
 - b. Evidence that the source conducted the stack tests according to § 3-1-170, and that they were witnessed by the Control Officer or the Control Officer's agent or representative.
 - c. Evidence that the affected facility and any associated air pollution control equipment were operated and maintained to the maximum extent practicable to minimize the opacity of emissions during the stack tests.
 3. If the source for which the alternative opacity standard is being applied is located in a nonattainment area, the petitioner shall include all the information listed in subsections C.1 and C.2, and in addition:
 - a. In subsection C.1.a.ii, the detailed statement or report shall demonstrate that the alternative opacity limit fulfills the Clean Air Act requirement for reasonable available control technology; and
 - b. In subsection C.2.b, the stack tests shall be conducted with an opportunity for the Administrator or the Administrator's agent or representative to be present.
- D. If the Control Officer receives a petition under subsection C the Control Officer shall approve or deny the petition as provided below by February 15, 2006:
1. If the petition is approved under subsection C.1 or C.2, the Control Officer shall include an alternative opacity limit in a proposed significant permit revision for the source under § 3-2-195 and § 3-1-107. The proposed alternative opacity limit shall be set at a value that has been demonstrated during, and not extrapolated from, testing, except that an alternative opacity limit under this section shall not be greater than 40%. For multiple units that are normally operated

Arizona Administrative Register / Secretary of State
County Notices Pursuant to A.R.S. § 49-112

together and whose emissions vent through a single stack, any new alternative opacity limit shall reflect the opacity level at the common stack exit, and not individual in-duct opacity levels.

2. If the petition is approved under subsection C.3, the Control Officer shall include an alternative opacity limit in a proposed revision to the applicable implementation plan, and submit the proposed revision to EPA for review and approval. The proposed alternative opacity limit shall be set at a value that has been demonstrated during, and not extrapolated from, testing, except that the alternative opacity limit shall not be greater than 40%.
 3. If the petition is denied, the source shall either comply with the 20% opacity limit or apply for a significant permit revision to incorporate a compliance schedule under 3-1-083(A)(7)(c)(iii) by April 23, 2006.
 4. A source does not have to petition for an alternative opacity limit under subsection C to enter into a revised compliance schedule under 3-1-083 (A)(7)(c).
- E. The Control Officer, Administrator, source owner or operator, inspector or other interested party shall determine the process weight rate, as used in this section, as follows:
1. For continuous or long run, steady-state process sources, the process weight rate is the total process weight for the entire period of continuous operation, or for a typical portion of that period, divided by the number of hours of the period, or portion of hours of that period.
 2. For cyclical or batch process sources, the process weight rate is the total process weight for a period which covers a complete operation or an integral number of cycles, divided by the hours of actual process operation during the period.

[Adopted effective June 29, 1993. Amended May 18, 2005]