

NOTICE OF FINAL RULEMAKING
MARICOPA COUNTY AIR POLLUTION CONTROL REGULATIONS
REGULATION II – PERMITS AND FEES
RULE 280: FEES

PREAMBLE

- | | |
|------------------------------------|---------------------------------|
| <u>1. Sections affected</u> | <u>Rulemaking action</u> |
| Rule 280 (Fees) | Amend |
- 2. 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)
- 3. The effective date of the rule:**
May 26, 2010
- 4. List of all previous notices appearing in the register addressing the rulemaking:**
Notice of Rulemaking Docket Opening: 15 A.A.R. 1704, October 16, 2009
Notice of Proposed Rulemaking: 15 A.A.R. 1737, October 23, 2009
Notice of Supplemental Proposed Rulemaking: 16 A.A.R. 247, February 5, 2010
- 5. The name and address of department personnel with whom persons may communicate regarding the rulemaking:**
- Name: David Bruce
Address: Planning and Analysis Division
Maricopa County Air Quality Department
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Phoenix, AZ 85004
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- 6. An explanation of the rule, including the department’s reasons for initiating the rulemaking:**

Summary:

The Maricopa County Air Quality Department (department) amended a limited number of the fees it charges to owners and operators of sources of air pollution and clarified language regarding the applicability of certain rule

provisions. The affected fees include dust control permit fees, asbestos notification and plan review filing fees, dust control training class fees, as well as clarification of the “fees for billable permit actions” for the Title V and Non-Title V sources. The department also established 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 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 PM₁₀ national ambient air quality standard by the required attainment date of December 31, 2006. Due to the failure to attain the PM₁₀ 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:

Dust Control Permit Fee:

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 dust control permit fee on large parcels at \$15,750 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 in this rulemaking correct the revenue deficit from small parcels. The amendments also remove the cap, separate the "one acre or greater" parcel category into five distinct categories, and create a multi-tiered sliding scale fee based on ranges of acreage to better accommodate the allocation of expenses to the appropriate parcel sizes. The dust control permit fee structure is anticipated to reduce the administrative burden on industry by no longer requiring recalculation and additional payment for every acreage change during a project, only if the change crosses into the next tier. County inspectors should also benefit by being able to concentrate more on the job of controlling dust emissions rather than the minutia of exact acreage measurements.

A floor amendment was introduced by the department at the Board of Supervisors public hearing on May 26, 2010 that decreased the dust control permit fees from those previously proposed. The dust control permit fees decreased as a result of a reduction in the expenses allocated to the dust control permit compliance program when costs that were not program specific (non-recoverable) were removed from the fee calculation. Rule 280 (Fees) was approved "with the reduced fees as presented." In addition, during the public comment and discussion portion of the public hearing, the concept of "grandfathered dust control permit fees" was raised. Based on such comment and discussion, the Board directed the department to develop a policy for a

“grandfathered consideration that if an applicant has an active and valid permit at the time of renewal, it would be renewed at the existing rate.” The department is developing the policy to meet this directive and will make it available on the department’s website when complete.

Asbestos Notification and Plan Review Filing Fee:

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 in this rulemaking change the fee structure of the asbestos notification and plan review filing fees for renovation and demolition projects from the multi-tiered sliding scale fee to a flat fee with a provision for small renovation projects.

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

Description of Amendments:

Section 200: Definitions:

The amendment in this section clarifies the definitions section and the treatment of inconsistencies.

Section 301.1: Fees for Billable Permit Actions:

The amendment in this section clarifies 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 processing activities associated with a public hearing (e.g. participation in the public hearing and preparing responses to comments) and these permit processing activities will 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 in this section 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 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 processing activities associated with a public hearing (e.g. participation in the public hearing and preparing responses to comments) and these permit processing activities will be charged at the rate of \$133.50 per hour, adjusted annually under Section 304 of the rule.

Section 303.1: Fees Due With an Application:

The amendment in this section establishes 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 the rule. 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 in this section clarifies the application of this section and conforms 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 in this section remove the maximum fee for a dust control permit and create a multi-tiered sliding scale fee for dust control permits based on ranges of acreage as shown below:

| Total Surface Area Disturbed | Fee |
|------------------------------------------------------|----------------------------------------------------|
| Annual Block Permit fee | \$2,000 |
| 0.1 to less than one acre | \$350 <u>\$795</u> |
| One acre or greater to less than 10 acres | \$77 per acre plus \$350 <u>\$1,325</u> |
| <u>10 acres to less than 50 acres</u> | <u>\$3,855</u> |
| <u>50 acres to less than 100 acres</u> | <u>\$6,425</u> |
| <u>100 acres to less than 500 acres</u> | <u>\$9,635</u> |
| <u>500 acres or greater</u> | <u>\$15,415</u> |

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

The amendment in this section establishes 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 in this section change the fee structure of the asbestos notification and plan review filing fee from the multi-tiered sliding scale fee to a flat fee with a provision for small renovation projects as shown 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 | \$200 <u>\$600</u> |
| 500–999 | 500–999 | 110–218 | \$350 |
| 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 |
| 15,000–500 or more | 15,000–500 or more | 4,500–110 or more | \$7,500 <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 in this section change the fee structure of the asbestos notification and plan review filing fee for demolition projects from the existing multi-tiered sliding scale fee to a flat fee of \$600.

New Section 321: Air Quality Awareness Flag Program Fee:

The amendment in this section establishes a \$200 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 amended fees is July 1, 2010 as 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 in this section clarifies 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 in this section clarifies that when a payment is made it is first applied to delinquent penalties and fees that are owed.

Other Amendments:

In addition, the amendments 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 16 of this notice.

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

A.R.S. § 49-112(A)

The revised Rule 280 (Fees) does not impose substantive requirements and therefore is not a more stringent rule than adopted by the state, however, some of the fees are subject to A.R.S. § 49-112(A)(3). The amendments to the rule clarify existing provisions and increase or add a few, select fees. The amended fees are in accordance with A.R.S. § 49-112(A)(3) in that they do not “exceed the reasonable costs of the county to issue and administer that permit or plan approval program” as demonstrated below in Item 10 of this notice (Summary of the economic, small business, and consumer impact).

A.R.S. § 49-112(B)

The A.R.S. § 49-112(B) demonstration does not apply because the rule revisions pertain to programs not “in lieu” of a state program but instead authorized under county jurisdiction specified in A.R.S. § 49-402(B).

8. A 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, 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 2005 (updated August 2009).

Available for review by contacting the person listed in item 5 of this notice.

9. 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:

Not applicable

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

A. Rule Identification

This rulemaking amends 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 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 changes become effective July 1, 2010 as approved by the Board and are expected to result in approximately \$4.0 million of revenue from dust control permit fees (which does not include revenue from dust control training or subcontractor registration fees) and \$800,000 from asbestos notification and plan review filing fees. Total annual fee revenue for the department is estimated to be nearly \$11.5 million with the changes noted above. The department’s annual expenditures attributed to fee-based activities are estimated to be approximately \$11.5 million. This includes approximately \$4.0 million for the dust control compliance program (excluding dust control training and subcontractor registration programs) and \$800,000 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 will 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 EPA found that the Phoenix nonattainment area failed to attain the 24-hour PM₁₀ national ambient air quality standard by the required attainment date of December 31, 2006. Due to the failure to attain the PM₁₀ 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 MAG and submitted by 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 dust control permit fee on large parcels at \$15,750 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.

Revisions to Rule 280 (Fees):

Dust Control Permit Fee:

The amendments in this rulemaking correct the revenue deficit from small parcels referenced above. The amendments also remove the cap, separate the "one acre or greater" parcel category into five distinct categories, and create a multi-tiered sliding scale fee based on ranges of acreage to better accommodate the allocation of expenses to the appropriate parcel sizes. The dust control permit fee structure is anticipated to reduce the

administrative burden on industry by no longer requiring recalculation and additional payment for every acreage change during a project, only if the change crosses into the next tier. County inspectors should also benefit by being able to concentrate more on the job of controlling dust emissions rather than the minutia of exact acreage measurements.

The workload for the dust control permit program was re-evaluated using an estimate of activity level based on six months of actual activity data (June through November, 2009) and a monthly average for the remainder of the year. Based on this re-evaluation, the department reduced departmental expenses and the 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 \$3.0 million to approximately \$4.0 million from the \$7.0 million estimated in the March 26, 2008 rule revision. The number of dust control permit program 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 (over 5,100 permits and 67,000 acres). If the existing dust control permit fees were to have been retained, the program fee revenue was estimated to result in a \$1.7 million deficit with an additional \$112,000 deficit attributable to the fee cap on large parcels for a total deficit of \$1.8 million.

Asbestos Notification and Plan Review Filing Fee:

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 in this rulemaking change the fee structure of the asbestos notification and plan review filing fees for renovation and demolition projects from the multi-tiered sliding scale fee 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 \$818,000. This included a reduction in program expenses, reduction of one FTE, and removal of air monitoring expenses that were previously allocated to the asbestos/NESHAP 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 asbestos notification and plan review filing fees correct an almost \$120,000 revenue deficit that would have developed if the previous fee structure had been retained.

The following table presents the effect of the changes to dust control permit revenue as well as asbestos notification and plan review filing fee revenue:

| Activity | Estimated annual expenditures | Estimated revenue with previous fee | Estimated revenue with adopted fee |
|-------------------------------|--------------------------------------|--------------------------------------------|-------------------------------------------|
| Asbestos/NESHAP notifications | \$818,000 | \$698,000 | \$818,000 |
| Dust control permits | \$4,030,000 | \$2,327,000 | \$4,055,000 |

The dust control permit estimated annual expenditure amount of \$4,030,460 is the result of removing expenditures for providing training and subcontractor registration services (\$393,570) from the total dust control permit compliance program expenditure amount of \$4,424,030. The table below shows the dust control permit compliance division expenses of \$2,511,807 with the additional allocation of administrative services of \$1,390,984 as well as \$521,239 in programmatic indirect allocations for a total program (including dust control training and subcontractor registration activities) expenditure amount of \$4,424,030. The total estimated revenue for the dust control permit compliance program, using the fees in the revised Rule 280 (Fees), is \$4,490,131. In this same manner the asbestos/NESHAP program total expenditures are estimated to be \$817,957 and the revenue with the adopted fee structure is estimated to be \$817,680.

| Activity | Expenditures | | Allocation of Indirects | | | |
|--------------------------------------------------------------------------------------|-------------------------------------------|---------------|-------------------------------------|---------------------------------------------|--------------------------------------------------------------|--------------------------------|
| | Estimated Expenditures Before Allocations | FTE by PAS | Allocation of Adm. Svc. by PAS Code | Expenditures After Adm. Services Allocation | Allocate Air Monitor., Plan. & Analysis, Small Bus. Resource | Expenditures After Allocations |
| Title V Permit Review | 724,637 | 6.45 | 195,040 | 919,677 | | 919,677 |
| Title V Permit Compliance | 716,885 | 7.70 | 232,839 | 949,724 | 256,369 | 1,206,092 |
| Subtotal | 1,441,522 | 14.15 | 427,879 | 1,869,401 | 256,369 | 2,125,770 |
| Small Source Permit Review | 1,101,402 | 15.55 | 470,213 | 1,571,615 | | 1,571,615 |
| Asbestos / NESHAP Compliance | 447,204 | 6.00 | 181,433 | 628,636 | 189,321 | 817,957 |
| Small Source Permit Compliance | 1,315,140 | 20.80 | 628,967 | 1,944,107 | 785,386 | 2,729,493 |
| Subtotal | 2,863,746 | 42.35 | 1,280,612 | 4,144,358 | 974,707 | 5,119,065 |
| Dust Control Permit Compliance | 2,511,807 | 46.00 | 1,390,984 | 3,902,791 | 521,239 | 4,424,030 |
| Subtotal | 2,511,807 | 46.00 | 1,390,984 | 3,902,791 | 521,239 | 4,424,030 |
| Administrative Services (IT, Finance, Office of the Director, Human Resources, etc.) | 5,019,637 | 0.00 | (5,019,637) | 0 | | 0 |
| Enforcement | 860,951 | 11.00 | 332,627 | 1,193,578 | | 1,193,578 |
| Air Quality Monitoring (includes Mobile Monitoring) | 1,231,696 | 17.00 | 514,059 | 574,353 | (574,353) | 0 |
| Planning and Analysis | 954,297 | 12.00 | 362,865 | 1,048,790 | (1,048,790) | 0 |
| Small Business Resource Center | 98,933 | 1.00 | 30,239 | 129,172 | (129,172) | 0 |
| Trip Reduction Program | 1,836,154 | 10.50 | 317,507 | 2,153,661 | | 2,153,661 |
| Voluntary Vehicle Repair and Retrofit | 721,823 | 1.50 | 45,358 | 767,181 | | 767,181 |
| Dust Control Vacant Lot | 1,089,815 | 10.50 | 317,507 | 1,407,322 | | 1,407,322 |
| Subtotal | 11,813,306 | 63.50 | (3,099,475) | 7,274,057 | (1,752,315) | 5,521,742 |
| Grand Total | 18,630,381 | 166.00 | 0 | 17,190,606 | 0 | 17,190,606 |

D. Entities Directly Affected

The department anticipates that this rulemaking will 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 fee 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 an estimate of activity level based on six months of actual activity data (June through November, 2009) and a monthly average for the remainder of the year. Based on this re-evaluation, the department reduced departmental expenses and the 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 \$3.0 million to approximately \$4.0 million from the \$7.0 million estimated in the March 26, 2008 rule revision. The number of dust control permit program 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 demolition projects from the multi-tiered sliding scale fee 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.

Previous Fees Compared to Recently Adopted Fees: Amendments in Section 310.1 increase the dust control permit fees for many parcels, create a multi-tiered sliding scale fee for dust control permits based on ranges of acreage, and remove the existing cap. The following table compares the previous dust control permit fees to the adopted fees:

| Parcel Size Range | Previous Fee | | Recently Adopted Fee |
|-----------------------------------|--------------|----------|----------------------|
| | Min | Max | |
| Small Parcels (0.1 to <1.0 acre) | \$350 | \$350 | \$795 |
| Medium Parcels (1.0 to <10 acres) | \$427 | \$1,120 | \$1,325 |
| Large Parcels - 10 to <50 acres | \$1,120 | \$4,200 | \$3,855 |
| Large Parcels - 50 to <100 acres | \$4,200 | \$8,050 | \$6,425 |
| Large Parcels - 100 to <500 acres | \$8,050 | \$15,750 | \$9,635 |
| Large Parcels - 500 acres or more | \$15,750 | \$15,750 | \$15,415 |
| Annual Block Permits | \$2,000 | \$2,000 | \$2,000 |

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

| Fee Type | Previous Fee | | | | Recently Adopted |
|----------------|-----------------------------------------|-------------|------------|-------|------------------|
| | Amount of Regulated Asbestos Containing | | | Fee* | |
| Renovation Fee | Linear Feet | Square Feet | Cubic Feet | | Fee* |
| | 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 |

| Fee Type | Previous Fee | | | | Recently |
|--------------------------------------|--------------------------------------------------------------------------------|----------------|---------------|---------|----------|
| | | 1,000–2,499 | 1,000–2,499 | 219–547 | |
| | 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 | | | | |
| Demolition Fee | Building Size (square feet) | | Fee | | \$600 |
| | 0–999 | | \$150 | | |
| | 1,000–2,499 | | \$300 | | |
| | 2,500–4,999 | | \$450 | | |
| | 5,000 or more | | \$525 | | |
| Annual Operation and Maintenance Fee | | | \$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 creates the named category and assigns 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 will recoup the cost of the flag kits and administering the kits to participants in the recently implemented air quality awareness flag program.

The amendment for Section 303.1 establishes 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 the rule. 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 as amended, 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.

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 asbestos notification and plan review filing fee establishes a lower fee of \$600 for smaller renovation projects (i.e., 160–499 square feet, 260–499 linear feet, and 35–109 cubic feet).

11. Description of the changes between the proposed rule, including supplemental notices, and final rule:

Since the draft of Rule 280 (Fees) was published in the Notice of Proposed Rulemaking on October 23, 2009, a supplemental filing for Rule 280 (Fees) resulted 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. Additional changes made were the inclusion of the new fee for the air quality awareness flag program and revisions to Section 304 consistent with A.R.S. § 49-480(D) regarding the application of the Consumer Price Index.

The changes specifically included in the supplemental notice removed the maximum fee for a dust control permit and created a multi-tiered sliding scale fee structure for dust control permits based on ranges of acreage (Section 310.1). Additionally, the changes established a fee for the new air quality awareness flag program (Section 321) to allow the department to recover costs to the department for implementing this new program.

A floor amendment was introduced by the department at the Board of Supervisors public hearing on May 26, 2010 that decreased the dust control permit fees from those previously proposed. The dust control permit fees decreased as a result of a reduction in the expenses allocated to the dust control permit compliance program when costs that were not program specific (non-recoverable) were removed from the fee calculation. Rule 280 (Fees) was approved “with the reduced fees as presented.” In addition, during the public comment and discussion portion of the public hearing, the concept of “grandfathered dust control permit fees” was raised. Based on such comment and discussion, the Board directed the department to develop a policy for a “grandfathered consideration that if an applicant has an active and valid permit at the time of renewal, it would

be renewed at the existing rate.” The department is developing the policy to meet this directive and will make it available on the department’s website when complete.

12. A summary of the comments made regarding the rule and the department response to them:

The department conducted two public workshops and two oral proceedings during the rulemaking process for Rule 280 (Fees) and received formal comments during two separate formal comment periods (October 23, 2009 to November 25, 2009; February 5, 2010 to March 12, 2010) from the following stakeholders: The Environmental Information Association (EIA), The Asbestos Institute, G&G Specialty Contractors Inc., Home Builders’ Association of Central Arizona (HBACA), and Happy Planet Consulting. A summary of the formal comments received and the department’s responses are provided below:

Comment #1: Letter concerning the asbestos notification and plan review filing fee:

This “flat fee” rule is much better than the sliding scale that Maricopa County implemented about a year ago. It will be a breath of fresh air for both the regulating and regulated communities for the following reasons:

1. It will be more equitable across the board for both demolitions and renovations.
2. It will allow the compliance inspectors to focus on the real CAA issues instead of the correct fee issues.
3. It will do away with the debate over square footage of layered assemblies involving RACM.
4. It will level the playing field for contractors with multiple jobs, allowing smaller contractors to pay fees on multiple jobs without undo financial burden.
5. It will simplify the notification process for both the contractor and Maricopa County compliance.
6. It will be much easier to modify in the future when construction and notifications increase.
7. It is more likely to encourage compliance, especially on large floor tile removal jobs in the \$7500 range.

The commenter also complimented the department on the work done calculating the fee schedule to meet the needs of the county, while taking into consideration the cost burden to the regulated community.

Response #1: The department thanks the commenter for the comment.

Comment #2: The commenter asked if the fees include fees for Notices of Violations (NOVs) and are the fees subsidizing NOVs.

Response #2: No. The dust control permit and asbestos notification and plan review filing fees are constructed to cover the cost of activities associated with conducting proactive and follow-up inspections and indirect overhead. After an inspector has issued an NOV, the NOV is referred to the Enforcement Division for enforcement action. The cost of activities of the Enforcement Division are separated in the accounting system from other divisions and thus enforcement costs are not included in the fee calculation and are not funded by fee revenue.

Comment #3: The commenter believes the inspection time of 4.5 hours allocated to complex parcels is not accurate, it is too much.

Response #3: The “inspection time” the commenter referred to represents an estimated average time spent per an average of inspections for a given acreage range. This average time includes not only the time spent conducting an inspection but also travel time, and time spent performing stabilization tests, report writing, and data entry. An average inspection time of 4.75 hours for large parcels was introduced prior to the September 3, 2009, informal workshop and subsequently utilized in the Notice of Proposed Rulemaking for Rule 280 (Fees). The average inspection time of 4.75 hours for large parcels reflects an estimated average inspection time for all possibilities of large parcels ranging from perfectly groomed 10 acre parcels to parcels with over 2,000 acres of abject non-compliance.

The inspection time includes face-to-face time between the inspector and on-site personnel as well as time for travel, pre-visit preparation, off-site observation, waiting for the on-site contact, waiting for the proper paperwork to be obtained and posted, walking the site, sampling, testing, recording findings with photographs, data entry, and writing a report on the complete inspection. Industry challenges to enforcement actions have increased the time required for inspection (requiring more stabilization testing), recording (more pictures with detailed labeling), and reporting (combining all of the above with detailed narrative).

Since this comment was received during the November 24, 2009, oral proceeding, the department has revised the dust control fees to a tiered, sliding scale fee structure. In the tiered, sliding scale fee structure the “one acre or greater” fee category has been separated into five separate acreage related fee categories (shown in the table below). The 4.5 hours per inspection allocated to complex parcels as noted in the comment is no longer being used. The table below shows the estimated “average total hours per inspection” established by the department and used in the new dust control permit fee calculations. The table separates the major components of the “average total hours per inspection” and shows the estimated “average on-site hours per inspection” for the different parcel sizes. The table shows an estimated “average on-site hours per inspection” time of 3.25 for 50 to <100 acre parcels. This means that, on average, an inspector can be expected to spend 3.25 hours waiting for and meeting with on-site personnel, taking pictures and notes, and walking around the entire 50 to almost 100 acre parcel. A 50 acre parcel that has been well maintained may only take 2 hours. However, a 100 acre parcel with multiple problem areas and violations may take 5 hours.

| Dust Control Permit | Average Total Hours per Inspection | Average On-site Hours per Inspection | Average Travel Hours per Inspection | Average Data Entry Hours per Inspection | Average Sampling Hours per Inspection | Average Report Writing Hours per Inspection |
|-----------------------------------|------------------------------------|--------------------------------------|-------------------------------------|-----------------------------------------|---------------------------------------|---------------------------------------------|
| Large Parcels - 10 to <50 acres | 4.00 | 2.25 | 0.25 | 0.25 | 0.25 | 1.00 |
| Large Parcels - 50 to <100 acres | 5.00 | 3.25 | 0.25 | 0.25 | 0.25 | 1.00 |
| Large Parcels - 100 to <500 acres | 6.00 | 4.25 | 0.25 | 0.25 | 0.25 | 1.00 |
| Large Parcels - 500 acres or more | 8.00 | 6.25 | 0.25 | 0.25 | 0.25 | 1.00 |

The data used for the “inspection time” is based on discussions with parties involved in these programs as well as department policy. To further address the comment the department plans to collect more data in the future in regard to inspection frequency and inspection times to allow a closer examination of these issues and integrate the results into future fee models.

Comment #4: The commenter questioned why complex parcel fees are being doubled.

Response #4: This question referred to an earlier dust control permit fee proposal (see the October 23, 2009, Notice of Proposed Rulemaking). The fee was not proposed to double; rather the cap on the dust control permit fees was proposed to increase from \$15,750 to \$32,384. In other words, the acreage that would be charged a \$77 per acre fee was raised from a maximum of 200 acres to a maximum of 400 acres. There was no proposed increase in the \$77 per acre fee for parcels “one acre or greater” and the fixed fee portion was proposed to increase from \$350 per permit to \$885 for parcels “one acre to less than 10 acres” and to \$1,584 for parcels “10 acres or greater”. However, these proposed fees and fee cap no longer apply under the recently adopted fee structure.

Comment #5: The commenter stated that complex parcels are paying for follow-up inspections, based on 50% non-compliance, in addition to the other costs allocated to their fee but compliance has improved since the 50% number was developed.

Response #5: This comment was also posed early in the fee development process during informal discussions. In response, the department re-evaluated the non-compliance rate, reducing it to the present rate of 20%. In addition, the October 23, 2009, Notice of Proposed Rulemaking for Rule 280 (Fees) reflected the removal of any additional re-inspections for large parcels (parcels ≥ 10 acres) based on the assumption that re-inspection can be accomplished within the average number of inspections already scheduled for these sites.

Comment #6: Two comments expressed concern that the fee structure does not treat block permits equally with other parcel categories, especially, as one commenter pointed out, with only one inspection per block permit.

Response #6: The block permit program generally applies to a limited number (40 or so) of municipal and utility projects consisting of multiple, small-impact sites. The October 23, 2009, Notice of Proposed Rulemaking for Rule 280 (Fees) reflected an increase in the number of average inspections per block permit from one to four based on input from parties involved in the program. The block permit program was not a focus of this fee rule revision so this program will be further evaluated for future revisions after continued data collection and program review.

Comment #7: The commenter is wary of complex parcel fees subsidizing other portions of the program.

Response #7: While this was an issue prior to the March 2008 approved Rule 280 (Fees) revision, the issue was corrected with the implementation of the cap on the dust control permit fees and it is not an issue in the currently adopted fees. The fee model allocates the program expense to each category of parcel size based on the estimated level of activity associated with that category. This expense is then divided by the estimated number of permits in that category to establish the fee for that category. Each category supports its total allocated expense and no more, there is no subsidizing between categories, as the “Estimated Revenue less Total Costs” column in the table below illustrates.

| Dust Control Permit | Acres / Category | Number Permitted Sources | Total Hours per Permit Type | % Time For Activity | Expenditures Apportioned to each Activity | Allocation of complaints, follow-up, PM10 costs |
|---------------------------------------------------------------|------------------|--------------------------|-----------------------------|---------------------|-------------------------------------------|-------------------------------------------------|
| Small Parcels (0.1 to <1.0 acre) | 611 | 1,100 | 4,949 | 16.83% | \$678,372 | \$196,089 |
| Medium Parcels (1.0 to <10 acres) | 3,655 | 1,031 | 7,735 | 26.30% | \$1,060,202 | \$306,461 |
| Large Parcels - 10 to <50 acres | 6,201 | 319 | 7,656 | 26.04% | \$1,049,374 | \$179,912 |
| Large Parcels - 50 to <100 acres | 1,920 | 31 | 1,220 | 4.15% | \$167,220 | \$28,669 |
| Large Parcels - 100 to <500 acres | 5,341 | 28 | 1,680 | 5.71% | \$230,270 | \$39,479 |
| Large Parcels - 500 acres or more | 2,000 | 2 | 192 | 0.65% | \$26,317 | \$4,512 |
| Annual Block Permit (utility infrastructure/ maintenance) | | 44 | 396 | 1.35% | \$54,278 | \$9,306 |
| Subtotal | 19,728 | 2,555 | 23,828 | 81.03% | \$3,266,032 | \$764,428 |
| Complaints | | 686 | 3,085 | 10.49% | \$422,886 | |
| Non-compliance follow -up insp. small and medium parcels only | | 426 | 1,492 | 5.07% | \$204,477 | |
| High PM10 potential incidents | | 25 | 1,000 | 3.40% | \$137,066 | |
| Subtotal | | 1,137 | 5,577 | 18.97% | \$764,428 | |
| TOTAL | | | 29,405 | 100.00% | \$4,030,460 | |

| Dust Control Permit | Expenditures Plus Allocated Costs | Fixed Fee (before rounding) | Per Acre Fee | Estimated Revenue | Estimated Revenue less Total Costs |
|---------------------------------------------------------------|-----------------------------------|-----------------------------|--------------|--------------------|------------------------------------|
| Small Parcels (0.1 to <1.0 acre) | \$874,461 | \$795 | \$0 | \$874,461 | \$0 |
| Medium Parcels (1.0 to <10 acres) | \$1,366,663 | \$1,325 | \$0 | \$1,366,663 | \$0 |
| Large Parcels - 10 to <50 acres | \$1,229,286 | \$3,854 | \$0 | \$1,229,286 | \$0 |
| Large Parcels - 50 to <100 acres | \$195,889 | \$6,423 | \$0 | \$195,889 | \$0 |
| Large Parcels - 100 to <500 acres | \$269,749 | \$9,634 | \$0 | \$269,749 | \$0 |
| Large Parcels - 500 acres or more | \$30,828 | \$15,414 | \$0 | \$30,828 | \$0 |
| Annual Block Permit (utility infrastructure/ maintenance) | \$63,584 | \$2,000 | \$0 | \$88,000 | \$24,416 |
| Subtotal | \$4,030,460 | | | \$4,054,876 | \$24,416 |
| Complaints | | n/a | n/a | n/a | |
| Non-compliance follow -up insp. small and medium parcels only | | n/a | n/a | n/a | |
| High PM10 potential incidents | | n/a | n/a | n/a | |
| Subtotal | | | | | |
| TOTAL | \$4,030,460 | | | \$4,054,876 | \$24,416 |

Comment #8: The cost of the dust control compliance program has been reduced, why are the complex parcel dust control permit fees increasing?

Response #8: This question referred to an earlier dust control permit fee proposal (see the October 23, 2009, Notice of Proposed Rulemaking). There are several issues that contribute to the recently adopted dust control permit fees increasing while the overall program costs have been reduced, but the effect is most evident in the smaller acreage tiers.

In the fee model for the March 26, 2008 rule revision the allocation method utilized was weighted more heavily to large parcels than small parcels. 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 dust control permit fee on large parcels at \$15,750 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 allocation method in the present fee model evenly distributes expenses to each category of parcel size based on the estimated level of activity associated with that category (see Response #7 above). Thus the smaller parcels show a greater effect than if the same allocation methodology were applied in 2008.

The current market and economic conditions also have a major influence on the program, and consequently on the fees. Personnel reductions in the dust control compliance program were made in response to the declining activity levels in the construction industry since the 2008 Rule 280 (Fees) revision. Dust control permits are estimated to decrease by 2,556 (approximately 50%) with 47,786 fewer acres (a nearly 59% decrease). This means that, while the overall expenses for the dust control compliance program have been reduced approximately 43%, there has been a somewhat larger decrease in the number of permits and acreage (50-59%) resulting in fewer dust control permits to absorb the expense of the program.

Comment #9: The commenter stated that large parcels are paying \$1,000 per hour for inspections being performed on their parcels.

Response #9: Tables 1 and 2 below show the “per hour fee” for inspections based on the inspection frequency and average hours per inspection for each dust control permit category for the current fee and the October 23, 2009, fee rule proposal. While the department does not charge for dust control permits nor inspections on a per hour basis Tables 1 and 2 illustrate the fees in this manner to address the comment. The commenter was referring to the large parcel category in the October 23, 2009, Notice of Proposed Rulemaking. Table 1 shows that under the October 23, 2009, fee rule proposal, dividing the proposed fee per permit by the total hours per

permit results in a “per hour fee” for inspections for large parcels ranging between \$62 and \$852 per hour. Table 2 shows that under the current dust control fee, the “per hour fee” for inspections for large parcels is \$161 per hour.

Table 1. The October 23, 2009, Notice of Proposed Rulemaking proposed dust control permit fees illustrated on a “per hour fee” basis:

| Dust Control Permit | Inspec. Frequency | Average Hours per Inspec. | Total Hours per Permit | Proposed Fixed Fee | Per Acre Fee | Total Fee per Permit | Calculation of Per Hour Fee |
|---------------------|-------------------|---------------------------|------------------------|--------------------|--------------|----------------------|-----------------------------|
| Small (0.90 acres) | 2.00 | 2.75 | 5.50 | \$770 | \$0 | \$770 | \$140 |
| Medium (9.0 acres) | 3.00 | 2.75 | 8.25 | \$885 | \$77 | \$1,578 | \$191 |
| Large (10 acres) | 8.00 | 4.75 | 38.00 | \$1,584 | \$77 | \$2,354 | \$62 |
| Large (100 acres) | 8.00 | 4.75 | 38.00 | \$1,584 | \$77 | \$9,284 | \$244 |
| Large (200 acres) | 8.00 | 4.75 | 38.00 | \$1,584 | \$77 | \$16,984 | \$447 |
| Large (400 acres) | 8.00 | 4.75 | 38.00 | \$1,584 | \$77 | \$32,384 | \$852 |
| Large (500 acres) | 8.00 | 4.75 | 38.00 | \$1,584 | \$77 | \$32,384 | \$852 |

Table 2. Adopted dust control permit fees illustrated on a “per hour fee” basis:

| Dust Control Permit | Inspec. Frequency | Average Hours per Inspec. | Total Hours per Permit | Fixed Fee per Permit | Calculation of Per Hour Fee |
|---------------------------------|-------------------|---------------------------|------------------------|----------------------|-----------------------------|
| 0.1 acre to less than one acre | 2.00 | 2.25 | 4.50 | \$795 | \$177 |
| One acre to less than 10 acres | 3.00 | 2.50 | 7.50 | \$1,325 | \$177 |
| 10 acres to less than 50 acres | 6.00 | 4.00 | 24.00 | \$3,855 | \$161 |
| 50 acres to less than 100 acres | 8.00 | 5.00 | 40.00 | \$6,425 | \$161 |
| 100 to less than 500 acres | 10.00 | 6.00 | 60.00 | \$9,635 | \$161 |
| 500 acres or greater | 12.00 | 8.00 | 96.00 | \$15,415 | \$161 |

Comment #10: The commenter proposes that the Air Quality Awareness Flag Program fee not be implemented, especially in light of the fact that the department’s Clean Air Make More website advertises the program as “no cost”.

Response #10: The Air Quality Awareness Flag Program fee is a one-time fee to recoup the cost to the department for supplies (the actual flags plus shipping charges) as well as start-up and administration for a new participant. The fee is not an annual participation fee. The Clean Air Make More website reflects the previous provisions of the Flag Program, and will be modified to clarify that there is a one-time fee and the fee amount. The Air Quality Awareness Flag Program is a new program and consequently will be reviewed for its effectiveness. Future program enhancements and any fee adjustments would be included in future rule revisions.

Comment #11: The commenter cannot support the “train the trainer” class fee at this time due to the substandard value of the instruction. The commenter provides two personal examples of attending this class (in January of 2008 and 2010) and receiving information and training inconsistent with the stated intent of the class.

Response #11: The value of the “train the trainer” class is outside the scope of this rule revision. The department incurs a cost to provide “train the trainer” classes and this fee is intended to recover those costs incurred by the department. The department will evaluate the “train the trainer” class for content, execution, and effectiveness and will make changes as appropriate.

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

Not applicable

14. Incorporations by reference and their location in the rule:

| Incorporation by Reference: | Location: |
|----------------------------------------------------------------------------------------------------------------------------|-------------------------------|
| 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) |

15. Was this rule previously an emergency rule?

No

16. The full text of the rule follows:

REGULATION II – PERMITS AND FEES

RULE 280

FEES

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**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_x], lead, sulfur oxides [SO_x] measured as sulfur dioxide [SO₂], ozone, and particulates).

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

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

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

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

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

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

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

- b. At any time after submittal of the application, the Control Officer may request additional application fees based on the cost to date of reviewing and acting on the application, minus all fees previously submitted for the application.
- c. When permit processing is completed for a facility, the Control Officer shall send an itemized invoice. The invoice shall indicate the total actual cost of reviewing and acting upon the application, 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~~ 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.
- 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.

| Fee Table Source categories designated as Fee Tables A–I are listed in Sections 403.1–403.9 of this rule | Annual Administrative Fee |
|-----------------------------------------------------------------------------------------------------------------------|------------------------------------------|
| 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.

| Fee Table Source categories designated as Fee Tables A–I are listed in Sections 403.1–403.9 of this rule | Application Fee |
|-----------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------|
| 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.

| Fee Table Source categories designated as Fee Tables A–I are listed in Sections 403.1–403.9 of this rule | Annual Administrative Fee |
|-----------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------|
| 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.
- 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 PM₁₀.
- c. Emissions from insignificant activities excluded from the permit for the source under Rule 210 of these rules.
- 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 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 | \$350 <u>\$795</u> |
| One acre or greater <u>to less than 10 acres</u> | \$77 per acre plus \$350 <u>\$1,325</u> |
| <u>10 acres to less than 50 acres</u> | <u>\$3,855</u> |
| <u>50 acres to less than 100 acres</u> | <u>\$6,425</u> |
| <u>100 acres to less than 500 acres</u> | <u>\$9,635</u> |
| <u>500 acres or greater</u> | <u>\$15,415</u> |

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

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.
- 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 | \$200 \$600 |
| 500-999 | 500-999 | 110-218 | — \$350 |
| 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 |
| 15,000 500 or more | 15,000 500 or more | 4,500 110 or more | \$7,500 \$1,770 |
| * 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 |
|------------------------------------|------------------|
| 0-999 | \$150 |
| 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 July 1, 2010.

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_x 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_x 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_x, and Less Than 1.0 Ton per Year PM₁₀

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)