

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

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### NOTICE OF SUPPLEMENTAL PROPOSED RULEMAKING

#### MARICOPA COUNTY AIR POLLUTION CONTROL REGULATIONS

#### REGULATION II – PERMITS AND FEES

#### RULE 280: FEES

#### PREAMBLE

[M10-19]

**1. Register citation and date for the original Notice of Proposed Rulemaking:**

Notice of Proposed Rulemaking: 15 A.A.R. 1737, October 23, 2009

**2. Sections affected**

Rule 280 (Fees)

**Rulemaking action**

Amend

**3. Statutory authority for the rulemaking:**

Authorizing statutes: A.R.S. §§ 49-402, 49-473, 49-476.01, 49-479, 11-251.08(A)

Implementing statutes: A.R.S. §§ 49-480, 49-112, 11-251.08(B)

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

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**5. An explanation of the rule, including the department's reasons for initiating the rulemaking:**

**Summary:**

The Maricopa County Air Quality Department (department) is proposing to amend a limited number of the fees it charges to owners and operators of sources of air pollution and clarify language regarding the applicability of certain rule provisions. The fees that would be affected include dust control permit fees, asbestos notification and plan review filing fees, as well as clarification of the dust control training class fees and the “fees for billable permit actions” sections. The department is also proposing a general permit application fee for air curtain destructors to correspond to the existing general permit annual administrative fee for air curtain destructors as well as a fee to offset the cost of materials and administration for the new air quality awareness flag program.

**Background:**

The need for permit fees is based on the department’s mandate to comply with state law and the federal Clean Air Act (CAA). The department is required to develop and implement a permit program in which fees paid by sources 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 department to establish a fee system for Title V sources that is consistent with and equivalent to that prescribed under § 502 of the CAA. A.R.S. § 49-480(D)(2) requires the department 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 department to establish an annual inspection fee, not to exceed the

average cost of services. Arizona law and the CAA both provide for increasing permit fees based on the consumer price index. The proposed revisions to Rule 280 (Fees) conform to these mandates.

In addition, A.R.S. § 49-112(A) allows the department to adopt rules that are more stringent than state requirements if necessary to address a peculiar local condition and to either prevent a significant threat to public health or the environment or are required under a federal statute or regulation. Any fee adopted under the rule may not exceed the reasonable costs to issue and administer that permit or plan approval program. In addition, A.R.S. § 49-112(B) allows the department to adopt rules in lieu of a state program that are as stringent as state requirements if the cost of obtaining similar permits or approvals is “approximately equal or less than” the fee the state 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” if they exist. If the state has not adopted a fee for similar permits, the county may adopt a fee that does not exceed the reasonable costs to issue and administer that permit or plan approval program.

In May 2005, the Maricopa County Board of Supervisors (board) approved new fees based on a January 2005 fee study conducted by Deloitte Consulting that concluded fee increases were necessary to provide sufficient revenue to cover the costs of the air quality program and to maintain compliance with federal and state law. The fee model developed by Deloitte Consulting calculated the department’s direct and indirect costs for each of the fees charged using a series of Microsoft Excel workbooks where budgeted costs are allocated to the different fee categories in each departmental activity based on criteria such as workload. The fee model developed rates to recover the total costs of each activity, including indirect costs such as county-wide, departmental, and divisional overhead.

In 2007, the U.S. Environmental Protection Agency (EPA) found that the Phoenix nonattainment area failed to attain the 24-hour PM<sub>10</sub> national ambient air quality standard by the required attainment date of December 31, 2006. Due to the failure to attain the PM<sub>10</sub> standard there is now a mandate to reduce emissions by five percent per year until the nonattainment area reaches the standard. A SIP revision, referred to as the Five Percent Plan, was prepared by the Maricopa Association of Governments (MAG) and submitted by the Arizona Department of Environmental Quality (ADEQ) to the EPA in December 2007. The board approved the department’s commitments for the MAG 2007 Five Percent Plan on September 10, 2007. These commitments resulted in increased activity and staffing levels and consequently the fee rule was revised to provide adequate revenues to cover the costs of the air quality program and to maintain compliance with federal and state law. The revised Rule 280 (Fees) was approved by the board on March 26, 2008.

**Issues Addressed During This Rulemaking Process:**

Late in the 2008 Rule 280 (Fees) rulemaking process, it became apparent that the dust control permit fee for large parcels (1 acre or greater) would generate surplus revenue while the permit fee for small parcels (0.1 acre to less than 1 acre) would generate a revenue deficit. Unfortunately, this discovery came too late in the process to fully correct. However, the department implemented a temporary fix which capped the total fee on large parcels to limit the generation of surplus revenue. The department was unable to establish a corresponding fee increase for small parcels to compensate for the anticipated revenue deficit. The amendments proposed in this rulemaking would correct the revenue deficit from small parcels. The proposed amendments would also remove the cap, separate the large parcel category into four fee categories, and create a multi-tiered sliding scale for fees based on ranges of acreage to better accommodate the allocation of expenses to the appropriate parcel sizes.

Following approval of the 2008 Rule 280 (Fees), the department received input from internal and external stakeholders that the asbestos notification and plan review filing fee structure was too complicated, had too many levels or tiers, and the fees for large projects were too high. The amendments proposed in this rulemaking would change the fee structure of the asbestos notification and plan review filing fees for renovation and demolition projects from the multi-tiered sliding scale for fees to a flat fee with a provision for small renovation projects.

The department conducted two public workshops and an initial oral proceeding to explain the proposed rule amendments and to receive input from stakeholders. A description of proposed rule amendments is provided below.

**Description of Proposed Amendments:**

**Section 200: Definitions:**

The amendment proposed in this section would clarify the definitions section and treatment of inconsistencies.

**Section 301.1: Fees for Billable Permit Actions:**

The amendment proposed in this section would clarify that the requirement for the owner or operator of a Title V source to pay the costs of public participation conducted according to Rule 210 may include costs to perform permit

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process activities associated with a public hearing and these permit processing activities would be charged at the rate of \$133.50 per hour, adjusted annually under Section 304 of the rule.

**Section 302.1: Fees for Billable Permit Actions:**

The amendments proposed in this section would clarify two requirements. First, the requirement for the owner or operator of a Non-Title V source to pay the costs of public participation conducted according to Rule 220 for the renewal of an existing permit. Second, the amendments proposed in this section also clarify that the requirement to pay the costs of public participation conducted according to Rule 220 may include costs to perform permit process activities associated with a public hearing and these permit processing activities would be charged at the rate of \$133.50 per hour, adjusted annually under Section 304 of the rule.

The amendment proposed in this section would establish an application fee for a Title V General Permit for air curtain destructors that corresponds to the annual administrative fee in Section 301.2(a) of these rules. Absent this change an air curtain destructor could be required to pay a \$7,000 application fee which was not the intention of the department.

**Section 304: Annual Adjustment of Fees:**

The amendment proposed in this section would clarify the application of this section and would conform the section to the intent set forth in A.R.S. § 49-480(D) for annually adjusting fees.

**Section 310: Dust Control Permit Fee, 310.1:**

The amendments proposed in this section would remove the maximum fee for a dust control permit and create a multi-tiered sliding scale for fees for dust control permits based on ranges of acreage as shown below:

<b>Total Surface Area Disturbed</b>	<b>Fee</b>
Annual Block Permit fee	\$2,000
0.1 to less than one acre	<del>\$350</del> \$830
One acre <del>or greater</del> to less than 10 acres	<del>\$77 per acre plus \$350</del> \$1,390
<u>10 acres to less than 50 acres</u>	<u>\$4,440</u>
<u>50 acres to less than 100 acres</u>	<u>\$7,390</u>
<u>100 acres to less than 500 acres</u>	<u>\$11,090</u>
<u>500 acres or greater</u>	<u>\$17,740</u>

**New Section 311.4: “Train the Trainer” Class Fee:**

The amendment proposed in this section would establish a new “train the trainer” class fee of \$125 for dust training for trainers as offered by the county.

**Section 313.1: Renovation:**

The amendments proposed in this section would change the fee structure of the asbestos notification and plan review filing fee from the multi-tiered sliding scale for fees to a flat fee with a provision for small renovation projects as shown below:

<b>Amount of Regulated Asbestos-Containing Materials (RACM) Removed</b>			<b>Fee*</b>
<b>Linear Feet</b>	<b>Square Feet</b>	<b>Cubic Feet</b>	
0-259	0-159	0-34	\$0
260-499	160-499	35-109	<del>\$200</del> <u>\$600</u>
<del>500-999</del>	<del>500-999</del>	<del>110-218</del>	<del>\$350</del>
<del>1,000-2,499</del>	<del>1,000-2,499</del>	<del>219-547</del>	<del>\$800</del>
<del>2,500-4,999</del>	<del>2,500-4,999</del>	<del>548-1,094</del>	<del>\$1,500</del>
<del>5,000-9,999</del>	<del>5,000-9,999</del>	<del>1,095-2,188</del>	<del>\$3,100</del>
<del>10,000-14,999</del>	<del>10,000-14,999</del>	<del>2,189-4,499</del>	<del>\$6,200</del>
<del>15,000</del> <u>500</u> or more	<del>15,000</del> <u>500</u> or more	<del>4,500</del> <u>110</u> or more	<del>\$7,500</del> <u>\$1,770</u>

\*If materials are reported on the notification in more than one category, the highest fee will apply.

**Section 313.2: Demolition:**

The amendments proposed in this section would change the fee structure of the asbestos notification and plan review filing fee for demolition projects from the existing multi-tiered sliding scale for fees to a flat fee of \$600.

**New Section 321: Air Quality Awareness Flag Program Fee:**

The amendment proposed in this section would establish a fee to recover the cost to the department for materials and administration of the air quality awareness flag program.

**Section 401: Effective Date of Fees:**

The effective date for the proposed amended fees would be the first day of the month approximately 30 days after approval by the Board of Supervisors. All fees that are not being amended retain their effective dates as established in the March 26, 2008 Rule 280 (Fees) revision.

**New Section 402.5: Fees in Effect:**

The amendment proposed in this section would clarify that a fee is charged at the rate in effect at the time the fee is charged.

**New Section 402.6: Payment Applied to Delinquent Penalties and Fees:**

The amendment proposed in this section would clarify that when a payment is made it would first be applied to delinquent penalties and fees that are owed.

**Other Proposed Amendments:**

In addition, the proposed amendments would correct typographical or other clerical errors; make minor grammatical changes to improve readability or clarity; modify the format, numbering, order, capitalization, punctuation, or syntax of certain text to increase standardization within and among rules; or make various other minor changes of a purely editorial nature. As these amendments do not alter the sense, meaning, or effect of the rule, they are not described in detail here, but can be readily discerned in the “strikeout and underline” version of the rule contained in Item 13 of this notice.

**6. Explanation of the substantial change(s) which resulted in this supplemental notice:**

This supplemental filing for Rule 280 (Fees) results from changes to the dust control permit fee structure based on input received following the publication of the Rule 280 (Fees) Notice of Proposed Rulemaking and the subsequent oral proceeding. Also addressed are the addition of the new air quality awareness flag program and the conforming of Section 304 to more closely mirror the intent of A.R.S. § 49-480(D) regarding the application of the Consumer Price Index.

The changes described in this notice would amend the dust control permit fee structure by removing the maximum fee for a dust control permit and creating a multi-tiered sliding scale for fees for dust control permits based on ranges of acreage. Additionally, the changes would establish a fee to correspond to the implementation of the new air quality awareness flag program. The proposed addition of Section 321 Air Quality Awareness Flag Program Fee would allow the department to cover the costs to the department for implementing this recently launched program.

This supplement is critical for the dust control permit program for several reasons. The current dust control permit fees do not cover the cost of the dust control permit compliance program. The proposed amendments to the fees would generate revenue that generally equals the expenditures of the program. As proposed, there is an unfunded program cost of non-compliance follow-up inspections that would be budgeted from enforcement penalty funds. The proposed amendments would ultimately result in both the department and industry stakeholders being able to direct their attention to fieldwork rather than bookkeeping items, improving compliance and subsequently creating cleaner air.

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

**A. Rule Identification**

This rulemaking proposes to amend Maricopa County Air Pollution Control Regulations Rule 280 (Fees).

**B. Executive Summary**

The goal of this rulemaking is to provide sufficient revenue to cover the costs of the air quality program, maintaining compliance with federal and state law. This includes increasing dust control permit fees as well as changing the structure of the asbestos notification and plan review filing fee to better accommodate the needs of the business community and the department. The creation of the “train the trainer” category for dust control training fees, creation of the new air quality awareness flag program fee, and clarification of public participation requirements for Title V and Non-Title V permits ensure that costs incurred by the department are recovered.

The incremental cost to the regulated community is represented by the change in fees for dust control permits, asbestos/NESHAP notifications for renovation and demolition activities, the new fee for dust control “train the trainer” classes, and the new fee for the air quality awareness flag program. Incremental cost to the regulated community also includes costs resulting from the requirement for Non-Title V permit renewals to pay for costs incurred by the department to meet public participation requirements including costs to perform permit processing activities associated with a public hearing to be charged at the rate of \$133.50 per hour.

The proposed changes would become effective the first day of the month approximately 30 days after approval by the board and are expected to result in approximately \$4.4 million of revenue from dust control permit fees (which does not include revenue from dust control training or subcontractor registration fees) and \$818,000 from asbestos notification and plan review filing fees. Total annual fee revenue for the department is estimated to be almost \$12 million with the proposed changes noted above. The department’s annual expenditures attributed to fee-based activities are estimated to be approximately \$13 million. This includes approximately \$4.6 million for the dust control compliance program (excluding dust control training and subcontractor registration programs) and \$817,000 for the asbestos/NESHAP compliance program. Fees assessed for the air quality awareness flag program and to meet the public participation requirements of Rule 220 would simply offset any costs incurred by the Control Officer as they occur; therefore, the department is unable to estimate these amounts at this time.

### **C. Background**

#### Prior Fee Studies 2005–2008:

In May 2005, the board approved new fees based on a January 2005 fee study conducted by Deloitte Consulting that concluded fee increases were necessary to provide sufficient revenue to cover the costs of the air quality program and to maintain compliance with federal and state law. The fee model developed by Deloitte Consulting calculated the department’s direct and indirect costs for each of the fees charged using a series of Microsoft Excel workbooks where budgeted costs are allocated to the different fee categories in each departmental activity based on criteria such as workload. The fee model developed rates to recover the total costs of each activity, including indirect costs such as county-wide, departmental, and divisional overhead.

In 2007, the U.S. Environmental Protection Agency (EPA) found that the Phoenix nonattainment area failed to attain the 24-hour PM<sub>10</sub> national ambient air quality standard by the required attainment date of December 31, 2006. Due to the failure to attain the PM<sub>10</sub> standard there is now a mandate to reduce emissions by five percent per year until the nonattainment area reaches the standard. A SIP revision, referred to as the Five Percent Plan, was prepared by the Maricopa Association of Governments (MAG) and submitted by the Arizona Department of Environmental Quality (ADEQ) to the EPA in December 2007. The board approved the department’s commitments for the MAG 2007 Five Percent Plan on September 10, 2007. These commitments resulted in increased activity and staffing levels and consequently the fee rule was revised to provide adequate revenues to cover the costs of the air quality program and to maintain compliance with federal and state law. The revised Rule 280 (Fees) was approved by the board on March 26, 2008.

Late in the 2008 Rule 280 (Fees) rulemaking process, it became apparent that the dust control permit fee for large parcels (1 acre or greater) would generate surplus revenue while the permit fee for small parcels (0.1 acre to less than 1 acre) would generate a revenue deficit. Unfortunately, this discovery came too late in the process to fully correct. However, the department implemented a temporary fix which capped the total fee on large parcels to limit the generation of surplus revenue. The department was unable to establish a corresponding fee increase for small parcels to compensate for the anticipated revenue shortfall. The amendments proposed in this rulemaking would correct the revenue deficit from small parcels. The proposed amendments would also remove the cap, separate the large parcel category into four fee categories, and create a multi-tiered sliding scale of fees based on ranges of acreage to better accommodate the allocation of expenses to the appropriate parcel sizes.

#### The proposed revisions to Rule 280 (Fees):

The workload for the dust control permit program was re-evaluated using a mid-year adjusted estimate of activity level based on the previous six months of activity levels averaged for the remainder of the year. Based on this re-evaluation, the department reduced targeted portions of departmental expenses and number of full-time equivalent positions (FTEs). Specifically, the expenses for the dust control permit program (not including training provided and subcontractor registration programs) were reduced \$2.4 million to approximately \$4.6 million from the \$7.0 million estimated in the March 26, 2008 rule revision. The number of FTEs was reduced by 40. The adjusted expenses for the dust control permit program were apportioned according to the adjusted activity level which is estimated to decrease by 2,556 issued dust control permits and 47,786 acres, from the activity level used for the March 26, 2008 rule revision. If the existing dust control permit fees were to be retained, the program fee revenue is estimated to

result in a \$2.2 million deficit with an additional \$112,000 deficit attributable to the existing fee cap on large parcels for a total deficit of \$2.3 million.

Following approval of the 2008 Rule 280 (Fees), the department received input from internal and external stakeholders that the asbestos notification and plan review filing fee structure was too complicated, had too many levels or tiers, and the fees for large projects were too high. The amendments proposed in this rulemaking would change the fee structure of the asbestos notification and plan review filing fees for renovation and demolition projects from the multi-tiered sliding scale for fees to a flat fee with a provision for small renovation projects. The expenses for the asbestos/NESHAP program were reduced from the \$1.2 million used in the March 26, 2008 rule revision to \$817,000. This included a reduction in program expenses, reduction of one FTE, and removal of air monitoring expenses that were previously allocated to the asbestos program. The number of chargeable notifications decreased as well, from 870 in the March 26, 2008 rule revision to 800 using more recent data. The proposed asbestos notification and plan review filing fees would correct an almost \$120,000 revenue deficit that would develop if the present fee structure is retained.

The following table presents the effect of the proposed changes to the complete dust control permit compliance division as well as the asbestos/NESHAP compliance division:

<b>Activity</b>	<b>Estimated total annual expenditures</b>	<b>Estimated revenue with current fee</b>	<b>Estimated revenue with proposed fee</b>
Asbestos/NESHAP compliance	\$817,137	\$698,600	\$817,680
Dust control permit compliance	\$5,030,511	\$2,720,515	\$4,851,799

**D. Entities Directly Affected**

The department anticipates that this proposed rulemaking would directly impact approximately 3,500 sources that are permitted by the department or are required to submit asbestos/NESHAP notifications for renovation or demolition activities.

Entities impacted include those using air curtain destructors (Title V general permit application fee for air curtain destructors), construction companies and home builders (dust control permit fee), asbestos removal contractors (asbestos notification and plan review filing fee), trainers required to be certified by Maricopa County to conduct dust control training classes (“train the trainer” class fee), owners or operators of Non-Title V sources required to meet the public participation requirements for the renewal of an existing permit, and participants in the air quality awareness flag program.

The department also anticipates that revisions to the asbestos notification and plan review filing fees may impact State of Arizona agencies, municipal governments, other Maricopa County departments, and any other public agency conducting renovation or demolition projects within Maricopa County because contractors will likely pass on any cost differential to these entities. The effect could be either an increase or a decrease in costs due to the nature of the revised fee structure of the asbestos notification and plan review filing fees for renovation and demolition projects from the multi-tiered sliding scale for fees to a flat fee with a provision for small renovation projects.

**E. Potential Cost and Benefits**

The department expects an increase in revenue generated from these rule changes that will be sufficient to efficiently and effectively operate the air quality program and maintain compliance with federal and state law.

Regulatory Agencies: The workload for the dust control permit program was re-evaluated using a mid-year adjusted estimate of activity level based on the previous six months of activity levels averaged for the remainder of the year. Based on this re-evaluation the department reduced targeted portions of departmental expenses and number of full-time equivalent positions (FTEs). Specifically, the expenses for the dust control permit program were reduced \$2.4 million to approximately \$4.6 million from the \$7.0 million estimated in the March 26, 2008 rule revision. The number of FTEs was reduced by 40.

The department also anticipates that revisions to the asbestos notification and plan review filing fees may impact State of Arizona agencies, municipal governments, other Maricopa County departments, and any other public agency conducting renovation or demolition projects within Maricopa County because contractors will likely pass on any cost differential to these entities. The effect could be either an increase or a decrease in costs due to the nature of the revised fee structure of the asbestos notification and plan review filing fees for renovation and

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demolition projects from the multi-tiered sliding scale for fees to a flat fee with a provision for small renovation projects.

Regulated Community: Entities impacted include those using air curtain destructors (Title V general permit application fee for air curtain destructors), construction companies and home builders (dust control permit fee), asbestos removal contractors (asbestos notification and plan review filing fee), trainers required to be certified by Maricopa County to conduct dust control training classes (“train the trainer” class fee), owners or operators of Non-Title V sources required to meet the public participation requirements for the renewal of an existing permit, and participants in the air quality awareness flag program.

The department does not expect to negatively impact employment. Further, the department does not expect this rulemaking to impact industrial production or growth, and no source is expected to reduce or halt its output as a result of the increased fees. Finally, the department anticipates no adverse impact to source revenues or payrolls.

Existing Fees Compared to Proposed Fees: Amendments proposed in Section 310.1 would increase the dust control permit fees for individual parcels, create a multi-tiered sliding scale for fees for dust control permits based on ranges of acreage, and remove the existing cap. The following table compares the existing dust control permit fees to the proposed fees:

Parcel size range	Current fee		Proposed fee
	min	max	
Small Parcels (0.1 to <1.0 acre)	\$350	\$350	\$830
Medium Parcels (1.0 to <10 acres)	\$427	\$1,120	\$1,390
Large Parcels - 10 to <50 acres	\$1,120	\$4,200	\$4,440
Large Parcels - 50 to <100 acres	\$4,200	\$8,050	\$7,390
Large Parcels - 100 to <500 acres	\$8,050	\$15,750	\$11,090
Large Parcels - 500 acres or more	\$15,750	\$15,750	\$17,740
Annual Block Permits	\$2,000	\$2,000	\$2,000

Amendments to Sections 313.1 and 313.2 would change the structure of the asbestos notification and plan review filing fees and the impact would depend on the project size and type. Many projects’ fees would be lower than under the present structure; however, smaller and medium size projects would have higher fees. The following table compares the existing asbestos notification and plan review filing fee to the proposed fee structure:

Fee Type	Fee Effective 05/01/2008				Proposed Fee Schedule
	Amount of Regulated Asbestos Containing Materials (RACM) Removed				
	Linear Feet	Square Feet	Cubic Feet	Fee*	Fee*
<b>Renovation Fee</b>	0–259	0–159	0–34	\$0	\$0
	260–499	160–499	35–109	\$200	\$600
	500–999	500–999	110–218	\$350	\$1,770
	1,000–2,499	1,000–2,499	219–547	\$800	
	2,500–4,999	2,500–4,999	548–1,094	\$1,500	
	5,000–9,999	5,000–9,999	1,095–2,188	\$3,100	
	10,000–14,999	10,000–14,999	2,189–4,499	\$6,200	
	15,000 or more	15,000 or more	4,500 or more	\$7,500	
	*If materials are reported on the notification in more than one category, only the highest fee will apply.				
<b>Demolition Fee</b>	<b>Building Size (square feet)</b>		<b>Fee</b>		\$600
	0–999		\$150		
	1,000–2,499		\$300		
	2,500–4,999		\$450		
	5,000 or more		\$525		
<b>Annual Operation and Maintenance Fee</b>			\$1,250	\$1,250	

Previously the dust control training fee section did not include a category specifically for a “train the trainer” class; the addition of Section 311.4 would create the named category and assign the same fee amount established for the comprehensive dust control training class as the classes are similar in terms of resources required.

In addition, a new Section 321 Air Quality Awareness Flag Program Fee is proposed to recoup the cost of the flag kits and administering the kits to participants in the recently implemented air quality awareness flag program.

The amendment proposed for Section 303.1 would establish an application fee for a Title V General Permit for air curtain destructors that corresponds to the annual administrative fee of \$840 in Section 301.2(a) of these rules. Previously an air curtain destructor could be required to pay a \$7,000 application fee which was not the intention of the department.

Sections 301.1 and 302.1 are proposed to be amended to clarify the public participation cost recovery provisions that apply to Title V and Non-Title V fees for billable permit actions. Permit processing activities that are performed by the department in association with a public hearing are specified to be charged at the rate of \$133.50 per hour.

Consumers and Public: The department expects a minimal net negative impact to consumers and the general public. Although some sources may absorb any higher cost of doing business, others may pass on higher costs to consumers, depending on market conditions and elasticity of buyers and sellers to pricing changes. Maintaining revenue streams sufficient for department staffing levels of inspections, compliance, and enforcement increases incentives for compliance, actual compliance levels, and timely response to complaints. All of these reduce emissions from regulated sources, which in turn prevent adverse health effects that cost the public in medical care and lost productivity.

#### **F. Potential Impacts to Small Businesses**

State law requires agencies to reduce the impact of a rule on small businesses when legal and feasible. The department considered each of the methods prescribed in A.R.S. §§ 41-1035 and 41-1055(B) for reducing the impact of this rule on small businesses: (1) exempt them from any or all rule requirements, (2) establish performance standards that would replace any design or operational standards, or (3) institute reduced compliance or reporting requirements, such as establishing less stringent requirements, consolidating or simplifying them or setting less stringent schedules or deadlines.

The statutory directive that permit fees must be related to costs prohibits the department 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. In the case of dust control permits this means that, while the fee for small parcels (0.1 acre to less than 1 acre) covers all of the costs associated with the activities required for these projects, only small parcel costs are included. The allocation of costs to the small parcel category contains no medium or large parcel costs, and the converse is true as well.

One alternative that reduces costs for small businesses is for eligible sources to apply for a general permit under Rule 230. General permits tend to be used by smaller sources and may reduce costs when compared to individual permits because general permitted sources would not be required to pay an hourly permit-processing fee nor the emissions-based fee. Additionally, the department's proposed asbestos notification and plan review filing fee would establish a lower fee of \$600 for smaller renovation projects (i.e., 160–499 square feet, 260–499 linear feet, and 35–109 cubic feet).

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

The department welcomes all interested parties to provide additional relevant information and documentation on the anticipated costs and benefits resulting from the proposed rule revisions.

To submit or request additional data on the information included in the economic, small business and consumer impact statement, please contact:

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

Written comments will be accepted if received between the date of this publication and Friday, March 12, 2010 5:00 p.m. Written comments may be mailed, e-mailed, faxed, or hand delivered to the department (see Item 4 of this notice). Written comments received during the comment period will be considered formal comments to the proposed rule and will be responded to in the Notice of Final Rulemaking.

An oral proceeding will be held Thursday, March 11, 2010 at 9:00 a.m. at the Maricopa County Air Quality Department, 1001 N. Central Ave. (Fifth floor classroom), Phoenix, AZ 85004. All comments made at this oral proceeding will be considered formal comments and will be recorded and transcribed. All formal comments will be addressed in the Notice of Final Rulemaking.

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

Not applicable

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

<b>Incorporation by Reference:</b>	<b>Location:</b>
40 CFR 60, Appendix F	Rule 280, Section 305.1(b)(1)
40 CFR 75, and all accompanying appendices	Rule 280, Section 305.1(b)(1)
EPA Publication No. AP-42 "Compilation of Air Pollutant Emission Factors", Volume I: Stationary Point and Area Sources.	Rule 280, Section 305.1(b)(4)

**13. The full text of the change(s) follows:**

**REGULATION II – PERMITS AND FEES**

**RULE 280**

**FEES**

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- 102 APPLICABILITY

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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  
Revised 05/18/05  
Revised 07/12/06  
Revised 03/26/08

**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~~, in addition to those definitions found in Rule 100: General Provisions And Definitions of these rules. In the event of any inconsistency between any of the Maricopa County air pollution control rules, the definitions in this rule take precedence.

- 201 ANNUAL ADMINISTRATIVE FEE** – Paid annually by a source to recover the average cost of services required to administer the permit and conduct inspections. For a Non-Title V permitted source, the annual administrative fee also covers the cost of renewing the Non-Title V permit. For a General permitted source, the annual administrative fee also covers the cost of reapplying for authorization to operate under a General Permit.
- 202 BILLABLE PERMIT ACTION** – The review, issuance or denial of a new permit, significant permit revision, or minor permit revision, or the renewal of an existing permit.
- 203 EXISTING SOURCE** – A source that has commenced construction and has been issued a permit pursuant to A.R.S. § 49-480 after September 1, 1993.
- 204 ITEMIZED INVOICE** – A breakdown of the permit processing time into the categories of pre-application activities, completeness review, substantive (technical) review, and public involvement activities, and within each category, a further breakdown by employee name.
- 205 NON-MAJOR TITLE V SOURCE** – A source required to obtain a Non-Title V permit under Rule 200 to which both of the following apply:
  - 205.1** The source is classified as a Synthetic Minor Source, and

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

**206 REGULATED AIR POLLUTANT** – For the purposes of Section 305 of this rule, regulated air pollutant consists of the following air pollutants:

**206.1** Any conventional air pollutant as defined in A.R.S. § 49-401.01, which means any pollutant for which the Administrator of EPA has promulgated a primary or a secondary national ambient air quality standard (NAAQS) except carbon monoxide (i.e., for nitrogen oxides [NO<sub>x</sub>], lead, sulfur oxides [SO<sub>x</sub>] measured as sulfur dioxide [SO<sub>2</sub>], ozone, and particulates).

**206.2** Nitrogen oxides (NO<sub>x</sub>) and volatile organic compounds (VOCs).

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

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

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

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

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

**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 of these rules.

**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 to the Control Officer \$133.50 per hour, adjusted annually under Section 304 of this rule, for all permit processing time required for a billable permit action. The owner or operator of a Title V source shall also pay the Control Officer the actual costs incurred by the Control Officer to meet the public participation requirements of Rule 210 of these rules; ~~including~~ Costs incurred to meet the public participation requirements of Rule 210 of these rules may include, but are not limited to, costs incurred by the Control Officer to publish public notice of a public hearing and/or draft permit, to hire a hearing officer, to hire transcription or court reporting services, and to rent meeting room space, and to perform permit processing activities associated with a public hearing, such as time spent by a permit engineer(s) to participate in the public hearing and to prepare responses to comments. Permit processing activities associated with a public hearing shall be charged at the rate of \$133.50 per hour, adjusted annually under Section 304 of this rule. The fees shall be paid as follows:

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

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

- b.** At any time after submittal of the application, the Control Officer may request additional application fees based on the cost to date of reviewing and acting on the application, minus all fees previously submitted for the application.
- c.** When permit processing is completed for a facility, the Control Officer shall send an itemized invoice. The invoice shall indicate the total actual cost of reviewing and acting upon the application, the actual costs incurred by the Control Officer to meet the public participation requirements of Rule 210 of these rules, minus all fees previously submitted, and the balance due.
- d.** The Control Officer shall not issue a permit, permit revision, or permit renewal until the balance due on the itemized invoice is paid in full. The Control Officer may deny a permit, a permit revision, or a permit renewal in accordance with Rule 200 of these rules if the applicant does not pay fees required for billable permit actions within 90 days of the invoice date.

**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 of this rule. 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	\$18,320
Air Curtain Destructors	\$840
Cement Plants	\$68,590
Combustion/Boilers	\$16,680
Compressor Stations	\$13,630
Expandable Foam	\$14,800
Landfills	\$18,140
Lime Plants	\$64,790
Copper & Nickel Mines	\$16,150
Gold Mines	\$16,150
Paper Mills	\$22,060
Petroleum Products Terminal Facilities	\$25,800
Polymeric Fabric Coaters	\$18,140
Reinforced Plastics	\$13,630
Semiconductor Fabrication	\$29,010
Copper Smelters	\$68,590
Utilities—Primary Fuel Natural Gas	\$9,500 + \$16,480 per turbine installed/modified after May 10, 1996 and subject to annual source testing or CEM RATA* certifications
Utilities—Fossil Fuel Except Natural Gas	\$35,080
Vitamin/Pharmaceutical Manufacturing	\$17,020
Wood Furniture	\$15,010
Others	\$18,130
Others With Continuous Emissions Monitoring	\$22,070

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

- b. An emissions-based fee of \$38.25 per ton of actual emissions of all regulated pollutants emitted during the previous calendar year as determined by Section 305 of this rule. The fee is adjusted annually under Section 304 of this rule.

**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 of these rules shall pay fees according to the following provisions:

**302.1 Fees for Billable Permit Actions:** ~~Except for the renewal of an existing permit, the~~ The owner or operator of a Non-Title V source shall pay to the Control Officer \$133.50 per hour, adjusted annually under Section 304 of this rule, for all permit processing time required for a billable permit action, ~~except for the renewal of an existing permit. The~~ In addition, the owner or operator of a Non-Title V source shall ~~also~~ pay the Control Officer the actual costs incurred by the Control Officer to meet the public participation requirements of Rule 220 of these rules, ~~including costs incurred to meet the public participation requirements for the renewal of an existing permit, including~~ Costs incurred to meet the public participation requirements of Rule 220 of these rules may include, but are not limited to, costs incurred by the Control Officer to publish public notice of a public hearing ~~and/or~~ and/or draft permit, to hire a hearing officer, to hire transcription or court reporting services, ~~and to rent meeting room space, and to perform permit processing activities associated with a public hearing, such as time spent by a permit engineer(s) to participate in the public hearing and to prepare responses to comments.~~ Permit processing activities associated with a public hearing shall be charged at the rate of \$133.50 per hour, adjusted annually under Section 304 of this rule. The minimum fee due shall be \$200.00. The fees shall be paid as follows:

- a. An application shall be submitted with an application fee of \$200.00.
- b. At any time after the submittal of an application 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.

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

- c. When permit processing is completed and final costs are greater than the fee submitted with the application under Section 302.1(a) of this rule, the Control Officer shall send an itemized invoice. The invoice shall indicate the total cost of reviewing and acting upon the application, the actual costs incurred by the Control Officer to meet the public participation requirements of Rule 220 of these rules, minus all fees previously submitted, and the balance due.
- d. The maximum fee for processing permit applications listed in Section 302.1 of this rule 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. The Control Officer may deny a permit or a permit revision in accordance with Rule 200 of these rules if the applicant does not pay fees required for billable permit actions within 90 days of the invoice date.

**302.2 Annual Administrative 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 of this rule. 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.

<b>Fee Table</b> Source categories designated as Fee Tables A–I are listed in Sections 403.1–403.9 of this rule	<b>Annual Administrative Fee</b>
Sources listed in Fee Table A (see Section 403.1)	\$5,980
Sources listed in Fee Table B (see Section 403.2)	\$1,550
Sources listed in Fee Tables C–D (see Sections 403.3 and 403.4)	\$610
Sources listed in Fee Table E (see Section 403.5)	\$320
Sources listed in Fee Table F (see Section 403.6)	\$7,940
Sources listed in Fee Table G (see Section 403.7)	\$4,790
Sources listed in Fee Table H (see Section 403.8)	\$7,940
Sources listed in Fee Table I (see Section 403.9)	\$4,790

**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.

<b>Fee Table</b> Source categories designated as Fee Tables A–I are listed in Sections 403.1–403.9 of this rule	<b>Application Fee</b>
Title V General Permits <u>except Air Curtain Destructors</u>	Fee from Section 301.1(a) table for Title V source category
<u>Air Curtain Destructors</u>	<u>\$840</u>
Sources listed in Fee Table A (see Section 403.1)	\$4,870
Sources listed in Fee Table B (see Section 403.2)	\$3,250
Sources listed in Fee Tables C–D (see Sections 403.3 and 403.4)	\$320
Sources listed in Fee Table E (see Section 403.5)	\$240
Sources listed in Fee Table F (see Section 403.6)	\$6,970
Sources listed in Fee Table G (see Section 403.7)	\$4,170
Sources listed in Fee Table H (see Section 403.8)	\$6,970
Sources listed in Fee Table I (see Section 403.9)	\$4,170

**303.2 Annual Administrative 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 of this rule. 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.

<b>Fee Table</b> Source categories designated as Fee Tables A–I are listed in Sections 403.1–403.9 of this rule	<b>Annual Administrative Fee</b>
Title V General Permits	Fee from Section 301.2(a) table for Title V source

	category
Sources listed in Fee Table A (see Section 403.1)	\$4,870
Sources listed in Fee Table B (see Section 403.2)	\$3,250
Sources listed in Fee Tables C–D (see Sections 403.3 and 403.4)	\$320
Sources listed in Fee Table E (see Section 403.5)	\$240
Sources listed in Fee Table F (see Section 403.6)	\$6,970
Sources listed in Fee Table G (see Section 403.7)	\$4,170
Sources listed in Fee Table H (see Section 403.8)	\$6,970
Sources listed in Fee Table I (see Section 403.9)	\$4,170

**304 ANNUAL ADJUSTMENT OF FEES:** Fees shall be increased yearly by the percentage, if any, by which the Consumer Price Index for the most recent year exceeds the base year Consumer Price Index as set forth in the following manner:

- 304.1** The Control Officer shall adjust the hourly rate every January 1, to the nearest 10 cents per hour, beginning on January 1, 2009. The Control Officer will multiply \$133.50 by the Consumer Price Index (CPI) for the most recent year as described in Section 304.4 of this rule, and then divide by the CPI for the year 2008.
- 304.2** The Control Officer shall adjust the administrative or permit processing fees listed in Sections 301–303 of this rule every January 1, to the nearest \$10, beginning on January 1, 2009. 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 Section 304.4 of this rule, and then divide by the CPI for the year 2008.
- 304.3** The Control Officer shall adjust the rate for emissions-based fees every January 1, beginning on January 1, 2009. The Control Officer will multiply \$38.25 by the Consumer Price Index (CPI) for the most recent year as described in Section 304.4, and then divide by the CPI for the year 2008.
- 304.4** The Consumer Price Index (CPI) for any year is the average of the monthly CPI 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 EMISSIONS-BASED FEES:**

- 305.1** For purposes of this section, 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 of these rules shall be used for purposes of calculating the emissions-based fee.
  - b.** Actual emissions quantities calculated under Rule 100, Section 500 of these rules shall be determined using the following methods:
    - (1)** Whenever available, emissions estimates shall be 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 which are incorporated by reference in Appendix G of these rules.
    - (2)** When sufficient data obtained using the methods described in Section 305.1(b)(1) of this rule is not available, emissions estimates shall be calculated from source performance tests conducted pursuant to Rule 270 of these rules.
    - (3)** When sufficient data obtained using the methods described in Sections 305.1(b)(1) or (2) of this rule is not available, emissions estimates shall be calculated from material balance using engineering knowledge of process.
    - (4)** When sufficient data obtained using the methods described in Sections 305.1(b)(1) through (3) of this rule is not available, emissions estimates shall be calculated using emissions factors from EPA Publication No. AP-42 "Compilation of Air Pollutant Emission Factors," Volume I: Stationary Point and Area Sources, which is incorporated by reference in Appendix G of these rules.
    - (5)** When sufficient data obtained using the methods described in Sections 305.1(b)(1) through (4) of this rule is not available, emissions estimates shall be 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 methods in Sections 305.1(b)(1) through (4) of this rule.
  - c.** Actual emissions quantities calculated under Section 305.1(b) of this rule 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.

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

- b. Emissions of any regulated air pollutants 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 PM<sub>10</sub>.
- c. Emissions from insignificant activities excluded from the permit for the source under Rule 210 of these rules.
- d. Fugitive emissions of PM<sub>10</sub> 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 Section 301.2(b) of this rule, a declaration of emissions form and the annual emission inventory questionnaire will be mailed annually to the owner or operator of a source to which this applies. The emission fee is due and payable by April 30 each year or no later than 90 days following the date of notice, whichever is later.

**306 HEARING BOARD FILING FEE:** A person filing a petition with the Hearing Board under Rule 400 of these rules 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 of these rules 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 DECAL FEE:** A person wishing to obtain a decal for each gasoline delivery vessel that passes the required annual test under Rule 352 of these rules shall pay a fee of \$280.00. A person wishing to obtain a replacement decal shall pay a fee of \$80.00.

**309 OPEN BURN FEE:**

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

Fire Category	Permit Period	Fee
Tumbleweeds	30 days	\$100.00
Fire Hazard	30 days	\$100.00
Fire Fighting Instruction	1 year	\$100.00
Ditch Bank/Fence Row	1 year	\$100.00
Disease/Pest Prevention	30 days	\$100.00
Land Clearance Less Than 5.0 Acres	30 days	\$150.00
Land Clearance 5.0 Acres or Greater	30 days	\$350.00

**309.2 AIR CURTAIN DESTRUCTOR BURN PLAN REVIEW AND INSPECTION FEE:** Any person required to file an air curtain destructor Burn Plan under the provisions of Rule 314 of these rules shall pay a fee of \$350.00.

**310 DUST CONTROL PERMIT FEE:**

**310.1** A person applying for 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. ~~The maximum fee for a Dust Control Permit listed in Section 310 of this rule is \$15,750.~~

Total Surface Area Disturbed	Fee
Annual Block Permit	\$2,000
0.1 to less than one acre	<del>\$350</del> <u>\$830</u>
One acre <del>or greater</del> <u>to less than 10 acres</u>	<del>\$77 per acre plus \$350</del> <u>\$1,390</u>
<u>10 acres to less than 50 acres</u>	<u>\$4,440</u>
<u>50 acres to less than 100 acres</u>	<u>\$7,390</u>
<u>100 acres to less than 500 acres</u>	<u>\$11,090</u>
<u>500 acres or greater</u>	<u>\$17,740</u>

Example: 6 acres = 6 × \$77 + \$350 = \$812

**310.2 DUST CONTROL PERMIT FEE REFUNDS:**

- a. **Refunds Prior to Project Start Date and Prior to Commencement of Dust-Generating Operations:** If a dust control permit is cancelled by the permittee prior to the project start date and before commencing any dust-generating operations, the Control Officer shall refund the dust control permit fee, less a \$150.00 nonrefundable processing fee.
- b. **Refunds After Project Start Date and Prior to Commencement of Dust-Generating Operations:** If a dust control permit is cancelled by the permittee after the project start date and before commencing any dust-generating operations, the Control Officer shall refund the dust control permit fee, less a \$350.00 nonrefundable processing and initial inspection fee.

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

- c. No dust control permit refund shall be given for a dust control permit cancelled by the permittee after commencing any ~~dust generation~~ dust-generating operations.

**311 DUST CONTROL TRAINING CLASS FEE:**

**311.1 Basic Dust Control Training Class Fee:** A person required to complete basic dust control training shall pay a training class fee of \$50.00.

**311.2 Comprehensive Dust Control Training Class Fee:** A person required to complete comprehensive dust control training shall pay a training class fee of \$125.00.

**311.3 Requests for Dust Control Training:** A person may request that the Control Officer conduct a dust control training class within Maricopa County. A minimum of 10 and a maximum of 30 class participants shall be required and meeting room space shall be provided by the person making the request. The fee for such a training class shall be \$35.00 per person for basic dust control training or \$100.00 per person for comprehensive dust control training. A discounted fee of \$30.00 per person shall be required for issuance of training cards at third-party provider dust control training classes.

**311.4 “Train the Trainer” Class Fee:** A person taking a “train the trainer” class offered by the Control Officer shall pay a training class fee of \$125.00.

**312 SUBCONTRACTOR REGISTRATION FEE:** A person required to register with the Control Officer under Rule 200 Section 306 of these rules and wishing to obtain a registration number shall pay an annual fee of \$50.00.

**313 ASBESTOS NOTIFICATION AND PLAN REVIEW FILING FEES:** Any person required to file notification under the provisions of Rule 370 of these rules shall pay fees according to the provisions in Sections 313.1 through 313.5 below.

**313.1 Renovation:** Any person filing notification of a project to renovate regulated asbestos-containing materials (RACM) shall pay a nonrefundable notification and plan review filing fee based on the amount of regulated asbestos-containing materials removed as shown in the table below:

Amount of Regulated Asbestos-Containing Materials (RACM) Removed			Fee*
Linear Feet	Square Feet	Cubic Feet	
0-259	0-159	0-34	\$0
260-499	160-499	35-109	<del>\$200</del> <u>\$600</u>
500-999	500-999	110-218	<del>—</del> <u>\$350</u>
1,000-2,499	1,000-2,499	219-547	<del>—</del> <u>\$800</u>
2,500-4,999	2,500-4,999	548-1,094	<del>—</del> <u>\$1,500</u>
5,000-9,999	5,000-9,999	1,095-2,188	<del>—</del> <u>\$3,100</u>
10,000-14,999	10,000-14,999	2,189-4,499	<del>—</del> <u>\$6,200</u>
15,000-500 or more	15,000-500 or more	4,500-110 or more	<del>\$7,500</del> <u>\$1,770</u>

\* If materials are reported on the notification in more than one category, the higher fee will apply.

**313.2 Demolition:** 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 ~~based on the building size (building size floor area multiplied by the number of floors affected) in square feet as shown in the table below:~~ of \$600.00.

Building Size (square feet)	Fee
<del>0-999</del>	<del>\$150</del>
1,000-2,499	\$300
2,500-4,999	\$450
5,000 or more	\$525

**313.3** For projects involving both renovation and demolition activities in a single notification, separate fees for each activity will apply according to Sections 313.1 and 313.2 of this rule.

**313.4** When a revision to a notification involves an increase in the RACM ~~or building size~~, the difference between the fee for the original RACM ~~or building size~~ and the revised RACM ~~or building size~~ shall be paid.

**313.5 Annual Operation and Maintenance:** Any person filing an annual notification of planned renovation operations involving individual nonscheduled operations to renovate regulated asbestos-containing materials shall pay a nonrefundable notification and plan review filing fee of \$1,250.00.

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



- 314.1 TITLE V, NON-TITLE V, OR GENERAL PERMIT:** An owner/operator of a source requiring a permit who has received a Notice of Violation for constructing or operating without such permit shall pay a late fee of \$100.00.
- 314.2 DUST CONTROL PERMIT:** Any person who is engaging in dust-generating operations without a Dust Control Permit and has received a Notice of Violation for engaging in dust-generating operations without a Dust Control Permit shall pay a late fee of \$100.00.
- 315 DELINQUENCY FEE:** An applicant or permittee who fails to pay any required fee(s) by 30 days after the invoice due date shall pay a delinquency fee of \$50.00 or a delinquency fee of \$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.
- 316 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.
- 317 ACCELERATED PERMIT PROCESSING FEE:** An applicant requesting accelerated permit processing shall pay fees to the Control Officer according to the following provisions:
- 317.1** 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.
- 317.2** 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.
- 317.3** 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.
- 317.4** Any additional costs incurred as a result of accelerated permit processing shall not be applied toward any applicable maximum fee described in this rule.
- 318 FAILURE TO PAY REQUIRED FEES:** Nonpayment of fees required by this rule constitutes a violation as provided in A.R.S. §§ 49-502, 49-511 and 49-513.
- 319 INFORMAL REVIEW OF PERMIT PROCESSING HOURS:**
- 319.1** Any person who receives a final itemized invoice from the Control Officer under Section 301.1 or 302.1 of this rule for a billable permit action may request an informal review of the permit processing hours billed and may pay the invoice under protest as provided below. If the invoice is paid under protest, the Control Officer shall issue the permit.
- 319.2** The request for an informal review of the permit processing hours billed shall be made in writing, and received by the Control Officer within 30 days of the invoice date. Unless the Control Officer and person agree otherwise, the informal review shall take place within 30 days after the Control Officer's receipt of the request. The Control Officer shall arrange the date and location of the informal review with the person at least 10 business days before the informal review. The Control Officer shall review whether the amounts of time billed are correct and reasonable for the tasks involved. The Control Officer shall mail his or her decision on the informal review to the person within 10 business days after the informal review date. The Control Officer's decision after the informal review shall be final.
- 320 HAZARDOUS AIR POLLUTANTS TIER 4 RISK MANAGEMENT ANALYSIS FEE:** If an applicant uses the Tier 4 method for conducting a risk management analysis (RMA) according to Rule 372 of these rules, the applicant shall pay any costs incurred by the Control Officer in contracting for, hiring or supervising work of outside consultants.
- 321 AIR QUALITY AWARENESS FLAG PROGRAM FEE:** A person who elects to participate in the air quality awareness flag program may obtain program materials from the Control Officer for a fee of \$200.00.

**SECTION 400 – ADMINISTRATIVE REQUIREMENTS**

- 401 EFFECTIVE DATE OF FEES:** The fees in this rule became effective May 1, 2008, except for the emissions-based fee, ~~in this rule become effective May 1, 2008~~, the air curtain destructor application fee, the dust control permit fee, the "train the trainer" class fee, the air quality awareness flag program fee, and the asbestos notification and plan review filing fees. The ~~revised~~ emissions-based fee ~~becomes~~ became effective January 1, 2009, beginning with the emissions reported for calendar year 2008. The air curtain destructor application fee, the dust control permit

fee, the “train the trainer” class fee, the air quality awareness flag program fee, and the asbestos notification and plan review filing fees become effective (within 30 days after Board of Supervisors’ approval, date to be provided).

**402 PAYMENT OF FEES:** All fees required by this rule shall be ~~are~~ payable to Maricopa County 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 Sections 301.2 and 302.2 of this rule 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 a source authorized to operate under a General Permit an invoice for the annual administrative fee due under Section 303.2 of this rule 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 and prior to the issuance of the decal required in the provisions of Rule 352 of these rules.

**402.3 Asbestos Removal Notification and Plan Review Filing Fee:** The asbestos 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.

**402.5 Fees in Effect:** All fees charged as a result of this rule shall be paid at the rate or in the amount that is in effect on the date the fee is charged.

**402.6 Payment Applied to Delinquent Penalties and Fees:** All monies paid to the Control Officer shall first be applied to any delinquent penalties and fees owed by the owner or operator of a source before being applied to current charges.

**403 FEE TABLE A, B, C, D, E, F, G, H, AND I SOURCES:** Fee Tables A– I list processes and equipment subject to the fees outlined in Sections 302.2, 303.1, and 303.2 of this rule. For processes and equipment not listed below, the Control Officer will designate Fee Table A, B, C, D, E, F, G, H or I, as applicable. Sources reclassified to a higher fee table due to the receipt of three complaints on different dates during a one-year period from different individuals resulting in violations resolved by an order of abatement by consent or judicial action shall remain in that fee table 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 Fee Table A Sources:**

- Aircraft Manufacturing
- Chemical Manufacturing, Dry
- Chemical Manufacturing, Liquid
- Circuit Board Manufacturing Greater Than or Equal to 5 Tons per Year VOC
- Coating Line, Can/Coil/Fabric/Film/Glass/Paper
- Ethylene Oxide Sterilization
- Gypsum, Calcining
- Incinerator, Medical Waste
- Incinerator, Hazardous Material
- Insulation Manufacturing
- Jet or Auxiliary Engine Manufacturing
- Non-Major Title V Source
- Pesticide/Herbicide Production
- Petroleum Loading Racks and Storage Tanks at Bulk Terminals
- Pharmaceutical Manufacturing
- Polymeric Foam Products Greater Than or Equal to 25 Tons per Year Potential Uncontrolled VOC Emissions or Facility With Controls Subject to Source Testing
- Power Plant Greater Than or Equal to 25 Tons per Year Potential Uncontrolled NO<sub>x</sub> Emissions
- Printing Facilities Greater Than or Equal to 25 Tons per Year Potential Uncontrolled VOC Emissions or Facility With Controls Subject to Source Testing
- Rendering
- Rubber Products Manufacturing
- Semiconductor Manufacturing Less Than 25 Tons per Year Of Potential Uncontrolled VOC Emissions
- Solid Waste Landfill
- Source Subject to BACT Determination

Source Subject to a MACT, NESHAP or NSPS Standard Under CAA Section 111 or 112 Unless Otherwise Identified in Another Fee Table

Source With 3 or More Fee Table B Processes

Vegetable Oil Extraction

**403.2 Fee Table B Sources:**

Aerospace Products Manufacturing and Rework not Subject to MACT

Aggregate Screening

Animal Feed Processing

Auto Body Shredding

Bakery With Oven of Greater Than or Equal to 25 Tons per Year of Potential Uncontrolled VOC

Emissions or Facility With Controls

Boiler, Gas-Fired or With Emergency Fuel Capabilities (Each Unit Greater Than or Equal to 10 MMbtu/hr)

Chemical/Fertilizer Storage, Mixing, Packaging and Handling

Concrete Product Manufacturing

Cement Terminal

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 Fee Table A)

Grain Cleaning/Processing

Grain Storage

Incinerator, Non-Hazardous Material

Internal Combustion Engine, Other Than Emergency

Metal Recovery/Reclamation

Pipeline Transmission Facility

Plating Tanks, Electrolytic or Electrowinning (Includes Decorative Chrome and Hard Chrome Operations

Less Than or Equal to 60 Million Amp/Hrs per Year Subject to Area Source MACT)

Polymeric Foam Products Less Than 25 Tons per Year Potential Uncontrolled VOC Emissions

Power Plant Less Than 25 Tons per Year Potential Uncontrolled NO<sub>x</sub> 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 Greater Than 3 Gallons per Day

Solvent Reclaiming

Source With 3 or More Fee Table C Processes

Stage I Vapor Recovery, Bulk Plants With Loading Racks

Stripping Operation, Equipment or Furniture Refurbishment

Tire Shredding/Retreading

Wastewater Treatment Plant

Wood Coating Operation Subject to RACT Including Furniture/Millwork Sources Larger Than 10 Tons per Year VOC

Any Fee Table A, F, or G Source Whose Aggregate of All Equipment, Processes or Production Lines Has Enforceable Permit Limits of Less Than 2.0 Tons per Year VOC or NO<sub>x</sub>, and Less Than 1.0 Ton per Year PM<sub>10</sub>

Any Fee 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 Fee Table C Sources:**

- Abrasive Blasting
- Asphalt Day Tanker/Kettle
- Cement Products Packaging/Distribution
- Circuit Board Assembly
- Circuit Board Manufacturing Less Than 5 Tons per Year of VOC
- Dry Cleaning (Includes Perchloroethylene Dry Cleaning Facilities Subject to Area Source MACT)
- Emergency Internal Combustion Engine
- Engine Testing
- Food Processing
- Incinerator, Paper and Cardboard Products
- Injection Molding
- Landscape and Decorative Rock, Gravel, and Sand Distribution
- Laundry, Other Than Dry Cleaning
- Miscellaneous Acid/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 Less Than 25 Tons per Year of Potential Uncontrolled VOC Emissions
- Semiconductor Lab/Testing/Services
- Non-Halogenated Solvent Cleaning, Less Than 3 Gallons per Day
- Solvent Storage/Handling
- Spray Coating
- Bulk Plant Loading Facilities as Defined by Rule 351, Section 305.1
- Storage Tank, Non-Petroleum Volatile Organic Compounds
- Stripping Operation, Liquid Chemical Groundwater/Wastewater Remediation
- Vehicle Refinishing
- Waste Transfer Facility
- Water Reclamation
- Sewage Lift Pump Station
- Drinking Water Plant
- Wood Furniture/Millwork/Small Source Less Than 10 Tons per Year VOC
- Yard/Stockpiling
- 403.4 Fee Table D Sources:**
  - Service Station and Non-Resale Dispensing Operations Greater Than 120,000 Gallons per Year
- 403.5 Fee Table E Sources:**
  - Fuel Burning Equipment
- 403.6 Fee Table F Sources:**
  - Aggregate Production/Crushing Subject to an NSPS Under CAA Section 111
  - Hot Mix Asphalt Plants
- 403.7 Fee Table G Sources:**
  - Aggregate Production/Crushing not Subject to NSPS Under CAA Section 111
  - Concrete Batch Plant
- 403.8 Fee Table H Sources:**
  - Semiconductor Manufacturing Greater Than or Equal to 25 Tons per Year Potential Uncontrolled VOC Emissions or Facility With Controls Subject to Source Testing
  - Any Fee Table A or 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
- 403.9 Fee Table I Sources:**
  - Any Fee 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)**