

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

Because each county writes rules and regulations in its own unique style, County Notices published in the *Register* do not conform to the standards of the *Arizona Rulemaking Manual*. With the exception of minor formatting changes, the rules (including subsection labeling, spelling, grammar, and punctuation) are reproduced as submitted.

### NOTICE OF PROPOSED RULEMAKING

#### MARICOPA COUNTY AIR POLLUTION CONTROL REGULATIONS

#### REGULATION II – PERMITS AND FEES RULE 280: FEES

[M11-19]

#### 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. List of all previous notices appearing in the register addressing the proposed rule:**  
Notice of Rulemaking Docket Opening: 17 A.A.R. 246, February 11, 2011 (*in this issue*)
- 4. The name and address of department personnel with whom persons may communicate regarding the rulemaking:**
- |            |  |
|------------|--|
| Name:      | David Bruce  |
| Address:   | Maricopa County Air Quality Department<br>Planning and Analysis Division<br>1001 N. Central Ave., Suite 595<br>Phoenix, AZ 85004 |
| Telephone: | Direct: (602) 372-2250<br>General: (602) 506-0169  |
| Fax:       | (602) 506-6179   |
| E-mail:    | Direct: davidbruce@mail.maricopa.gov<br>General: aqplanning@mail.maricopa.gov  |
- 5. An explanation of the rule, including the department's reasons for initiating the rulemaking:**

#### **Summary:**

The Maricopa County Air Quality Department is proposing to amend the fees it charges to owners and operators of sources of air pollution. The fees being amended include fees for permit actions, annual administrative and emission based fees for Title V sources, annual administrative fees for non-Title V sources, application and annual administrative fees for general permits, subcontractor registration fees and training fees. These fees have not been changed by rule since the March 26, 2008 rule revision.

#### **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 will support program development and implementation costs. The program fee requirement is mandated by Arizona Revised Statutes (A.R.S.) §§ 49-480(D)(1) and (D)(2), while 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. Also, 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 revising permit fees based on changes in the Consumer Price Index (CPI). The proposed revisions to Rule 280 (Fees) conform to all of 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 will “approximately equal or be 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 1999, the Arizona Department of Environmental Quality (ADEQ), together with Maricopa, Pima, and Pinal Counties, developed updated workload analyses (referred to as the “2003 model”) of costs associated with all components of the air quality programs and initiated a stakeholder process to develop a modified structure for revenues that would equitably distribute the cost of the programs to the sources those programs covered. This stakeholder process resulted in a recommended structure that decreased revenues from annual emission-based fees, increased revenues from annual fixed fees, and updated the revenue basis for processing permit applications. This recommendation resulted in a new fee rule that went into effect on July 1, 2003.

In 2004, lower than expected revenues coupled with increasing costs resulted in Maricopa County retaining the services of Deloitte Consulting LLP to complete a fee study. Increased costs were expected due to the following: 1) The creation of the Maricopa County Air Quality Department as a separate department for air quality functions; 2) Increased staffing to work proactively on compliance and enforcement of the earthmoving fugitive dust program and increased inspection frequencies at nonmetallic mineral processing facilities to address, in part, the U.S. Environmental Protection Agency (EPA) July 2, 2002, finding that the state implementation plan (SIP) was inadequate (67 FR 44369); 3) The loss of previously relied on grant funds from the Arizona Air Quality Fund established under A.R.S. § 49-551 (The grant funds were never appropriated by the Legislature); and 4) A reduction in grant funding from the EPA as a result of congressional reductions to the federal budget. In May 2005, the Maricopa County Board of Supervisors (board) approved new fees based on the fee study conducted by Deloitte Consulting.

In 2007, the EPA found that the Phoenix nonattainment area failed to attain the 24-hour PM<sub>10</sub> national ambient air quality standard by the required attainment date of December 31, 2006. A SIP revision, referred to as the Five Percent Plan, was prepared by the Maricopa Association of Governments (MAG) and submitted to the EPA in December 2007. In March 2008, the board approved fee revisions made to address increased activity and staffing levels due to Maricopa County commitments for the Five Percent Plan. In May 2010, the board approved revisions to the dust control permit fee to correct a revenue deficit from small parcels that resulted from the 2008 fee revisions, and to simplify the structure for asbestos notification and plan review filing fees for renovation and demolition projects.

While the May 2010 revisions addressed some of the deficit, they did not permanently resolve the deficiencies. The current fee structure does not generate sufficient revenue to cover the operating expenses for department permit and plan approval activities. Without corrections to the fee structure, the department will not be able to operate on a structurally balanced budget as is required by County policy and will deplete all reserves. The department’s fee fund revenue in fiscal year 2011 is projected to be \$8.8 million while the corresponding expenditures are projected to be \$11.1 million. For fiscal year 2011, the department will be relying on its existing air quality fund balance and general fund revenues (a temporary allocation) to subsidize the program. However, the air quality fund balance is projected to run a negative balance in late 2011 without corrections to the fee structure.

For this rulemaking, the department conducted a number of time studies and updated the 2003 model. The 2003 model corresponds to the model used by ADEQ, was audited by stakeholders during the 1999 to 2003 rulemaking process, and replaces the 2005 Deloitte Consulting fee model. In addition, the 2003 model is more transparent and better able to accommodate changing conditions. Specifically, the 2003 model allows the department to separate its

non-recoverable costs from the permit and plan approval related costs and document that split for each activity in a clear and understandable manner.

Also in the updated 2003 model, the department incorporated the updates ADEQ has made to the model since 2003, updated model inputs, and added new programs developed under the Five Percent Plan. The 2003 model calculates the staffing necessary to support the department’s permitting and plan approval programs as well as their corresponding costs. In addition the 2003 model allows the department to allocate the cost of the permitting and plan approval programs to reflect the current profile of permits and plan approvals in order to develop fees to recover the total costs of each activity, including indirect costs such as county-wide, departmental, and divisional overhead.

The department conducted one public workshop and two smaller informational sessions to explain the proposed rule amendments and to receive input from stakeholders. Changes to the dust control permit and dust control annual block permit fee structures were discussed at these meetings but are not included in the proposed rule revision. The department will examine issues raised concerning these items and develop appropriate solutions for the next Rule 280 rulemaking. A description of proposed rule amendments is provided below.

**Description of Proposed Amendments:**

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

The amendment proposed in this section would change Title V permit processing from \$133.50 (the 2011 CPI-adjusted fee is \$136.20) to \$141.50 per hour, adjusted annually under Section 304 of the rule.

**Section 301.2: Annual Fees:**

The amendments proposed in this section would make two changes to the rule. First, the rule revision would raise the emissions-based fee from \$38.25 (the 2011 CPI-adjusted fee is \$39.02) to \$44.48 per ton (the EPA Part 70 presumptive minimum fee). Second, annual administrative fees would be raised as shown below:

<b>Title V Source Category</b>	<b>Annual Administrative Fee</b>	
Aerospace	<del>\$18,320</del>	<u>\$19,800</u>
Air Curtain Destructors	<del>\$840</del>	<u>\$860</u>
Air Force Base		<u>\$29,160</u>
Can Coater		<u>\$19,200</u>
Cement Plants	<del>\$68,590</del>	<u>\$69,960</u>
Combustion/Boilers	<del>\$16,680</del>	<u>\$17,010</u>
Compressor Stations	<del>\$13,630</del>	<u>\$13,900</u>
Expandable Foam	<del>\$14,800</del>	<u>\$28,280</u>
Landfills	<del>\$18,140</del>	<u>\$14,100</u>
Lime Plants	<del>\$64,790</del>	<u>\$66,090</u>
Copper and Nickel Mines	<del>\$16,150</del>	<u>\$16,470</u>
Gold Mines	<del>\$16,150</del>	<u>\$16,470</u>
Paper Mills	<del>\$22,060</del>	<u>\$22,500</u>
Petroleum Products Terminal Facilities	<del>\$25,800</del>	<u>\$43,830</u>
Polymeric Fabric Coaters	<del>\$18,140</del>	<u>\$21,710</u>
Reinforced Plastics	<del>\$13,630</del>	<u>\$13,900</u>
Semiconductor Fabrication	<del>\$29,010</del>	<u>\$29,590</u>
Steel Processing		<u>\$31,600</u>
Copper Smelters	<del>\$68,590</del>	<u>\$69,960</u>
Utilities–Primary Fuel Natural Gas	<del>\$9,500 + \$16,480</del> <u>\$19,430 + \$12,960</u> per turbine installed/ modified after May 10, 1996 and subject to annual source testing or CEM RATA certifications	
Utilities–Fossil Fuel Except Natural Gas	<del>\$35,080</del>	<u>\$35,780</u>
Vitamin/Pharmaceutical Manufacturing	<del>\$17,020</del>	<u>\$17,360</u>
Wood Furniture	<del>\$15,010</del>	<u>\$12,920</u>
Others	<del>\$18,130</del>	<u>\$22,510</u>
Others with Continuous Emissions Monitoring	<del>\$22,070</del>	<u>\$22,510</u>

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

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

The amendment proposed in this section would change the rate charged for non-Title V permit processing from \$133.50 (the 2011 CPI-adjusted fee is \$136.20) to \$141.50 per hour, adjusted annually under Section 304 of the rule.

**Section 302.2: Annual Administrative Fees:**

The amendments proposed in this section would raise non-Title V annual administrative fees as shown below:

<b>Fee Table</b> Source categories designated as Fee Tables A–I are listed in Sections 403.1–403.9 of this rule	<b>Annual Administrative Fee</b>
Sources listed in Fee Table A (see Section 403.1)	<del>\$5,980</del> <u>\$7,290</u>
Sources listed in Fee Table B (see Section 403.2)	<del>\$1,550</del> <u>\$1,820</u>
Sources listed in Fee Tables C–D (see Sections 403.3 and 403.4)	<del>\$610</del> <u>\$850</u>
Sources listed in Fee Table E (see Section 403.5)	<del>\$320</del> <u>\$480</u>
Sources listed in Fee Table F (see Section 403.6)	<del>\$7,940</del> <u>\$9,700</u>
Sources listed in Fee Table G (see Section 403.7)	<del>\$4,790</del> <u>\$5,730</u>
Sources listed in Fee Table H (see Section 403.8)	<del>\$7,940</del> <u>\$9,700</u>
Sources listed in Fee Table I (see Section 403.9)	<del>\$4,790</del> <u>\$5,730</u>

**Section 303.1: Fees Due With an Application:**

The amendments proposed in this section would raise the application fee for a general permit as shown in the table below and assign separate fees for Table C and D sources, as follows:

<b>Fee Table</b> Source categories designated as Fee Tables A–I are listed in Sections 403.1–403.9 of this rule	<b>Application Fee</b>
Title V General Permits except Air Curtain Destructors	Fee from Section 301.1(a) table for Title V source category
Air Curtain Destructors	<del>\$840</del> <u>\$860</u>
Sources listed in Fee Table A (see Section 403.1)	<del>\$4,870</del> <u>\$7,290</u>
Sources listed in Fee Table B (see Section 403.2)	<del>\$3,250</del> <u>\$1,820</u>
Sources listed in Fee Tables C–D <u>Table C</u> (see <del>Sections</del> <u>Section</u> 403.3 and 403.4)	<del>\$320</del> <u>\$480</u>
Sources listed in Fee Table D (see Section 403.4)	<del>\$530</del> <u>\$530</u>
Sources listed in Fee Table E (see Section 403.5)	<del>\$240</del> <u>\$400</u>
Sources listed in Fee Table F (see Section 403.6)	<del>\$6,970</del> <u>\$9,700</u>
Sources listed in Fee Table G (see Section 403.7)	<del>\$4,170</del> <u>\$5,730</u>
Sources listed in Fee Table H (see Section 403.8)	<del>\$6,970</del> <u>\$9,700</u>
Sources listed in Fee Table I (see Section 403.9)	<del>\$4,170</del> <u>\$5,730</u>

**Section 303.2 Annual Administrative Fee:**

The amendments proposed in this section would raise the annual administrative fee for the general permits as shown in the table below and assign separate fees for Table C and D sources, as follows:

<b>Fee Table</b> Source categories designated as Fee Tables A–I are listed in Sections 403.1–403.9 of this rule	<b>Annual Administrative Fee</b>
Title V General Permits	Fee from Section 301.2(a) table for Title V source category
Sources listed in Fee Table A (see Section 403.1)	<del>\$4,870</del> <u>\$7,290</u>
Sources listed in Fee Table B (see Section 403.2)	<del>\$3,250</del> <u>\$1,820</u>
Sources listed in Fee Tables C–D <u>Table C</u> (see <del>Sections</del> <u>Section</u> 403.3 and 403.4)	<del>\$320</del> <u>\$480</u>
Sources listed in Fee Table D (see Section 403.4)	<del>\$530</del> <u>\$530</u>
Sources listed in Fee Table E (see Section 403.5)	<del>\$240</del> <u>\$400</u>
Sources listed in Fee Table F (see Section 403.6)	<del>\$6,970</del> <u>\$9,700</u>
Sources listed in Fee Table G (see Section 403.7)	<del>\$4,170</del> <u>\$5,730</u>
Sources listed in Fee Table H (see Section 403.8)	<del>\$6,970</del> <u>\$9,700</u>

Sources listed in Fee Table I (see Section 403.9)	\$4,170	\$5,730
---	---------	---------

**Section 304: Annual Adjustments of Fees:**

The amendments proposed in this section would update the first year that the fees will be adjusted by the CPI to January 1, 2012 (from January 1, 2009) and update the base year that will be used to adjust the CPI to 2011 (from 2008).

**Section 311.1: Basic Dust Control Training Class Fee:**

The amendments proposed in this section would change the basic dust control training class fee from \$50.00 to \$100.00 and would clarify that this fee includes the issuance of an identification card.

**Section 311.2: Comprehensive Dust Control Training Class Fee:**

The amendments proposed in this section would change the comprehensive dust control training class fee from \$125.00 to \$175.00 and would clarify that this fee includes the issuance of an identification card.

**Section 311.3: Requests for Dust Control Training:**

The amendments proposed in this section would make several changes. First, the minimum number of class participants required for training provided by the Control Officer would change from 10 to 20, and the maximum number of class participants would be eliminated. Second, the fee charged for training provided by the Control Officer would change from \$35.00 per person to \$100.00 per person for basic dust control training and from \$100.00 to \$175.00 per person for comprehensive dust control training. Lastly, the discounted fee of \$30.00 per person for issuance of training cards at third party provider dust control training classes would be eliminated.

**Section 311.4: Train-the-Trainer Class Fee:**

The amendment proposed in this section would change the train-the-trainer class fee from \$125.00 to \$175.00.

**Section 312: Subcontractor Registration Fee:**

The amendment proposed in this section would change the subcontractor registration fee from \$50.00 to \$70.00.

**New Section 322: Training Class Fee:**

The amendments proposed in this section would add three new fees for training classes. First, a person required to complete basic training provided by the department would pay a training class fee of \$100.00 and this would include the issuance of an ID card. Second, a person required to complete comprehensive training provided by the department would pay a training class fee of \$175.00 and this would also include issuance of an ID card. Lastly, a fee of \$30.00 would be required to be paid for issuance of an ID card other than one issued and paid for as part of a training class.

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

The effective date for the fees in this rule would be July 1, 2011, except for the emissions-based fee. The emissions-based fee would become effective on January 1, 2012, for those emissions reported for calendar year 2011.

**Section 403 Fee Tables A, B, C, D, E, F, G, H, and I Sources:**

The amendments proposed in this section would make the following changes to Fee Table A:

- Add “Biofuel Manufacturing Operations Greater than 1,000,000 Gallons per Year”
- Add “Brick and Structural Clay Products (BSCP) Manufacturing”
- Add “Bakery with Oven of Greater than or Equal to 25 Tons per Year of Potential Uncontrolled VOC Emissions or Facility with Controls” (category moved from Fee Table B)
- Revise “Insulation Manufacturing” to “Fiberglass Insulation Manufacturing”

The amendments proposed in this section would make the following changes to Fee Table B:

- Remove “Auto Body Shredding” (moved to Fee Table H)
- Remove “Bakery with Oven of Greater Than or Equal to 25 Tons per Year of Potential Uncontrolled VOC Emissions or Facility with Controls” (moved to Fee Table A)
- Add “Crushing Facility That Meets the Definition of an ‘Infrequent Operation’ under Rule 316 of these Rules”
- Add “Inert Landfill”

- Correct the unit of measure, and add “Subpart N” to clarify the following Fee Table B source category: “Plating Tanks, Electrolytic or Electrowinning (Includes Decorative Chrome and Hard Chrome Operations Less than or Equal to 60 Million Amp-Hours per Year Subject to Area Source MACT Subpart N)”
- Revise “Soil/Treatment/Remediation” to “Soil/Groundwater/Wastewater Remediation”
- Remove “Soil Solvent Extraction system with Package Thermal/Catalytic Oxidizer/Carbon Adsorption”
- Add “Sources Not Otherwise Classified with Total Emissions of All Regulated Pollutants Greater than 5, but Less than 25, Tons per Year”

The amendments proposed in this section would make the following changes to Fee Table C:

- Revise “Plating, Electroless” to “Electroless Plating or Plating Subject to MACT Subpart WWWW”
- Remove “Stripping Operation, Liquid Chemical Groundwater/Wastewater Remediation”
- Remove “Vehicle Refinishing”
- Remove “Water Reclamation”
- Remove “Drinking Water Plant”
- Add “Water Treatment Plant”
- Add “Sources Not Otherwise Classified with Total Emissions of All Regulated Pollutants Less than or Equal to 5 Tons per Year”

The amendments proposed in this section would make the following changes to Fee Table E:

- Add “Emergency Generator”

The amendments proposed in this section would make the following changes to Fee Table H:

- Add “Auto Body Shredding”

**Other Proposed Amendments:**

In addition, the proposed amendments will 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 14 of this notice.

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

**A.R.S. § 49-112(A)**

When authorized by law, a county may adopt a rule, ordinance, or other regulation that is more stringent than or in addition to a provision of this title or rule adopted by the director or any board or commission authorized to adopt rules pursuant to this title if all the following conditions are met:

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

The department affirms that Rule 280 (Fees) meets the requirements of A.R.S. §§ 49-112(A)(1) and (A)(2)(b). Rule 280 (Fees) meets A.R.S. § 49-112(A)(1), necessary to address a peculiar local condition, in that Maricopa County fails to meet the National Ambient Air Quality Standards for both ozone and particulates. A portion of Maricopa County and Apache Junction in Pinal County is designated serious nonattainment for the PM<sub>10</sub> 24-hour standard. This is the only serious PM<sub>10</sub> nonattainment area in Arizona.

In June 2007, EPA found that the Phoenix Nonattainment Area did not attain the 24-hour PM<sub>10</sub> standard by the deadline mandated in the CAA, December 31, 2006 (72 FR 31183, June 6, 2007). Consequently stronger regulations were required to be adopted in this area to address a serious health threat. Under Section 189(d) of the CAA, serious PM<sub>10</sub> nonattainment areas that fail to attain are required to submit within 12 months of the applicable attainment date, “plan revisions which provide for attainment of the PM<sub>10</sub> air quality standard and, from the date of such submission until attainment, for an annual reduction in PM<sub>10</sub> or PM<sub>10</sub> precursor emissions within the area of not less than 5 percent of the amount of such emissions as reported in the most recent inventory prepared for such area.” The Phoenix Nonattainment Area is one of three areas in the entire country for which the EPA has issued a finding that

Section 189(d) has been triggered and that are currently still in nonattainment status. In accordance with the CAA section 179(d)(3), the attainment deadline applicable to an area that misses the serious area attainment date is as soon as practicable. The deadline to submit to a Five Percent Plan for PM<sub>10</sub> was December 31, 2007. The plan revision was prepared by the Maricopa Association of Governments and submitted to the EPA by the deadline. The nonattainment status represents a “peculiar local condition” and requires more stringent controls under the Clean Air Act. The department is in compliance with A.R.S. § 49-112 (A) in that the proposed revisions to fees fund programs implementing control measures included in the SIP for the Maricopa County PM<sub>10</sub> Nonattainment Area.

Rule 280 (Fees) also meets the requirements of A.R.S. § 49-112 (A)(2)(b), required under a federal statute or regulation, or authorized pursuant to an intergovernmental agreement, in that the federal Clean Air Act §§ 161, 165, 173, and 502 require state and local governments that have jurisdiction over stationary sources to adopt permitting programs for new source review, prevention of significant deterioration, and Title V operating permits. Maricopa County's rules for these programs are substantially identical to procedures for the review, issuance, revision and administration of permits issued by the State. However, Maricopa County's rules and procedures contain requirements specific to nonattainment area status, increment consumption analysis and impacts on nearby nonattainment areas. These requirements result in permit conditions that address the source's proximity to the PM<sub>10</sub> and ozone nonattainment areas and specific atmospheric and geographical conditions found at the source's location. For these reasons, this rule revision complies with A.R.S. §§ 49-112(A)(1) and 49-112(A)(2)(b).

Three fees in this rulemaking (all addressed in Section 301 of this rule) are more than ten percent greater than ADEQ's fees: (1) Title V annual administrative fee for Petroleum Products Terminal Facilities, (2) Title V annual administrative fee for Expandable Foam, and (3) Title V annual administrative fee for Utilities—Primary Fuel Natural Gas.

The annual administrative fees for Petroleum Products Terminal Facilities and Expandable Foam source categories are more than ten percent greater than ADEQ's fees because of factors unique to these sources in Maricopa County. These sources are subject to a New Source Performance Standard (NSPS) under CAA Section 111, which requires source testing that is in turn monitored under the department's compliance program, resulting in increased costs beyond standard inspection costs. An additional contributing factor to the Petroleum Products Terminal Facilities fee is that traditionally ADEQ and department permits for such facilities have included one set of equipment that required testing but the single source in this category has acquired additional facilities and now includes multiple units requiring testing under one permit. The Expandable Foam facility fee is unique as well in that the department set the original fee based on inspection hours before testing requirements were finalized, and ADEQ related its fee at the time to the department's work. The proposed fee accounts for actual activity hours expended for the purposes of testing these facilities.

The Title V annual administrative fee for "Utilities—Primary Fuel Natural Gas" is also more than ten percent greater than ADEQ's fees. Because of Maricopa County's nonattainment status, combined-cycle systems at utilities under permit by the department are required to conduct annual performance testing for PM<sub>10</sub> and VOC. In contrast, ADEQ-permitted natural gas utilities are required to conduct annual performance testing only if hours of operation exceed a certain threshold (translating to emissions above 100 tons per year). This distinction in performance testing requirements results in differing workloads associated with administering utility permits. In addition, the department permits ten natural gas utilities with 30 turbines subject to annual performance testing and CEM RATA certifications. The number of turbines at a single utility ranges from one to eight. Thus, the workload associated with annual performance testing and CEM RATA certification of utility turbines varies greatly between facilities. The substantial workload associated with conducting utility turbine source performance testing and CEM RATA certifications, and the variation in the number of turbines per utility, led to the department's decision to establish a per-turbine fee for natural gas utilities in 2005 (11 A.A.R. 2459, July 1, 2005). Review of the workload associated with utilities for this rule revision resulted in a reallocation of department resources that increases the proposed fee per facility while decreasing the fee per turbine.

Section 502(b)(3)(A) of the Clean Air Act requires that all sources required to obtain a permit under Title V pay an annual fee sufficient to recover all reasonable (direct and indirect) costs required to develop and administer the permit program. The section specifically mentions that “reasonable costs” include those necessary for reviewing and acting upon permit applications; implementing and enforcing permit terms and conditions; emissions and ambient monitoring; preparing generally applicable regulations or guidance; modeling, analyses, and demonstrations; and preparing inventories and tracking emissions. 40 CFR 70.9(b)(1) requires a permit program to establish a fee schedule that results in the collection and retention of sufficient revenues to cover permit program costs.

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

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

**A.R.S. § 49-112(B)**

Maricopa County is in compliance with A.R.S. § 49-112(B) in that the department is proposing to adopt rules that are as stringent as a provision of A.R.S. Title 49 or rules adopted by the Director of ADEQ or any Board or Commission authorized to adopt rules pursuant to A.R.S. Title 49. The cost of obtaining permits or other approvals from Maricopa County will approximately equal or be less than the fee or cost of obtaining similar permits or approvals under Title 49 or any rule adopted pursuant to Title 49 except for sources covered by rules or programs that fall into the categories described in the demonstration of compliance with A.R.S. § 49-112(A), above.

**7. 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)
- Maricopa County Workload and Resource Needs Analysis for Accessing Permit Fees, February 2003 (fee model updated and revised, December 2010)

The above documents are available for review by contacting the person listed in item 4 of this notice.

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

Not applicable

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

**A. Rule Identification**

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

**B. Executive Summary**

The goal of this rulemaking is to provide sufficient revenue to cover the costs of the air quality program, maintaining compliance with federal and state law. A permit-fee is statutorily mandated providing for fees paid by sources to support the permit program development and implementation costs [A.R.S §§ 49-480(D)(1) and (D)(2)]. The current fee structure does not generate sufficient revenue to cover the operating expenses for department permit and plan approval activities. For the current fiscal year, the department will be relying on its existing air quality fund balance and general fund revenues (a temporary allocation) to subsidize the program. Without corrections to the fee structure, the department will not be able to operate on a structurally balanced budget as is required by County policy and will deplete all reserves. The department's fee fund revenue in fiscal year 2011 is projected to be \$8.8 million while the corresponding expenditures are projected to be \$11.1 million. For fiscal year 2011, the department will be relying on its existing air quality fund balance to subsidize the program. However, the air quality fund balance is projected to run a negative balance in late 2011 without corrections to the fee structure.

The incremental cost to the regulated community is represented by the change in fees for Title V and non-Title V permits, as well as dust control training and the new training class fees (section 322 of this rule). The proposed changes would become effective on July 1, 2011 and are expected to result in annual fee revenue of approximately \$11.0 million corresponding to the department's annual expenditures attributed to fee-based activities of nearly \$11.0 million, bridging the projected shortfall of \$1.1 million illustrated in the previous paragraph. The remaining \$5.8 million of the department's \$16.7 million in total expenditures are considered to be non-recoverable by fees and are expected to be funded by other sources such as grants or county general funds. The fee revenue with proposed fees includes approximately \$3.6 million from the dust control compliance program, \$731,000 from the asbestos/NESHAP compliance program, \$4.9 million from the non-Title V program, and \$1.5 million from the Title V program.

**C. Background**

The department updated the 2003 model with current standard costs, source numbers, and workload estimates based on commitments in the Five Percent Plan and other department compliance activities. The 2003 model calculated necessary staffing levels, based on workload, to support the permitting and plan approval programs of the department, used the staffing calculations to develop total costs (including departmental and divisional overhead) for each fee category, and allocated this cost according to the number of sources in each fee category to calculate

individual permit fees. The workload for the department was re-evaluated using recent activity levels and input on the continuing health of the county and state economies from sources both within and outside the county structure. Based on this re-evaluation the department reduced expenses and the number of full-time equivalent positions (FTEs) for fiscal year 2012. The March 26, 2008 Rule 280 revisions projected total expenditures of \$22.7 million while the May 26, 2010 rule revision projected expenditures of \$18.6 million. The department has reduced expenditures approximately \$6.0 million since 2008 to the present \$16.7 million projection. The number of FTEs required for the program has been reduced by 122 from the March 26, 2008 rule revision to the present proposal. The department estimates that annual revenue with proposed fee increases will be approximately \$16.7 million of which almost \$11.0 million (65%) is attributed to fees and \$5.8 million comes from other sources of revenue.

Currently, Maricopa County permits 34 Title V sources, a greater than 20% reduction from the 44 Title V sources for the March 26, 2008 rule revision. The reduction is primarily due to reclassification of a number of Title V sources to non-Title V as a result of the area's re-designation to attainment for 1-hour ozone and the subsequent change in the major source threshold. Additionally, some Title V sources have ceased operations. Title V expenditures decreased approximately \$500,000 from \$2.0 million in the March 26, 2008 rule revision to \$1.5 million in the present proposal. A new Title V source category was added for a steel processing plant that has begun operations in Maricopa County. Additionally, new source categories were added for the existing air force base, as well as a can coater source. These were previously included in the "Other" category with several other sources but as they are all that remains their unique situations were deemed to require separate treatment, leaving the "Other" category in place for future use. The annual administrative fee for Petroleum Products Terminal Facilities and Expandable Foam categories has increased significantly due to their unique situations. A contributing factor to the Petroleum Products Terminal Facilities fee is that traditionally ADEQ and department permits for such facilities have included one set of equipment that required testing but the single source in this category has acquired additional facilities and now includes multiple units requiring testing under one permit. The Expandable Foam facility fee is unique as well in that the department set the original fee based on inspection hours before testing requirements were finalized, and ADEQ related its fee at the time to the department's work. The proposed fee accounts for actual activity hours expended for the purposes of testing these facilities.

The non-Title V permit program experienced an increase in sources from 3,856 in the March 26, 2008 rule revision to the present projection of 4,096. Evident within the non-Title V sources was a shift to General Permits which increased by 431 sources while non-Title V sources decreased by 218 sources. Expenses for non-Title V compliance activities increased from approximately \$3.8 million in the March 26, 2008 rule revision to \$4.5 million in the present proposal. While a portion of this increase can be attributed to the increase in the number of sources another large contributing factor is the dramatic decrease in the total number of sources permitted by the department, especially in the dust control permit program, and the resulting shift of indirect costs from the dust control permit program to the non-Title V permit program.

Dust control training class fees and subcontractor registration fees were not addressed during the May 26, 2010, Rule 280 revisions. The present proposal accounts for a small cost increase to each program (an increase of \$20 to a Subcontractor Registration) and practical changes to the training program. Training classes, which were previously held by third-party providers, are expected to be held largely by the department now. The cost to issue an identification card showing completion of the training class was previously a separate \$30 charge but is now included in the fee for each training course. In response to these changes, the dust control training class fees increased by \$50 each to \$100 for basic training and \$175 for comprehensive training. Training at an off-site location will still be available but with the same pricing as for training held by the department, not the previously reduced rate, reflecting the fact that the department's costs are not reduced in these situations. The training class fees correspond to an average cost to conduct the given classes across various class sizes, not an absolute cost for any individual class. This assumes that for every class conducted at the minimum class size there will be a larger class as well. The maximum number of individuals in a training class will be limited by the instructors based on the need to effectively train those attending the class.

The table below presents the department's estimated fiscal year 2012 expenditures and estimated revenue with the proposed fees by activity. The department estimates that annual revenue with the proposed fees will be approximately \$16.7 million, of which \$11.0 million (65%) is attributed to fees and \$5.8 million comes from other sources of revenue.

Activity	Estimated FY 2012 Expenditures	With Current Fee Structure		With Proposed Fee Structure	
		Estimated	Variance	Estimated	Variance

		<b>FY2012 Revenue</b>		<b>FY2012 Revenue</b>	
<b>Title V Permit Review and Compliance</b>	\$1,546,502	\$1,524,745	(\$21,757)	\$1,546,502	\$0
<b>Non-Title V Permit Review and Compliance, and other activities:</b>					
–Asbestos/NESHAP Compliance	\$730,914	\$730,914	\$0	\$730,914	\$0
–Dust Control Compliance	\$3,510,242	\$3,458,918	(\$51,324)	\$3,510,242	\$0
–Non-Title V Permit and other activities	\$5,130,682	\$4,113,719	(\$1,016,963)	\$5,130,682	\$0
<b>Subtotal of Permit Activities:</b>	<b>\$10,918,340</b>	<b>\$9,828,296</b>	<b>(\$1,090,004)</b>	<b>\$10,918,340</b>	<b>\$0</b>
Non-Recoverable Department Activities <sup>1</sup>	\$5,785,688	\$3,305,669	(\$2,480,019)	\$5,785,688	\$0
<b>Total:</b>	<b>\$16,704,028</b>	<b>\$13,133,965</b>	<b>(\$3,570,063)</b>	<b>\$16,704,028</b>	<b>\$0</b>

1. Includes recurring and non-recurring expenditures funded by non-permit fee related sources such as grants and general fund appropriations.

**D. Entities Directly Affected**

The department anticipates that this proposed rulemaking would directly impact approximately 4,000 sources that are permitted by the department, 3,600 individuals and entities involved in performing ancillary services on a dust control permitted site (subcontractor registration fee), and 1,600 individuals required to attend a basic or comprehensive dust control training class (dust control training class fee).

Entities impacted include Title V facilities (e.g., utilities, landfills, wood furniture manufacturers, petroleum products terminals), non-Title V facilities (e.g., synthetic minor sources, stationary sources, and small sources) and general permit sources (e.g., dry cleaners, vehicle refinishers, printing facilities, gas stations); individuals and entities involved in performing ancillary services (e.g., site foremen/supervisors, superintendents, truck drivers, initial grading, excavation, pouring concrete/footings, landscapers, utility installation, framers, drywall installation, electricians, swimming pool installers) on a dust control permitted site (subcontractor registration fee); individuals and entities required to complete dust control training (dust control training class fee); and trainers required to be certified by Maricopa County to conduct dust control training classes (“train the trainer” class fee).

**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 department is anticipated to be impacted by the revised workload calculations from the model which translate into reduced staffing levels and expenses for fiscal year 2012 projections. The March 26, 2008 Rule 280 revisions projected total expenditures of \$22.7 million. The department has reduced expenditures approximately \$6.0 million since 2008 to the present \$16.7 million projection. The number of FTEs required for the program has been reduced by 122 from the March 26, 2008 rule revision to the present proposal.

Other agencies are not expected to be directly impacted.

Regulated Community: Entities impacted include Title V (e.g., utilities, landfills, wood furniture manufacturers, petroleum products terminals); non-Title V facilities (e.g., synthetic minor sources, stationary sources, and small sources) and general permit sources (e.g., dry cleaners, vehicle refinishers, printing facilities, gas stations); individuals and entities involved in performing ancillary services (e.g., site foremen/supervisors, superintendents, truck drivers, initial grading, excavation, pouring concrete/footings, landscapers, utility installation, framers, drywall installation, electricians, swimming pool installers) on a dust control permitted site (subcontractor registration fee); individuals and entities required to complete dust control training (dust control training class fee); and trainers required to be certified by Maricopa County to conduct dust control training classes (“train the trainer” class fee).

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.

The current (1/1/2011 CPI-adjusted) and proposed fees are compared in detail in the section below.

Current Fees Compared to Proposed Fees:

Under Rule 280, the department adjusts permit fees every January 1 based on the CPI average for the most recent year. The 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. CPI values are published monthly by the United States Department of Labor. Each year, the fee will be adjusted by multiplying by the CPI for the most recent year and dividing by the CPI for the base year.

The hourly rate for permit processing time required for a billable permit action under Rule 280 Sections 301 and 302 applies to owners and operators of Title V and non-Title V sources. The current fee of \$136.20 (the 2011 CPI-adjusted fee) per hour increases to \$141.50 per hour. To revise the hourly rate, the department reassessed the number of billable hours per employee, by adjusting non-program and program time, as well as cost of management, technical and clerical personnel needed to supervise and support these employees. The department's analysis is consistent with the ADEQ and the fee amount is equal to the ADEQ 2011 permit processing fee amount of \$141.50.

The emissions-based fee under Rule 280, Section 301 applies to actual emissions of regulated pollutants emitted from Title V sources. The proposed emissions-based fee for calendar year 2012 is \$44.48 per ton (the EPA Part 70 presumptive minimum fee) for 2011 emissions, amended from the current fee of \$39.02 per ton (the 2011 CPI-adjusted fee) for 2010 emissions. The fee of \$44.48 per ton is not greater than ten percent more than the ADEQ 2011 emissions-based fee amount of \$40.54.

The following table compares the current (the 2011 CPI-adjusted fee) and proposed Title V annual administrative fee. The Title V annual administrative fees increase from current levels but are not greater than ten percent more than the ADEQ Title V annual administrative fees, with three exceptions. These include: (1) Petroleum Products Terminal Facilities, (2) Expandable Foam, and (3) Utilities—Primary Fuel Natural Gas. The justification for this is provided in Section 7, "Demonstration of compliance with A.R.S. § 49-112" of this Notice of Proposed Rulemaking.

<b>Source Category</b>	<b>Current Fee (Effective 01/01/2011)</b>	<b>Proposed Fee</b>	<b>Change (in dollars)</b>	<b>Change (in percent)</b>
<b>Title V: Annual Administrative Fee</b>				
Aerospace	\$18,690	\$19,800	\$1,110	5.9%
Air Curtain Destructors	\$860	\$860	\$0	0.0%
Air Force Base	\$18,490 *	\$29,160	\$10,670	57.7%
Can Coater	\$18,490 *	\$19,200	\$710	3.8%
Cement Plants	\$69,960	\$69,960	\$0	0.0%
Combustion/Boilers	\$17,010	\$17,010	\$0	0.0%
Compressor Stations	\$13,900	\$13,900	\$0	0.0%
Expandable Foam	\$15,100	\$28,280	\$13,180	87.3%
Landfills	\$18,500	\$14,100	(\$4,400)	-23.8%
Lime Plants	\$66,090	\$66,090	\$0	0.0%
Copper & Nickel Mines	\$16,470	\$16,470	\$0	0.0%
Gold Mines	\$16,470	\$16,470	\$0	0.0%
Paper Mills	\$22,500	\$22,500	\$0	0.0%
Petroleum Products Terminal Facilities	\$26,320	\$43,830	\$17,510	66.5%
Polymeric Fabric Coaters	\$18,500	\$21,710	\$3,210	17.4%
Reinforced Plastics	\$13,900	\$13,900	\$0	0.0%
Semiconductor Fabrication	\$29,590	\$29,590	\$0	0.0%
Steel Processing	n/a	\$31,600	\$0	0.0%
Copper Smelters	\$69,960	\$69,960	\$0	0.0%
Utilities – Primary Fuel Natural Gas (base)	\$9,690	\$19,430	\$9,740	100.5%
+ per-turbine fee	\$16,810	\$12,960	(\$3,850)	-22.9%
Utilities – Fossil Fuel Except Natural Gas	\$35,780	\$35,780	\$0	0.0%
Vitamin/Pharmaceutical	\$17,360	\$17,360	\$0	0.0%

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

<b>Source Category</b>	<b>Current Fee (Effective 01/01/2011)</b>	<b>Proposed Fee</b>	<b>Change (in dollars)</b>	<b>Change (in percent)</b>
Manufacturing				
Wood Furniture	\$15,310	\$12,290	(\$2,390)	-15.6%
Others	\$18,490	\$22,510	\$4,020	21.7%
Others with Continuous Emissions Monitoring	\$22,510	\$22,510	\$0	0.0%

\*These source categories were previously included in the "Others" source category.

In addition to the changes for Title V sources, annual administrative fees for non-Title V and general permitted sources increase under the proposal to better reflect the share of costs directly related to these programs. General permit application fees match general permit annual administrative fees. Most of the categories of permits are impacted by the increased fees; however, the permit fee for Table B general permits decreases when compared to the current fees. General permit fee changes for Tables A, B, F, G, H and I are proposed to match the non-Title V permit fees, as there are no sources in these categories at this time.

The following table compares the current fees to the new annual administrative fees for non-Title V and general permitted sources. The non-Title V source must pay an annual administrative fee which includes a portion of the permit processing fee for permit renewal. For a source that is covered under a general permit, the fee structure is based on fixed amounts for obtaining an authorization to operate and an annual administrative fee. The Non-title V and general permit annual fees include one-fifth of the permit processing fee for permit renewal as well as the annual costs for inspection, emission inventory, and regulatory activities. The structure allows a non-Title V source to pay approximately the same fee each year, and avoid the second fee due every five years at permit renewal. For the number of permit renewal actions, the department assumed that 20 percent (one-fifth) of the existing permits would be renewed each year.

<b>Category</b>	<b>Current Fee (Effective 01/01/2011)</b>	<b>Proposed Fee</b>	<b>Change (in dollars)</b>	<b>Change (in percent)</b>
<b>Non-Title V: Annual Fees</b>				
Source listed in Table A	\$6,100	\$7,290	\$1,190	19.5%
Source listed in Table B	\$1,580	\$1,820	\$240	15.2%
Source listed in Table C-D	\$620	\$850	\$230	37.1%
Source listed in Table E	\$330	\$480	\$150	45.5%
Source listed in Table F	\$8,100	\$9,700	\$1,600	19.8%
Source listed in Table G	\$4,890	\$5,730	\$840	17.2%
Source listed in Table H	\$8,100	\$9,700	\$1,600	19.8%
Source listed in Table I	\$4,890	\$5,730	\$840	17.2%
<b>General Permits: Annual and Application Fees</b>				
Title V General Permits	Title V Admin. Fee	Title V Admin. Fee	(varies)	(varies)
Source listed in Table A	\$4,970	\$7,290	\$2,320	46.7%
Source listed in Table B	\$3,320	\$1,820	(\$1,500)	-45.2%
Source listed in Table C	\$330	\$480	\$150	45.5%
Source listed in Table D	\$330	\$530	\$200	60.6%
Source listed in Table E	\$240	\$400	\$160	66.7%
Source listed in Table F	\$7,110	\$9,700	\$2,590	36.4%
Source listed in Table G	\$4,450	\$5,730	\$1,480	34.8%
Source listed in Table H	\$7,110	\$9,700	\$2,590	36.4%
Source listed in Table I	\$4,250	\$5,730	\$1,480	34.8%

In addition to the changes for Title V, non-Title V, and general permitted sources, the dust control training fees in Section 311 are proposed to increase. The following table compares the current and proposed fees for dust control training classes (issuance of an identification card signifying completion of a training class is expressly included in the proposed fees):

<b>Training Class</b>	<b>Current Fee</b>	<b>Proposed Fee</b>	<b>Change (in dollars)</b>	<b>Change (in percent)</b>
<b>Basic Dust Control</b>	\$50.00	\$100.00	\$50.00	+100%
<b>Comprehensive Dust Control</b>	\$125.00	\$175.00	\$50.00	+40%
<b>Requests – Basic Dust Control</b>	\$35.00	\$100.00	\$65.00	+186%
<b>Requests – Comprehensive Dust Control</b>	\$100.00	\$175.00	\$75.00	+75%
<b>Train-the-Trainer</b>	\$125.00	\$175.00	\$50.00	+40%

In anticipation of possible needs within department programs, especially to comply with anticipated EPA requirements, generic training fees for basic (\$100) and comprehensive (\$175) training classes have been introduced in Section 322. The issuance of an identification card signifying completion of a training class is expressly included in the proposed class fees but a provision for issuance of an identification card other than one issued as part of a training class (\$30) has also been included.

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

**F. Potential Impacts to Small Businesses**

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

The statutory directive that permit fees must be related to costs prohibits the department from implementing almost any of these methods for determining fees for small businesses. As a result, permit fees are based on regulatory costs rather than size of the source. In the case of dust control permits this means that, while the fee for small parcels (0.1 acre to less than 1 acre) covers all of the costs associated with the activities required for these projects, only small parcel costs are included. The allocation of costs to the small parcel category contains no medium or large parcel costs, and the converse is true as well.

One alternative that reduces costs for small businesses is for eligible sources to apply for a general permit under Rule 230. General permits tend to be used by smaller sources and may reduce costs when compared to individual permits because general permitted sources would not be required to pay an hourly permit-processing fee nor the emissions-based fee.

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

The department welcomes all interested parties to provide additional relevant information and documentation on the anticipated costs and benefits resulting from the proposed rule revisions. To submit or request additional data on the information included in the economic, small business and consumer impact statement, please contact:

Name: David Bruce  
 Address: Maricopa County Air Quality Department  
 Planning and Analysis Division  
 1001 N. Central Ave., Suite 595  
 Phoenix, AZ 85004  
 Telephone: Direct: (602) 372-2250  
 General: (602) 506-0169  
 Fax: (602) 506-6179  
 E-mail: Direct: davidbruce@mail.maricopa.gov

General: aqplanning@mail.maricopa.gov

**11. The time, place and nature of the proceedings for the amendment of the rule:**

Written comments will be accepted if received between the date of this publication and Friday, March 18, 2011, 5:00 p.m. Written comments may be mailed, e-mailed, faxed, or hand delivered to the department (see Item 4 of this notice). Written comments received during the comment period will be considered formal comments to the proposed rule and will be responded to in the Notice of Final Rulemaking.

An oral proceeding will be held on Thursday, March 17, 2011 at 1:30 p.m. at the Maricopa County Air Quality Department, 1001 N. Central Ave. (ninth floor classroom), Phoenix, AZ 85004. All comments made at this oral proceeding will be considered formal comments and will be recorded and transcribed. All formal comments will be addressed in the Notice of Final Rulemaking.

**12. 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

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

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

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

**REGULATION II – PERMITS AND FEES**

**RULE 280**

**FEES**

**INDEX**

**SECTION 100 – GENERAL**

- 101 PURPOSE
- 102 APPLICABILITY

**SECTION 200 – DEFINITIONS**

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

**SECTION 300 – STANDARDS**

- 301 TITLE V PERMIT FEES
- 302 NON-TITLE V PERMIT FEES
- 303 GENERAL PERMIT FEES
- 304 ANNUAL ADJUSTMENT OF FEES
- 305 CALCULATION AND PAYMENT OF EMISSIONS-BASED FEES
- 306 HEARING BOARD FILING FEE
- 307 CONDITIONAL ORDER FEE
- 308 GASOLINE DELIVERY VESSEL DECAL FEE
- 309 OPEN BURN FEE
- 310 DUST CONTROL PERMIT FEE AND FEE REFUNDS
- 311 DUST CONTROL TRAINING CLASS FEE
- 312 SUBCONTRACTOR REGISTRATION FEE
- 313 ASBESTOS NOTIFICATION AND PLAN REVIEW FILING FEES

- 314 LATE FEE
- 315 DELINQUENCY FEE
- 316 SUBSCRIPTION FEE FOR RULE REVISIONS
- 317 ACCELERATED PERMIT PROCESSING FEE
- 318 FAILURE TO PAY REQUIRED FEES
- 319 INFORMAL REVIEW OF PERMIT PROCESSING HOURS
- 320 HAZARDOUS AIR POLLUTANTS TIER 4 RISK MANAGEMENT ANALYSIS FEE
- 321 AIR QUALITY AWARENESS FLAG PROGRAM FEE
- 322 TRAINING CLASS FEES

**SECTION 400 – ADMINISTRATIVE REQUIREMENTS**

- 401 EFFECTIVE DATE OF FEES
- 402 PAYMENT OF FEES
- 403 FEE TABLE A, B, C, D, E, F, G, H, AND I SOURCES

**SECTION 500 – MONITORING AND RECORDS (NOT APPLICABLE)**

Revised 07/13/88  
Revised 08/05/91  
Revised 11/15/93  
Revised 08/19/98  
Revised 03/15/00  
Revised 05/21/03  
Revised 04/07/04  
Revised 05/18/05  
Revised 07/12/06  
Revised 03/26/08  
Revised 05/26/10

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

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

- 205 NON-MAJOR TITLE V SOURCE** – A source required to obtain a non-Title V permit under Rule 200 to which both of the following apply:
  - 205.1** The source is classified as a Synthetic Minor source, and
  - 205.2** The source has a permit that contains allowable emissions greater than or equal to 50% of the major source threshold.
- 206 REGULATED AIR POLLUTANT** – For the purposes of Section 305 of this rule, regulated air pollutant consists of the following air pollutants:
  - 206.1** Any conventional air pollutant as defined in A.R.S. § 49-401.01, which means any pollutant for which the Administrator of EPA has promulgated a primary or a secondary National Ambient Air Quality Standard (NAAQS) except carbon monoxide (i.e., for nitrogen oxides [NO<sub>x</sub>], lead, sulfur oxides [SO<sub>x</sub>] measured as sulfur dioxide [SO<sub>2</sub>], ozone, and particulates).
  - 206.2** Nitrogen oxides (NO<sub>x</sub>) and volatile organic compounds (VOCs).
  - 206.3** Any air contaminant that is subject to a standard contained in Rule 360 (New Source Performance Standards) of these rules or promulgated under Section 111 (Standards of Performance for New Stationary Sources) of the Act.
  - 206.4** Any hazardous air pollutant (HAP) as defined in A.R.S. § 49-401.01 or listed in Section 112(b) (Hazardous Air Pollutants; List of Pollutants) of the Act.
  - 206.5** Any Class I or II substance listed in Section 602 (Stratospheric Ozone Protection; Listing of Class I and Class II Substances) of the Act.
- 207 SOURCES REQUIRED TO HAVE A TITLE V PERMIT** – The following sources shall be considered sources required to have a Title V permit:
  - 207.1** Any source required to have a Title V permit under Rule 200, Section 302 of these rules;
  - 207.2** Any source that qualifies for a non-Title V permit but that elects to have a Title V permit under Rule 200, Section 302 of these rules.

**SECTION 300 – STANDARDS**

- 301 TITLE V PERMIT FEES:** The owner or operator of a source required to have a Title V permit shall pay fees according to the following provisions:
  - 301.1 Fees for Billable Permit Actions:** The owner or operator of a Title V source shall pay to the Control Officer ~~\$133.50~~ \$141.50 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. 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 or draft permit, to hire a hearing officer, to hire transcription or court reporting services, 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~~ \$141.50 per hour, adjusted annually under Section 304 of this rule. The fees shall be paid as follows:

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

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

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

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

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.

<b>Title V Source Category</b>	<b>Annual Administrative Fee</b>	
Aerospace	<del>\$18,320</del>	<u>\$19,800</u>
Air Curtain Destructors	<del>\$840</del>	<u>\$860</u>
Air Force Base		<u>\$29,160</u>
Can Coater		<u>\$19,200</u>
Cement Plants	<del>\$68,590</del>	<u>\$69,960</u>
Combustion/Boilers	<del>\$16,680</del>	<u>\$17,010</u>
Compressor Stations	<del>\$13,630</del>	<u>\$13,900</u>
Expandable Foam	<del>\$14,800</del>	<u>\$28,280</u>
Landfills	<del>\$18,140</del>	<u>\$14,100</u>
Lime Plants	<del>\$64,790</del>	<u>\$66,090</u>
Copper and Nickel Mines	<del>\$16,150</del>	<u>\$16,470</u>
Gold Mines	<del>\$16,150</del>	<u>\$16,470</u>
Paper Mills	<del>\$22,060</del>	<u>\$22,500</u>
Petroleum Products Terminal Facilities	<del>\$25,800</del>	<u>\$43,830</u>
Polymeric Fabric Coaters	<del>\$18,140</del>	<u>\$21,710</u>
Reinforced Plastics	<del>\$13,630</del>	<u>\$13,900</u>
Semiconductor Fabrication	<del>\$29,010</del>	<u>\$29,590</u>
Steel Processing		<u>\$31,600</u>
Copper Smelters	<del>\$68,590</del>	<u>\$69,960</u>
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	<del>\$35,080</del>	<u>\$35,780</u>
Vitamin/Pharmaceutical Manufacturing	<del>\$17,020</del>	<u>\$17,360</u>
Wood Furniture	<del>\$15,010</del>	<u>\$12,920</u>
Others	<del>\$18,130</del>	<u>\$22,510</u>
Others with Continuous Emissions Monitoring	<del>\$22,070</del>	<u>\$22,510</u>

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

- b. An emissions-based fee of ~~\$38.25~~ \$44.48 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:** The owner or operator of a non-Title V source shall pay to the Control Officer ~~\$133.50~~ \$141.50 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. In addition, the owner or operator of a non-Title V source shall 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. 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 or draft permit, to hire a hearing officer, to hire transcription or court reporting services, 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~~ \$141.50 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:

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

- 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.

<b>Fee Table</b> Source categories designated as Fee Tables A–I are listed in Sections 403.1–403.9 of this rule	<b>Annual Administrative Fee</b>
Sources listed in Fee Table A (see Section 403.1)	<del>\$5,980</del> <u>\$7,290</u>
Sources listed in Fee Table B (see Section 403.2)	<del>\$1,550</del> <u>\$1,820</u>
Sources listed in Fee Tables C–D (see Sections 403.3 and 403.4)	<del>\$610</del> <u>\$850</u>
Sources listed in Fee Table E (see Section 403.5)	<del>\$320</del> <u>\$480</u>
Sources listed in Fee Table F (see Section 403.6)	<del>\$7,940</del> <u>\$9,700</u>
Sources listed in Fee Table G (see Section 403.7)	<del>\$4,790</del> <u>\$5,730</u>
Sources listed in Fee Table H (see Section 403.8)	<del>\$7,940</del> <u>\$9,700</u>
Sources listed in Fee Table I (see Section 403.9)	<del>\$4,790</del> <u>\$5,730</u>

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

**303.1 Fees Due with an Application:** The owner or operator of a source initially applying for authorization to operate under a General Permit shall pay the applicable fee from the table below with the submittal of the application.

<b>Fee Table</b> Source categories designated as Fee Tables A–I are listed in Sections 403.1–403.9 of this rule	<b>Application Fee</b>
Title V General Permits except Air Curtain Destructors	Fee from Section 301.1(a) table for Title V source category
Air Curtain Destructors	<del>\$840</del> <u>\$860</u>
Sources listed in Fee Table A (see Section 403.1)	<del>\$4,870</del> <u>\$7,290</u>
Sources listed in Fee Table B (see Section 403.2)	<del>\$3,250</del> <u>\$1,820</u>
Sources listed in Fee Tables C–D Table C (see Sections Section 403.3 and 403.4)	<del>\$320</del> <u>\$480</u>
Sources listed in Fee Table D (see Section 403.4)	<del>\$530</del> <u>\$530</u>
Sources listed in Fee Table E (see Section 403.5)	<del>\$240</del> <u>\$400</u>
Sources listed in Fee Table F (see Section 403.6)	<del>\$6,970</del> <u>\$9,700</u>
Sources listed in Fee Table G (see Section 403.7)	<del>\$4,170</del> <u>\$5,730</u>
Sources listed in Fee Table H (see Section 403.8)	<del>\$6,970</del> <u>\$9,700</u>
Sources listed in Fee Table I (see Section 403.9)	<del>\$4,170</del> <u>\$5,730</u>

**303.2 Annual Administrative Fee:** The owner or operator of a source with an authorization to operate under a General Permit shall pay the applicable annual administrative fee from the table below, as adjusted annually under Section 304 of this rule. The fee is due on the first anniversary date of the initial approval to operate under a General Permit and annually thereafter on that date.

<b>Fee Table</b> Source categories designated as Fee Tables A–I are listed in	<b>Application Fee</b>

Sections 403.1–403.9 of this rule	Fee from Section 301.2(a) table for Title V source category	
Title V General Permits		
Sources listed in Fee Table A (see Section 403.1)	<del>\$4,870</del>	<del>\$7,290</del>
Sources listed in Fee Table B (see Section 403.2)	<del>\$3,250</del>	<del>\$1,820</del>
Sources listed in Fee <del>Tables C–D</del> <u>Table C</u> (see <del>Sections Section 403.3 and 403.4</del> )	<del>\$320</del>	<del>\$480</del>
Sources listed in Fee Table D (see Section 403.4)		<del>\$530</del>
Sources listed in Fee Table E (see Section 403.5)	<del>\$240</del>	<del>\$400</del>
Sources listed in Fee Table F (see Section 403.6)	<del>\$6,970</del>	<del>\$9,700</del>
Sources listed in Fee Table G (see Section 403.7)	<del>\$4,170</del>	<del>\$5,730</del>
Sources listed in Fee Table H (see Section 403.8)	<del>\$6,970</del>	<del>\$9,700</del>
Sources listed in Fee Table I (see Section 403.9)	<del>\$4,170</del>	<del>\$5,730</del>

**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~~ 2012. The Control Officer will multiply ~~\$133.50~~ \$141.50 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~~ 2011.
- 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~~ 2012. 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~~ 2011.
- 304.3** The Control Officer shall adjust the rate for emissions-based fees every January 1, beginning on January 1, ~~2009~~ 2012. The Control Officer will multiply ~~\$38.25~~ \$44.48 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~~ 2011.
- 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.

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

- 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 PM<sub>10</sub>.
- c. Emissions from insignificant activities excluded from the permit for the source under Rule 210 of these rules.
- d. Fugitive emissions of PM<sub>10</sub> from activities other than crushing, belt transfers, screening, or stacking.
- e. Fugitive emissions of VOC from solution-extraction units.

**305.3** A notice to pay the fee specified in Section 301.2(b) of this rule, a declaration of emissions form and the annual emission inventory questionnaire will be mailed annually to the owner or operator of a source to which this applies. The emission fee is due and payable by April 30 each year or no later than 90 days following the date of notice, whichever is later.

**306 HEARING BOARD FILING FEE:** A person filing a petition with the Hearing Board under Rule 400 of these rules shall pay a fee of \$100.00. This fee may be refunded by a majority vote of the Hearing Board upon a showing of undue hardship.

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

**308 GASOLINE DELIVERY VESSEL DECAL FEE:** A person wishing to obtain a decal for each gasoline delivery vessel that passes the required annual test under Rule 352 of these rules shall pay a fee of \$280.00. A person wishing to obtain a replacement decal shall pay a fee of \$80.00.

**309 OPEN BURN FEE:**

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

<b>Fire Category</b>	<b>Permit Period</b>	<b>Fee</b>
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 AND FEE REFUNDS:**

**310.1 DUST CONTROL PERMIT FEE:** 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.

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

**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-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~~ \$100.00, which includes the issuance of an ID card.
- 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~~ \$175.00, which includes the issuance of an ID card.
- 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 ~~40~~ and a maximum of 30 ~~20~~ 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~~ paid per Section 311.1 of this rule for basic dust control training or ~~\$100.00 per person~~ per Section 311.2 of this rule 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~~ \$175.00.

**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~~ \$70.00.

**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	\$600
500 or more	500 or more	110 or more	\$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 of \$600.00.

**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, the difference between the fee for the original RACM and the revised RACM 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.
- 322 TRAINING CLASS FEES:**
- 322.1 Basic Training Class Fee:** A person required to complete basic training shall pay a training class fee of \$100.00 which includes the issuance of an ID card.
- 322.2 Comprehensive Training Class Fee:** A person required to complete comprehensive training shall pay a training class fee of \$175.00 which includes the issuance of an ID card.
- 322.3 ID Card Issuance Fee:** A fee of \$30.00 per person shall be required for issuance of an ID card other than one issued and paid for as part of a training class as described in this rule.

**SECTION 400 – ADMINISTRATIVE REQUIREMENTS**

- 401 EFFECTIVE DATE OF FEES:** The fees in this rule ~~became effective May 1, 2008~~ become effective July 1, 2011, except for the emissions-based fee, ~~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 emissions-based fee ~~became~~ becomes effective January 1, ~~2009~~ 2012, beginning with the emissions reported for calendar year ~~2008~~ 2011. ~~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 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:** A 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

Bakery with Oven of Greater than or Equal to 25 Tons per Year of Potential Uncontrolled VOC Emissions or Facility with Controls

Biofuel Manufacturing Operations Greater than 1,000,000 Gallons per Year

Brick and Structural Clay Products (BSCP) 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

Fiberglass 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 Manufacturing Greater than or Equal to 25 Tons per Year Potential Uncontrolled VOC Emissions or Facility with Controls Subject to Source Testing

Power Plant Greater than or Equal to 25 Tons per Year Potential Uncontrolled NO<sub>x</sub> Emissions

Printing ~~Facilities~~ Facility 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  
Sources Not Otherwise Classified with Total Emissions of All Regulated Pollutants Greater Than or Equal to 25 Tons per Year

**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  
Crushing Facility that Meets the Definition of an "Infrequent Operation" under Rule 316 of these Rules  
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  
Inert Landfill  
Internal Combustion Engine, Other than Emergency  
Pipeline Transmission Facility  
Plating Tanks, Electrolytic or Electrowinning (Includes Decorative Chrome and Hard Chrome Operations Less than or Equal to 60 Million Amp/Hrs/Hours per Year Subject to Area Source MACT Subpart N)  
Polymeric Foam Products Less than 25 Tons per Year Potential Uncontrolled VOC Emissions  
Power Plant Less than 25 Tons per Year Potential Uncontrolled NO<sub>x</sub> Emissions  
Reinforced Plastics  
Rubber Products Manufacturing with Only Molding  
Soil/~~Groundwater/Wastewater Treatment/~~ Remediation  
~~Soil Solvent Extraction System with Package Thermal/Catalytic Oxidizer/Carbon Adsorption~~  
Solvent Degreasing/Cleaning System, Solvent Use Greater than 3 Gallons per Day  
Solvent Reclaiming  
Source with 3 or More Fee Table C Processes  
Stage I Vapor Recovery, Bulk Plants with Loading Racks  
Stripping Operation, Equipment or Furniture Refurbishment  
Tire Shredding/Retreading  
Wastewater Treatment Plant  
Wood Coating Operation Subject to RACT Including Furniture/Millwork Sources Larger than 10 Tons per Year VOC  
Any Fee Table A, F, or G Source whose Aggregate of All Equipment, Processes or Production Lines Has Enforceable Permit Limits of Less than 2.0 Tons per Year VOC or NO<sub>x</sub>, and Less than 1.0 Ton per Year PM<sub>10</sub>

Any Fee Table C Source that Receives 3 Complaints on Different Dates During a One-Year Period from Different Individuals Resulting in Violations Resolved by an Order of Abatement by Consent or Judicial Action

Sources Not Otherwise Classified with Total Emissions of All Regulated Pollutants Greater Than 5, but Less Than 25, Tons per Year

**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~~ Facility 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 and 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~~ Electroless Plating or Plating Subject to MACT Subpart WWWW  
Powder Coating  
Printing ~~Facilities~~ Facility 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~~ Facility 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 Treatment Plant  
~~Water Reclamation~~  
Sewage Lift Pump Station  
~~Drinking Water Plant~~  
Wood Furniture/Millwork/Small Source Less than 10 Tons per Year VOC  
Yard/Stockpiling  
Sources Not Otherwise Classified with Total Emissions of All Regulated Pollutants Less Than or Equal to 5 Tons per Year

**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  
Emergency Generator

**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:**

Auto Body Shredding

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)**

**NOTICE OF RULEMAKING DOCKET OPENING**

**MARICOPA COUNTY  
AIR QUALITY DEPARTMENT**

[M11-18]

- 1. Title and its heading:** Maricopa County Air Pollution Control Regulations  
**Regulation and its heading:** Regulation II - Permit and Fees  
**Rule and its heading:** Rule 280: Fees
- 2. The subject matter of the proposed rule(s):**  
The Maricopa County Air Quality Department (department) is proposing to amend the schedule of fees it charges to owners and operators of sources of air pollution. As part of this rulemaking, the department may add, delete, or modify additional sections as necessary.
- 3. A citation to all published notices relating to this proceeding:**  
Notice of Proposed Rulemaking: 17 A.A.R. 221, February 11, 2011 (*in this issue*)
- 4. The name and address of department personnel with whom persons may communicate regarding the proposed rule(s):**

Name:	David Bruce
Address:	Maricopa County Air Quality Department Planning and Analysis Division 1001 N. Central Ave., Suite 595 Phoenix, AZ 85004
Telephone:	Direct: (602) 372-2250 General: (602) 506-0169
Fax:	(602) 506-6179
E-mail:	Direct: davidbruce@mail.maricopa.gov General: aqplanning@mail.maricopa.gov
- 5. The time during which the department will accept written comments and the time and place where oral comments may be made:**  
To be announced in the Notice of Proposed Rulemaking
- 6. A timetable for department decisions or other action on the proceeding, if known:**  
To be announced in the Notice of Proposed Rulemaking  
Notice of Proposed Rulemaking: 17 A.A.R. 221, February 11, 2011 (*in this issue*)