

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

**PREAMBLE**

- |                                |                                 |
|--------------------------------|---------------------------------|
| <b><u>1. Rule Affected</u></b> | <b><u>Rulemaking Action</u></b> |
| Rule 280                       | Amend                           |
- 2. Statutory authority for the rulemaking:**  
**Authorizing statutes:** A.R.S. §§ 49-402, 49-473(B), 49-476.01(A), 49-476.01(C), 49-479, 11-251.08(A)  
**Implementing statutes:** A.R.S. §§ 49-480(D), 49-480(E), 49-480(J), 49-112(A), 49-112(B), 11-251.08(B)
- 3. The effective date of the rule:**  
April 1, 2008
- 4. List of all previous notices appearing in the register addressing the rulemaking:**  
Notice of Rulemaking Docket Opening: 13 A.A.R. 3373, October 5, 2007  
Notice of Proposed Rulemaking: 13 A.A.R. 4221, November 30, 2007
- 5. Name and address of department personnel with whom persons may communicate regarding the rulemaking:**
- |            |  |
|------------|--|
| Name:      | Dena Konopka                           |
|            | Maricopa County Air Quality Department |
| Address:   | 1001 N. Central Ave, Suite 595         |
|            | Phoenix, AZ 85004                      |
| Telephone: | (602) 506-4057                         |
| Fax:       | (602) 506-6179                         |
| E-mail:    | dkonopka@mail.maricopa.gov             |
- 6. Explanation of the rule, including the department's reasons for initiating the rule:**  
**Summary:** The Maricopa County Air Quality Department (MCAQD) is changing the fees it charges to owners and operators of sources of air pollution. The first group of fees to be revised are fees for billable permit actions, annual administrative fees for Title V and Non-Title V sources, emissions-based fees for Title V sources, general permit application and annual administrative fees, gasoline delivery vessel fees, dust control permit fees, and asbestos notification and plan review filing fees. In addition, the MCAQD also established new fees to cover the cost of additional programs now being implemented for

subcontractor registration, for expanded dust control training, and for hazardous air pollutants Tier 4 risk management analyses. The MCAQD reclassified the existing "Permit to Burn" fee for air curtain destructors to an "air curtain destructor burn plan notification and inspection fee". The MCAQD is also requiring Title V and Non-Title V sources to pay for costs incurred by the Control Officer to meet public participation requirements (e.g. public notices, transcription services, and hearing officer costs). Lastly, the MCAQD added a new Title V source category, Air Curtain Destructors, based on a federal rulemaking and consistent with the Arizona Department of Environmental Quality (ADEQ) fees.

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

A complication to County rulemaking authority relates to a statutory provision A.R.S. 49-112 that links county permit fees to permit fees established by the ADEQ. ARS 49-112 (B) limits the amount the counties may charge for their permit fees to an amount "approximately equal [to] or less than" the fee ADEQ 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." Two fees in this rulemaking are greater than ten percent above ADEQ's fees. Justification for such fees is provided in Section 7 "Demonstration of compliance with A.R.S. § 49-112" of this Notice of Final Rulemaking.

In 2004, two events increased costs and led to the conclusion that fee increases were necessary. First, the approval of 19 additional full-time equivalent positions to work proactively and directly on compliance and enforcement of the dust control program to address, in part, Environmental Protection Agency's (EPA's) July 2, 2002, state implementation plan inadequacy finding (67 FR 44369). Second, the creation of a separate Air Quality Department separated air quality functions from the Environmental Services Department.

In May 2005, the Maricopa County Board of Supervisors approved revisions to air quality fees based on a January 2005 study by Deloitte Consulting. The Fee Study concluded fee increases were necessary to

provide sufficient revenue to cover the costs of Maricopa County's air quality program and to maintain compliance with federal and state law. The fee model developed by Deloitte Consulting calculated the MCAQD's direct and indirect costs for each of the fees charged. The fee model is a series of detailed electronic spreadsheets with an input area for budgeted cost which are then allocated to the various fee categories in each activity based on workload. Indirect costs include departmental and divisional overhead and are allocated to the budgeted cost of the various activities. The fee model calculated the user fees that would be necessary to recover the total costs (including overhead) of each activity. The fee model also included additional expenses necessary to achieve projected fiscal year 2006 outputs and results as well as adjustment factors such as salary and benefit increases, increased staffing, vacancy factors, and increased rental costs and changes in space.

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. Due to the failure to attain the PM<sub>10</sub> standard there is now a mandate to reduce emissions by five percent per year until the nonattainment area reaches the standard. On May 23, 2007, the Maricopa Association of Governments (MAG) Regional Council approved a suggested list of 55 measures to reduce PM<sub>10</sub>. Maricopa County was listed as a potential implementing entity on 45 of the 55 measures. As a result, the MCAQD reviewed the measures and drafted commitments to implement 38 of the measures. On September 10, 2007, the Maricopa County Board of Supervisors approved the MCAQD's commitments for the MAG 2007 Five Percent Plan.

Four of the commitments adopted by the Board will result in increased staffing levels for the MCAQD and directly impact MCAQD fees. These commitments are listed below. The Five Percent Plan commitments also include 23 additional full-time equivalents (FTEs) to support the vacant lot and parking lot programs and the Department's enforcement division. These FTEs will not have an impact of MCAQD fees and are funded by other revenue sources.

1. Dust Control Training Program – The MCAQD will develop and implement training programs for the suppression of PM<sub>10</sub> emissions from permitted sources of PM<sub>10</sub> and hire four additional FTEs to coordinate and conduct the training programs. Annual costs associated with dust control training include personnel and database costs.
2. Subcontractor Registration Program – The MCAQD will establish a subcontractor registration program and hire four additional FTEs to administer the registration program. Annual costs associated with the subcontractor registration program include personnel and database costs.

3. Increased Number of Proactive Inspections at Permitted Facilities Subject to Rule 310 (Fugitive Dust) and/or Rule 316 (Nonmetallic Mineral Processing) – The MCAQD will hire 52 additional FTEs (compliance inspectors, supervisors, and support staff) to support an increased number of proactive inspections at permitted facilities subject to Rules 310 and/or 316.

4. Mobile Air Monitoring Program – The MCAQD will develop a comprehensive mobile air monitoring program that can collect and analyze air samples for a broad spectrum of ambient air pollutants and hire three engineers to administer the program.

Additionally, the MCAQD reviewed the workload associated with stationary source and Asbestos NESHAP (National Emission Standards for Hazardous Air Pollutants) compliance and determined that additional resources were needed. As a result, the MCAQD will seek approval in a separate Board action to hire seven FTEs to support stationary source and Asbestos NESHAP compliance. Lastly, the MCAQD will seek approval in a separate Board action to hire seven FTEs to support the MCAQD's administrative services divisions, and one FTE to support management of the dust control permit compliance program. Of the 15 FTEs, 11 FTEs have a direct impact on fees. The remaining 4 FTEs support the MCAQD's Community and Media Relations Division and will be funded by other revenue sources.

The MCAQD has continued to use the Deloitte fee model using current costs, source numbers, and updated workload based on the Five Percent Plan commitments and other department compliance activities. The budgeted costs were allocated to the various fee categories delineated in Rule 280 based on workload. Indirect costs include departmental and divisional overhead were allocated to the budgeted cost of the various activities.

To fully implement the MCAQD's commitments for new and expanded programs required by the Five Percent Plan and to support other MCAQD programs, the MCAQD estimates annual air quality department costs to be approximately \$22.7 million, including annual costs of \$7.6 million for new FTEs and information technology. In fiscal year 2007, MCAQD revenue was approximately \$16.2 million of which \$8.7 million was derived from fees and the remainder from other revenue sources. The MCAQD estimates that annual revenue with fee increases will be approximately \$23 million of which \$14.8 million (65%) is derived from fees and the remaining \$8.1 million (35%) from other sources of revenue.

An overall fee revenue increase of 46.9% for Title-V, Non-Title V, and general permit sources, dust control permits, and asbestos notification and plan review is expected to directly impact approximately 10,700 sources permitted by the MCAQD. This represents a 23.6% increase in Title V annual revenue, a 10% decrease in Non-Title V annual revenue, a 12.8% increase in fees for billable permit actions, a 114.9% increase in dust control permit revenue and a 195.4% increase in the asbestos notification and plan review

filing revenue. The current flat fee of \$425 for asbestos projects of any size has remained unchanged since January 1998. After a series of stakeholder workshops, the MCAQD proposed a new sliding scale asbestos fee structure based on project size that allows for lower fees for smaller projects. The fees for asbestos renovation projects range from \$0 to \$7,500 (from \$425) while fees from demolition projects range from \$150 to \$525 (from \$425).

The MCAQD also established new fees for a subcontractor registration program, for dust control training, and for hazardous air pollutants Tier 4 risk management analyses. The new fees are expected to impact 10,000 subcontractors involved in performing ancillary services on dust control permitted sites and 12,330 individuals required to attend dust control training class. The MCAQD is also requiring Title V and Non-Title V sources to pay for costs incurred by the MCAQD to meet public participation requirements of Rules 210 and 220. Lastly, Maricopa County added a Title V source category, Air Curtain Destructors, based on a federal rulemaking and consistent with the ADEQ fees.

#### **Section by Section Explanation of Changes:**

##### **Section 301 Title V Permit Fees, 301.1 Fees for Billable Permit Actions:**

The amendments in this section make several changes to the rule. First, they modify the permit processing fee base from \$108.00 (the 2008 CPI-adjusted fee is \$118.30) to \$133.50 per hour for all permit processing time required for a billable permit action. Second, they require an owner or operator to pay actual costs incurred by the Control Officer to meet the public participation requirements of Rule 210, including costs incurred by the Control Officer to publish public notice in the newspaper(s) of a public hearing and/or draft permit, to hire a hearing officer, to hire transcription or court reporting services, and to rent meeting room space. Third, they specify that the invoice sent by the Control Officer shall indicate the actual costs incurred by the Control Officer to meet the public participation requirements of Rule 210, minus all fees previously submitted, and the balance due. Information on estimated costs to meet public participation requirements of Rule 210 can be found in Addendum A of Section 10 “Summary of the economic, small business, and consumer impact” of this Notice of Final Rulemaking.

##### **Section 301 Title V Permit Fees, 301.2 Annual Fees:**

The amendments in this section would make several changes to the rule. First, they modify the emissions-based fee from \$13.24 (the 2008 CPI-adjusted fee is \$14.51) to \$38.25. Second, they modify the annual administrative fees as shown below. Third, they add Air Curtain Destructors to the list of sources paying Title V annual administrative fees. The addition of this source category reflects an amendment to the Federal New Source Performance Standards published December 16, 2005, at 70 FR 74896, and is consistent with ADEQ fee amendments approved on December 4, 2007 (Arizona Administrative Code [A.A.C.] R18-2-326).

<b>Title V Source Category</b>	<b>Annual Administrative Fee</b>
Aerospace	<del>\$13,580</del> <u>\$18,320</u>
<u>Air Curtain Destructor</u>	<u>\$840</u>
Cement Plants	<del>\$44,520</del> <u>\$68,590</u>
Combustion/Boilers	<del>\$10,820</del> <u>\$16,680</u>
Compressor Stations	<del>\$9,420</del> <u>\$13,630</u>
Expandable Foam	<del>\$9,960</del> <u>\$14,800</u>
Landfills	<del>\$11,800</del> <u>\$18,140</u>
Lime Plants	<del>\$41,700</del> <u>\$64,790</u>
Copper & Nickel Mines	<del>\$10,480</del> <u>\$16,150</u>
Gold Mines	<del>\$10,480</del> <u>\$16,150</u>
Paper Mills	<del>\$14,310</del> <u>\$22,060</u>
Petroleum Products Terminal Facilities	<del>\$17,480</del> <u>\$25,800</u>
Polymeric Fabric Coaters	<del>\$11,560</del> <u>\$18,140</u>
Reinforced Plastics	<del>\$9,040</del> <u>\$13,630</u>
Semiconductor Fabrication	<del>\$18,830</del> <u>\$29,010</u>
Copper Smelters	<del>\$44,520</del> <u>\$68,590</u>
Utilities – Primary Fuel Natural Gas	<del>\$8,450</del> <u>\$9,500</u> + <del>\$15,130</del> <u>\$16,480</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>\$22,760</del> <u>\$35,080</u>
Vitamin/Pharmaceutical Manufacturing	<del>\$11,050</del> <u>\$17,020</u>
Wood Furniture	<del>\$9,820</del> <u>\$15,010</u>
Others	<del>\$12,250</del> <u>\$18,130</u>
Others with Continuous Emissions Monitoring	<del>\$14,320</del> <u>\$22,070</u>

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

**Section 302 Non-Title V Permit Fees, 302.1 Fees for Billable Permit Actions:**

The amendments in this section make several changes to the rule. First, they modify the permit processing fee base from \$108.00 (the 2008 CPI-adjusted fee is \$118.30) to \$133.50 per hour for all permit processing time required for a billable permit action. Second, they require an owner or operator to pay actual costs incurred by the Control Officer to meet the public participation requirements of Rule 220, including costs incurred by the Control Officer to publish public notice in the newspaper(s) of a public hearing and/or draft permit, to hire a hearing officer, to hire transcription or court reporting services, and to rent meeting room space. Third, they specify that the invoice sent by the Control Officer shall indicate the actual costs incurred by the Control Officer to meet the public participation requirements of Rule 220, minus all fees previously submitted, and the balance due. Information on estimated costs to meet public participation requirements of Rule 220 can be found in Addendum A of Section 10 “Summary of the economic, small business, and consumer impact” of this Notice of Final Rulemaking.

**Section 302 Non-Title V Permit Fees, 302.2 Annual Administrative Fees:**

The amendments modify Non-Title V annual administrative fees as shown below and add two new fee table categories (Tables H and I) and applicable annual administrative fees:

<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>\$5,880</del> <u>\$5,980</u>
Sources listed in Fee Table B (see Section 403.2)	<del>\$1,660</del> <u>\$1,550</u>
Sources listed in Fee Tables C – D (see Section 403.3 and 403.4)	<del>\$520</del> <u>\$610</u>
Sources listed in Fee Table E (see Section 403.5)	<del>\$370</del> <u>\$320</u>
Sources listed in Fee Table F (see Section 403.6)	<del>\$7,380</del> <u>\$7,940</u>
Sources listed in Fee Table G (see Section 403.7)	<del>\$4,780</del> <u>\$4,790</u>
<u>Sources listed in Fee Table H (see Section 403.8)</u>	<u>\$7,940</u>
<u>Sources listed in Fee Table I (see Section 403.9)</u>	<u>\$4,790</u>

**Section 303 General Permit Fees, 303.1 Fees Due With an Application:**

These amendments modify the application fee for a general permit as shown below and add two new fee table categories (Tables H and I) and applicable application fees:

<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	Fee from Section 301.1(a) table for Title V source category
Sources listed in Fee Table A (see Section 403.1)	<del>\$3,580</del> <u>\$4,870</u>
Sources listed in Fee Table B (see Section 403.2)	<del>\$1,190</del> <u>\$3,250</u>
Sources listed in Fee Table C – D (see Section 403.3 and 403.4)	<del>\$380</del> <u>\$320</u>
Sources listed in Fee Table E (see Section 403.5)	<del>\$290</del> <u>\$240</u>
Sources listed in Fee Table F (see Section 403.6)	<del>\$6,200</del> <u>\$6,970</u>
Sources listed in Fee Table G (see Section 403.7)	<del>\$4,030</del> <u>\$4,170</u>
<u>Sources listed in Fee Table H (see Section 403.8)</u>	<u>\$6,970</u>
<u>Sources listed in Fee Table I (see Section 403.9)</u>	<u>\$4,170</u>

**Section 303 General Permit Fees, 303.2 Annual Administrative Fees:**

The amendments in this section modify the annual administrative fee for general permits as shown below and add two new fee table categories (Tables H and I) and applicable annual administrative fees:

<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>\$3,580</del> <u>\$4,870</u>
Sources listed in Fee Table B (see Section 403.2)	<del>\$1,190</del> <u>\$3,250</u>
Sources listed in Fee Tables C – D (see Sections 403.3 and 403.4)	<del>\$380</del> <u>\$320</u>
Sources listed in Fee Table E (see Section 403.5)	<del>\$290</del> <u>\$240</u>
Sources listed in Fee Table F (see Section 403.6)	<del>\$6,200</del> <u>\$6,970</u>

Sources listed in Fee Table G (see Section 403.7)	<del>\$4,030</del> <u>\$4,170</u>
Sources listed in Fee Table H (see Section 403.8)	<u>\$6,970</u>
Sources listed in Fee Table I (see Section 403.9)	<u>\$4,170</u>

**Section 304 Annual Adjustments of Fees:**

The amendments in this section update the first year that the fees will be adjusted by the Consumer Price Index (CPI) to January 1, 2009 (from January 1, 2006) and update the base year that will be used to adjust the CPI to 2008 (from 2004).

**Section 308 Gasoline Delivery Vessel Decal Fee:**

This amendment adds a replacement decal fee of \$80.00.

**Section 309 Permit to Burn Fee:**

These amendments make several changes to the rule. First, they revise the section title to open burn fee (from permit to burn fee). Second, they establish two separate sections for burn permit fees (Section 309.1) and air curtain destructor burn plan review and inspection fees (Section 309.2). Third, they move the \$350.00 permit to burn fee for air curtain destructors from Section 309.1 to the newly created Section 309.2 as an air curtain destructor burn plan review and inspection fee. The \$350.00 air curtain destructor burn plan review and inspection fee is required to be paid by any person required to file an air curtain destructor burn plan under the provisions of Rule 314.

**Section 310 Dust Control Permit Fee:**

The amendments in this section make several changes to the rule. First, the rule revisions add provisions for dust control permit fee refunds if a dust control permit is cancelled by the permittee before commencing any dust generating operations and stipulates that no dust control permit refund shall be given after commencing any dust generating operations. Second, the rule revisions modify the dust control permit fee as shown below:

Total Surface Area Disturbed	Fee
Annual Block Permit fee	\$2,000.00
0.1 to less than one acre	<del>\$150.00</del> <u>\$350.00</u>
One acre or greater	<del>\$36.00 per acre plus \$150.00</del> <u>\$77.00 per acre plus \$350.00</u>

**New Section 311 Dust Control Training Class Fee:**

The amendments to this section add new fees for dust control training classes. First, a person required to complete basic dust control training will pay a training class fee of \$50.00 for basic dust control training provided by the MCAQD. Second, a person required to complete comprehensive dust control training will pay a training class fee of \$125.00 for comprehensive dust control training provided by the MCAQD. These new fees are a result of new training requirements proposed in Rule 310 and Rule 316 to comply with Senate Bill (SB) 1552. The amendments to this section also add a reduced dust control training fee of

\$35.00 per person for basic dust control training and \$100.00 per person for comprehensive dust control training provided by MCAQD when the requester provides (1) training room space and (2) a minimum of 10 and maximum of 30 class participants. Finally, a discounted fee of \$30.00 per person shall be required for issuance of training cards and database maintenance at third-party provider dust control training classes.

**New Section 312 Subcontractor Registration Fee:**

The amendments in this section add a new annual fee of \$50.00 for a person required to register with the Control Officer under Rule 200 Section 306 of these rules and wishing to obtain a registration number. This new fee is a result of new subcontractor registration requirements proposed in Rule 200 to comply with SB 1552.

**Re-Numbered Section 313 Asbestos Notification and Plan Review Filing Fees, 313.1 Renovation:**

These amendments establish a nonrefundable sliding scale fixed notification and plan review filing fee for any person required to file a notification, under the provisions of Rule 370 of these rules, of a project to renovate regulated asbestos-containing materials (RACM). The renovation fee would be based on the amount of RACM removed as shown in the table below. If materials are reported on the notification in more than one category, the higher fee would apply.

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

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

**Re-Numbered Section 313 Asbestos Notification and Plan Review Filing Fees, 313.2 Demolition:**

The amendments in this section establish a nonrefundable sliding scale fixed notification and plan review filing fee for any person required to file a notification, under the provisions of Rule 370 of these rules, of a project to demolish a facility. The demolition fee would be based on building size (building size floor area multiplied by the number of floors affected) in square feet as shown below:

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

**Re-Numbered Section 313 Asbestos Notification and Plan Review Filing Fees, 313.3 – 313.5:**

The amendments in these sections make several changes to the rule. First, the rule revisions stipulate for projects involving renovation and demolition activities in a single notification that separate fees for each activity will apply according to Sections 313.1 and 313.2 of this rule. Second, the amendments stipulate that a revision to a notification involving an increase in the RACM or building size will require the difference between the fee for the original RACM or building size and the revised RACM or building size to be paid. Third, these amendments add a nonrefundable notification and plan review filing fee of \$1,250 for annual notifications of planned renovation operations involving individual nonscheduled operations to renovate RACM.

**New Section 320 Hazardous Air Pollutants Tier 4 Risk Management Analysis Fee:**

The amendment in this section establishes a fee if an applicant for a permit uses the Tier 4 method to conduct a risk management analysis (RMA) under Rule 372 of these rules. The applicant is required to pay all fees incurred by the Control Officer for contracting, hiring, or supervising the work of outside consultants.

**Section 400 Administrative Requirements, 401 Effective Date of Fees:**

The effective date for the revised fees, except for the emissions-based fee, becomes effective April 1, 2008. The revised emissions-based fee becomes effective January 1, 2009, beginning with the emissions reported for calendar year 2008.

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

The amendments in these sections make several changes to the rule. First, the amendments establish two new fee tables, H and I. Fee Table H and I source categories are defined in new Sections 403.8 and 403.9 of the rule, respectively. The new Fee Table H includes two source categories previously contained in Fee Table F. The new Fee Table I includes one source category previously contained in Fee Table G. This revision will improve revenue tracking for source categories with increased inspection frequencies. The rule revisions establish the same fee for Table H and F sources and the same fee for Table G and I sources. The sources specifically affected by the new fee categories are shown below:

**Source Categories Reclassified from Table F to Table H:**

- 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

**Source Categories Reclassified from Table G to Table I:**

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

Second, the amendments replace the following mathematical symbols with text:

- Replaces " $\leq$ " with "Less Than Or Equal To"
- Replaces " $\geq$ " with "Greater Than Or Equal To"
- Replaces " $<$ " with "Less Than"
- Replaces " $>$ " with "Greater Than"

Third, the amendments modify the following Fee Table B source categories:

- Revises "Bakery With Oven Of 25 Tons Per Year Or Potential Uncontrolled VOC Emissions Or Facility With Controls" to "Bakery With Oven Of Greater Than Or Equal To 25 Tons Per Year Or Potential Uncontrolled VOC Emissions Or Facility With Controls"
- Revises "Any Fee Table A, F, or G Source Whose Aggregate of All Equipment, Processes Or Production Lines Has Enforceable Permit Limits of  $< 2.0$  Tons Per Year VOC or NO<sub>x</sub>, or  $< 1.0$  Ton Per Year PM<sub>10</sub>" to "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>"

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

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

A. The revisions and the existing fees contained in Rule 280 are in compliance with A.R.S. § 49-112(A) in that the MCAQD fees fund programs that implement control measures included in the State Implementation Plan (SIP) for the Maricopa County Nonattainment Area.

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

1. The rule, ordinance or other regulation is necessary to address a peculiar local condition.
2. There is credible evidence that the rule, ordinance or other regulation is either:
  - (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 MCAQD believes that Rule 280 meets the requirements of A.R.S. § 49-112(A)(1) and (2)(b). Rule 280 meets A.R.S. § 49-112(A)(1), necessary to address a peculiar local condition, in that Maricopa County fails to meet the National Ambient Air Quality Standards for both ozone and particulates. Maricopa County is the only ozone nonattainment area in Arizona and the only area designated serious nonattainment for PM<sub>10</sub> 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 Clean Air Act (CAA), December 31, 2006 (72 FR 31183, June 6, 2007). Consequently stronger regulations must 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." 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 region submitted a Five Percent Plan for PM<sub>10</sub> in December 2007. The Phoenix Nonattainment Area is one of three areas in the entire country for which EPA has issued a finding that Section 189(d) has been triggered. Thus, the nonattainment status represents a "peculiar local condition" and requires more stringent controls under the Clean Air Act.

Rule 280 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.

Two fees in this rulemaking are greater than ten percent above ADEQ's fees: (1) general permit annual administrative fee for sources listed in Table F [Section 303 of this rule] and (2) Title V annual administrative fee for Utilities - Primary Fuel Natural Gas [Section 301 of this rule].

Although, the MCAQD does not currently offer a general permit for Table F sources, the MCAQD calculated a fee for Table F general permits based on the Non-Title V Table F fee minus the cost of permit renewal. The general permit annual administrative fee for sources listed in Table F is greater than ten percent above ADEQ's fee. Table F sources are aggregate production/crushing subject to an NSPS under CAA section 111 and hot mix asphalt plants. These sources require increased inspection frequency under MCAQD's SIP commitment to increase the number of proactive inspections at permitted facilities subject to Rule 316. The increased inspection frequency results in increased costs. The increase in fees for these Table F sources will address enhanced enforcement which reduce concentrations of PM<sub>10</sub> and implement control measures included in the SIP for the Maricopa County PM<sub>10</sub> Nonattainment Area.

The Title V annual administrative fee for "Utilities - Primary Fuel Natural Gas" is also greater than ten percent above ADEQ's fees. Because of Maricopa County's nonattainment status, combined cycle systems at utilities permitted by the MCAQD 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 MCAQD permits ten natural gas utilities with 30 turbines subject to annual performance testing and CEM RATA certifications. The number of turbines at an individual utility ranges from 1 to 8 turbines per utility. Thus, the workload associated with annual performance testing and CEM RATA certification of utility turbines ranges from 67 hours to 401 hours per facility. 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 lead to the MCAQD's decision to establish the per turbine fee for natural gas utilities in 2005 (11 A.A.R. 2459, July 1, 2005).

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 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 permit programs to establish a fee schedule that results in the collection and retention of sufficient revenues to cover permit program costs.

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.

B. Maricopa County is in compliance with A.R.S. § 49-112(B) in that Maricopa County Air Quality Department is proposing to adopt rules that are as stringent as a provision of A.R.S. Title 49 or rules

adopted by the Director of ADEQ or any Board or Commission authorized to adopt rules pursuant to A.R.S. Title 49. The cost of obtaining permits or other approvals from Maricopa County will approximately equal or be less than the fee or cost of obtaining similar permits or approvals under Title 49 or any rule adopted pursuant to Title 49 except for sources covered by rules or programs that fall into the categories described in paragraph A above.

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

Deloitte Consulting LLP Fee Analysis, February 2005.

Deloitte Consulting LLP Fee Analysis - Modified, November 1, 2007.

Available for review by contacting:

Dena Konopka, Maricopa County Air Quality Department

1001 N. Central Ave., Suite 595

Phoenix, AZ 85004

dkonopka@mail.maricopa.gov

(602) 506-4057

**9. Showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:**

Not applicable.

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

**A. Rule Identification**

This rulemaking amends Maricopa County Air Pollution Control Regulations Rule 280 "Fees".

**B. Executive Summary**

The goal of this rulemaking is to increase fees to provide sufficient revenue to cover the costs of the air quality program and to maintain compliance with federal and state law. Maricopa County's commitments for the MAG 2007 Five Percent Plan will result in increased staffing levels for the MCAQD and have a direct impact on MCAQD fees. Additionally, the MCAQD determined that additional resources were needed to support stationary source and Asbestos NESHAP compliance.

The incremental cost to the regulated community is represented by the change in costs for the following programs:

- Title V and Non-Title permits
- Dust control permits
- Asbestos NESHAP notifications
- Subcontractor registrations
- Dust control training

Regulated sources in Maricopa County are expected to generate approximately \$14.8 million in annual fee revenues. The MCAQD's annual costs attributed to fee-based activities are estimated to be \$14.8 million.

The changes become effective on April 1, 2008.

### **C. Background**

In 2004, Maricopa County Air Quality Department promulgated a rulemaking that revised the air quality permit fees and anticipated that these changes would provide adequate revenues to operate its air pollution program. A permit-fee rule is statutorily mandated to support the permit program development and implementation costs [A.R.S §§ 49-480(D)(1) and (D)(2)]. The new fee structure was effective July 1, 2005. However, on June 6, 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. Due to the failure to attain the PM<sub>10</sub> standard there now is a mandate to reduce emissions by five percent per year until the nonattainment area reaches the standard. On May 23, 2007, the Maricopa Association of Governments (MAG) Regional Council approved a suggested list of 55 measures to reduce PM<sub>10</sub>. Maricopa County was listed as a potential implementing entity on 45 of the 55 measures. As a result, the MCAQD reviewed the measures and drafted commitments to implement 38 of the measures. On September 10, 2007, the Maricopa County Board of Supervisors approved the MCAQD's commitments for the MAG 2007 Five Percent Plan.

Four of the commitments adopted by the Board will result in increased staffing levels for the MCAQD and have a direct impact on MCAQD fees. These commitments are listed below. The Five Percent Plan commitments also include 23 additional FTEs to support the vacant lot and parking lot programs and the Department's enforcement division. These FTEs are will not have an impact of MCAQD fees and are funded by other revenue sources.

1. Dust Control Training Program – The MCAQD will develop and implement training programs for the suppression of PM<sub>10</sub> emissions from permitted sources of PM<sub>10</sub> and hire four additional FTEs to coordinate and conduct the training programs. Annual costs associated with dust control training include personnel and database costs.

2. Subcontractor Registration Program – The MCAQD will establish a subcontractor registration program and hire four additional FTEs to administer the registration program. Annual costs associated with the subcontractor registration program include personnel and database costs.
3. Increased Number of Proactive Inspections at Permitted Facilities Subject to Rule 310 (Fugitive Dust) and/or Rule 316 (Nonmetallic Mineral Processing) – The MCAQD will hire 52 additional FTEs (compliance inspectors, supervisors, and support staff) to support an increased number of proactive inspections at permitted facilities subject to Rule 310 and/or Rule 316.
4. Mobile Air Monitoring Program – The MCAQD will develop a comprehensive mobile air monitoring program that can collect and analyze air samples for a broad spectrum of ambient air pollutants and hire three engineers to administer the program.

Additionally, the MCAQD reviewed the workload associated with stationary source and asbestos NESHAP compliance and determined that additional resources were needed. As a result, the MCAQD will seek approval in a separate board action to hire seven FTEs to support stationary source and asbestos NESHAP compliance. Lastly, the MCAQD will seek approval in a separate Board action to hire seven FTEs to support the MCAQD's administrative services divisions, and one FTE to support management of the dust control permit compliance program. Of the 15 FTEs, 11 FTEs have a direct impact on fees. The remaining 4 FTEs support the Department's Community and Media Relations Division and will be funded by other revenue sources.

The MCAQD has continued to use the Deloitte fee model using current costs, source numbers, and updated workload based on the Five Percent Plan commitments and other department compliance activities. The budgeted costs were allocated to the various fee categories delineated in Rule 280 based on workload. Indirect costs include departmental and divisional overhead and were allocated to the budgeted cost of the various activities. The fee model calculated the user fees that would be necessary to recover the total costs (including overhead) of each activity. Resources needed to address the MCAQD's commitments in the Five Percent Plan, and to support stationary source and asbestos NESHAP compliance, and MCAQD's administrative services divisions will significantly increase costs in the near term. The MCAQD has concluded that fee increases are necessary to provide sufficient revenue to cover the costs of the air quality program and to maintain compliance with federal and state law.

In fiscal year 2007, MCAQD's permit fee revenue was approximately \$8.7 million and other revenue (including grants, fund balance appropriations, and interest) was approximately \$7.5 million (see Table 2 below). Based on additional resource needs, the MCAQD estimates annual MCAQD costs to be approximately \$22.7 million, including annual cost of \$7.6 million for new FTEs and information

technology (see Table 1 below). The costs of indirect programs (such as air quality monitoring) are apportioned among all permit programs. Indirect costs are comprised of two components: (1) administrative services costs, which are apportioned among all departmental programs based on staffing levels (FTEs), and (2) other departmental programmatic costs, allocated among all fee-based activities. Table 1 shows how these indirect costs are apportioned among the various departmental programs. The administrative services and programmatic indirect programs support all MCAQD programs.

**Table 1: Maricopa County Air Quality Department Estimated Annual Costs**

Activity	Direct Costs			FTEs <sup>1</sup>	Allocation of Indirect Costs		
	Present Costs	+ New FTEs and Programs	=Total Direct Costs		Admin. Svc. <sup>2</sup>	+ Indirect Program Costs <sup>3</sup>	= Costs After Allocations
Title V Permit Review	\$704,543	\$0	\$704,543	10	\$144,686		\$849,229
Title V Compliance	615,870	75,048	690,918	10	146,971	334,234	1,172,122
<b>Subtotal Title V:</b>	<b>\$1,320,413</b>	<b>\$75,048</b>	<b>\$1,395,461</b>	<b>19</b>	<b>\$291,657</b>	<b>\$334,234</b>	<b>\$2,021,352</b>
Small Source Permit Review	948,999	0	948,999	15	220,837		1,169,836
Small Source Compliance	1,121,511	895,521	2,017,032	29	440,151	1,551,543	4,008,727
<b>Subtotal Small Source:</b>	<b>\$2,070,510</b>	<b>\$895,521</b>	<b>\$2,966,031</b>	<b>43</b>	<b>\$660,989</b>	<b>\$1,551,543</b>	<b>\$5,178,563</b>
Dust Control Permit Compliance	1,862,578	3,635,589	5,498,167	86	1,312,839	792,490	7,603,497
<b>Subtotal All Permits:</b>	<b>\$5,253,501</b>	<b>\$4,606,158</b>	<b>\$9,859,659</b>	<b>149</b>	<b>\$2,265,485</b>	<b>\$2,678,267</b>	<b>\$14,803,412</b>
Administrative Services	2,900,047	1,056,876	3,956,923	0	(3,685,697)		271,226
Enforcement	417,107	407,478	824,585	12	182,762		1,007,347
Air Quality Monitoring	1,854,898	291,554	2,146,452	19	289,373	(1,009,377)	1,426,448
Planning and Analysis	988,278	0	988,278	14	213,222	(1,201,500)	0
Small Business Resource Center	391,239	0	391,239	5	76,151	(467,390)	0
Trip Reduction Program	1,839,432	0	1,839,432	13	190,377		2,029,809
Vehicle Repair & Retrofit	725,000	0	725,000	3	38,075		763,075
Dust Control Vacant Lot	758,326	1,257,382	2,015,708	28	430,252		2,445,959
<b>Subtotal, Other Costs</b>	<b>\$9,874,327</b>	<b>\$3,013,290</b>	<b>\$12,887,617</b>	<b>93</b>	<b>(\$2,265,485)</b>	<b>(\$2,678,267)</b>	<b>\$7,943,865</b>
<b>Department Totals:</b>	<b>\$15,127,828</b>	<b>\$7,619,449</b>	<b>\$22,747,277</b>	<b>242</b>	<b>-0-</b>	<b>-0-</b>	<b>\$22,747,277</b>

1. Totals shown may not equal the sum of individual values due to independent rounding.
2. Administrative services include financial services, budgeting, human resources, etc.
3. Air quality monitoring, planning & analysis, and small business resource center.

The MCAQD estimates that annual revenue with fee increases will be approximately \$23 million of which \$14.8 million (65%) is derived from fees and the remaining \$8.1million (35%) from other sources of revenue (see Table 4 below).

**Table 2: Maricopa County Air Quality Department Revenue with Existing Programs**

Activity	FY2007 Actual Revenue	Est. Revenue w/New Fees
Title V Permit Compliance	\$777,254	\$1,315,140
Title V Permit Review	221,573	720,500
<b>Subtotal Title V Permits</b>	<b>\$998,827</b>	<b>\$2,035,640</b>
Small Source Permit Compliance	\$3,940,876	\$4,828,920
Small Source Permit Review	411,584	328,913
<b>Subtotal Small Source Permits</b>	<b>\$4,352,460</b>	<b>\$5,157,833</b>
<b>Dust Control Permits</b>	<b>\$3,352,588</b>	<b>\$6,923,145</b>

<b>Total Permit Revenue</b>	<b>\$8,703,875</b>	<b>\$14,116,618</b>
Other Revenue (including grants, interest, general fund, and fund balance appropriations)	\$7,477,455	\$8,126,472
<b>Grand Total</b>	<b>\$16,181,330</b>	<b>\$22,243,090</b>

**Table 3: Maricopa County Air Quality Department Estimated Revenue from New Programs**

<b>New Program</b>	<b>FY2007 Actual Revenue</b>	<b>Est. Revenue w/Proposed Fees</b>
<b>Small Source Permits</b>		
Basic Training Program <sup>1</sup>	n/a - new fee	\$20,048
Comprehensive Training Program <sup>2</sup>	n/a - new fee	\$4,455
<b>Subtotal Small Source Permits</b>		<b>\$24,503</b>
<b>Dust Control Permits</b>		
Basic Training Program <sup>1</sup>	n/a - new fee	\$212,513
Comprehensive Training Program <sup>2</sup>	n/a - new fee	\$25,455
Subcontractor Registration Program <sup>3</sup>	n/a - new fee	\$500,000
<b>Subtotal Dust Control Permits</b>		<b>\$737,968</b>
<b>Grand Total</b>		<b>\$762,470</b>

1. Assumes 7,752 (75% of 10,336; 668 Small Source Permits & 7,084 Dust Control Permits) participants trained after April 1, 2008 @ \$30 each.

2. Assumes 997 (50% of 1,994; 149 Small Source Permits & 849 Dust Control Permits) participants trained after 4-1-08 @ \$30 each.

3. Assumes 10,000 subcontractor registrations @ \$50 per year.

**Table 4: Maricopa County Air Quality Department Revenue with Existing and New Programs**

<b>Activity</b>	<b>FY2007 Actual Revenue</b>	<b>Est. Revenue w/New Fees</b>
Title V Permit Compliance	\$777,254	\$1,315,140
Title V Permit Review	221,573	720,500
<b>Subtotal Title V Permits</b>	<b>\$998,827</b>	<b>\$2,035,640</b>
Small Source Permit Compliance	\$3,940,876	\$4,853,423
Small Source Permit Review	411,584	328,913
<b>Subtotal Small Source Permits</b>	<b>\$4,352,460</b>	<b>\$5,182,336</b>
<b>Dust Control Permits</b>	<b>\$3,352,588</b>	<b>\$7,661,113</b>
<b>Total Permit Revenue</b>	<b>\$8,703,875</b>	<b>\$14,879,088</b>
Other Revenue (including grants, interest, general fund, and fund balance appropriations)	\$7,477,455	\$8,126,472
<b>Grand Total</b>	<b>\$16,181,330</b>	<b>\$23,005,560</b>

#### **D. Entities Directly Affected**

The MCAQD anticipates that this rulemaking will directly impact 10,700 sources permitted by the MCAQD, 10,000 individuals and entities involved in performing ancillary services on a dust control permitted site (subcontractor registration fee); and 12,330 individuals required to attend a basic or comprehensive dust control training class (dust control training class fee).

Entities impacted include Title V sources (major sources of emissions such as utilities, landfills and wood furniture manufactures); Non-Title V sources (stationary sources that fall below the major source emissions thresholds) and general permit sources (e.g. dry cleaning, vehicle refinishing, printing facilities and gas stations); gasoline delivery companies (gasoline delivery vessel fee); construction companies (dust control permit fee); asbestos removal contractors (asbestos notification and plan review fee); subcontractors performing ancillary services on a dust control permitted site (subcontractor registration fee); and individuals required to obtain a dust control permit for dust generating operations (dust control training class fee).

The MCAQD also anticipates that revisions to the asbestos notification and plan review filing fees will impact State of Arizona agencies, municipal governments, other Maricopa County departments, and anyone else conducting renovation and demolition projects within Maricopa County because asbestos contractors will likely pass on the higher costs to these entities.

#### **E. Potential Cost and Benefits**

The MCAQD expects an increase in revenues 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

To implement MCAQD's commitments in the Five Percent Plan, 86 additional FTEs will be required. Of the 86 FTEs, 63 FTEs have a direct impact on fees. The remaining 23 FTEs support the vacant lot and parking lot programs and the MCAQD Enforcement Division and are funded by other revenue sources. Additionally, the MCAQD will seek approval to hire 15 FTEs to support stationary source and Asbestos NESHAP compliance, the MCAQD's administrative services divisions and the dust control permit compliance program. Of the 15 FTEs, 11 FTEs have a direct impact on fees. The remaining 4 FTEs support the MCAQD's Community and Media Relations Division and will be funded by other revenue sources. Lastly, costs associated with information technology and new database development were also included in the administrative services costs. Information regarding new FTEs and overall costs are provided below:

The four commitments adopted by the Maricopa County Board of Supervisors that will result in increased staffing levels for the MCAQD and have a direct impact on MCAQD fees are listed below:

1. Dust Control Training Program – The MCAQD will develop and implement training programs for the suppression of PM<sub>10</sub> emissions from permitted sources of PM<sub>10</sub> and hire four additional FTEs to coordinate and conduct the training programs. Annual costs associated with dust control training include personnel and database costs.
  
2. Subcontractor Registration Program – The MCAQD will establish a subcontractor registration program and hire four additional FTEs to administer the registration program. Annual costs associated with the subcontractor registration program include personnel and database costs.
  
3. Increased Number of Proactive Inspections at Permitted Facilities Subject to Rule 310 (Fugitive Dust) and/or Rule 316 (Nonmetallic Mineral Processing) – The MCAQD will hire 52 additional FTEs (compliance inspectors, supervisors, and support staff) to support an increased number of proactive inspections at permitted facilities subject to Rules 310 and/or 316.
  
4. Mobile Air Monitoring Program – The MCAQD will develop a comprehensive mobile air monitoring program that can collect and analyze air samples a broad spectrum of ambient air pollutants and hire three engineers to administer the program.

The MCAQD will also seek approval in a separate Board action to hire seven FTEs to support stationary source and Asbestos NESHAP compliance, seven FTEs to support the MCAQD's administrative services divisions, and one FTE to support management of the dust control permit compliance program. The table below provides overall costs associated with new FTEs and programs:

<b>Activity</b>	<b>New FTEs Committed to In Five Percent Plan</b>	<b>Additional FTEs MCAQD is Requesting</b>	<b>Costs of New FTEs/Programs</b>
Title V Permit Compliance	0	1	\$75,048
Small Source Permit Compliance (includes Asbestos NESHAP)	5	6	895,521
Dust Control Permit Compliance	55	1	3,635,589
Administrative Services (Finance, IT, Office of the Director, Human Resources, Community and Media Relations, etc.)	0	7	1,056,876
Air Quality Monitoring (includes Mobile Monitoring)	3	0	291,554
Enforcement	5	0	407,478
Dust Control Vacant Lot	18	0	1,257,382
<b>Total</b>	<b>86</b>	<b>15</b>	<b>\$7,619,449</b>

The MCAQD anticipates that revisions to the asbestos notification and plan review filing fees will impact State of Arizona agencies, municipal governments, and other Maricopa County departments conducting

renovation and demolition projects within Maricopa County because asbestos contractors will likely pass on the higher costs to these agencies. The impact to these agencies will depend on the project type and size. Many projects' fees will be lower than under the present structure, while the smallest projects will not be required to pay a fee; however, larger projects will have higher fees. Proposed fees for asbestos renovation projects range from \$0 to \$7,500 (vs. the present \$425) while proposed fees from demolition projects range from \$150 to \$525 (vs. \$425).

Regulated Community:

Entities impacted include Title V sources (major sources of emissions such as utilities, landfills and wood furniture manufactures); Non-Title V sources (stationary sources that fall below the major source emissions thresholds) and general permit sources (e.g. dry cleaning, vehicle refinishing, printing facilities and gas stations); gasoline delivery companies (gasoline delivery vessel fee); construction companies (dust control permit fee); asbestos removal contractors (asbestos notification and plan review fee); subcontractors performing ancillary services on a dust control permitted site (subcontractor registration fee); and individuals required to obtain a dust control permit for dust generating operations (dust control training class fee).

The MCAQD does not expect the fee revisions to negatively impact employment. Further, the MCAQD 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 MCAQD anticipates no adverse impact to source revenues or payrolls.

The current (1/1/2008 CPI-adjusted) and new fees are compared in detail in Addendum A.

Consumers and Public:

The MCAQD expects a minimal impact to consumers and the general public. Although some sources may absorb the higher cost of doing business, others may pass on the higher costs to consumers, depending on market conditions and elasticities of buyers and sellers. Adjusting revenue streams for the MCAQD to maintain adequate staffing levels for 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 MCAQD 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 MCAQD from implementing almost any of these methods for determining fees for small businesses. As a result, permit fees are based on regulatory costs rather than size of the source.

One alternative that reduces costs for small businesses is for eligible sources to apply for a general permit under Rule 230. General permits are available at a somewhat reduced cost when compared to individual permits. General permits tend to be used by smaller sources and may reduce costs because general permitted sources would not be required to pay an hourly permit-processing fee nor the emissions-based fee. Additionally, the MCAQD's asbestos notification and plan review filing fee establishes a sliding scale fixed fee based on project size that results in lower fees for smaller projects.

#### **Addendum A**

Under Rule 280, the MCAQD adjusts permit fees every January 1 based on the Consumer Price Index (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 \$118.30 per hour increases to \$133.50 per hour. To revise the hourly rate, the MCAQD 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 MCAQD's analysis is consistent with the ADEQ and the fee amount is identical to the ADEQ permit processing fee amount.

Amendments to Sections 301.1 and 302.1 require an owner or operator of a source required to have a Title V or Non-Title V permit to pay the actual costs incurred by the control officer to meet the public participation requirements of Rule 220, including costs incurred by the Control Officer to publish public notice in the newspaper(s) of a public hearing and/or draft permit, to hire a hearing officer, to hire transcription or court reporting services, and to rent meeting room space. All Title V draft permit public notices and all public hearing notices (both Title V and Non-Title V) are published in the Arizona

Republic. The MCAQD estimates the cost of a public hearing to be \$2,520 (costs are detailed in the table below). The cost to publish a draft permit public notice varies depending on the source type (e.g. Title V or Non-Title V) and fee table (e.g. Table A, B, C, etc.). As mentioned previously Title V draft permit public notices are published in the Arizona Republic and are estimated to cost \$2,100. All other draft permit public notices are published in the Arizona Business Gazette and Record Reporter and are estimated to cost \$15.

<b>Permit Public Hearing Requirement</b>	<b>Cost</b>	<b>Estimated Total Cost</b>
Publish public notices in the newspaper(s)	<u>Arizona Business Gazette</u> \$5	\$2,115
	<u>Arizona Republic</u> \$2,100	
	<u>Record Reporter</u> \$10	
Hearing officer	\$125/hour	\$315
Transcription/court reporter	\$30/hour plus a \$3.75/page transcription fee	\$90
<b>Total</b>		<b>\$2,520</b>

The emissions-based fee under Rule 280 Section 301 applies to actual emissions of regulated pollutants emitted from Title V sources. The new emissions-based fee for calendar year 2008 is \$38.25 per ton, amended from the current fee of \$14.51 per ton for 2007 emissions. The fee of \$38.25 per ton is identical to the ADEQ emissions-based fee.

The following table compares the current fees to the new fees for the Title V annual administrative fee. The Title V annual administrative fees increase substantially from current levels but are not greater than ten percent more than the ADEQ Title V annual administrative fees, with one exception. The Title V annual administrative fee for "Utilities - Primary Fuel Natural Gas" is greater than ten percent above ADEQ's fees. The justification for this is provided in Section 7 "Demonstration of compliance with A.R.S. § 49-112" of this Notice of Final Rulemaking.

A number of changes have impacted the Title V program costs including: increased costs associated with hiring one additional Title V permit compliance FTE, increased indirect costs associated with hiring new FTEs to support the MCAQD's administrative services divisions and indirect programs, salary increases based on market studies, and increased fringe benefit costs. In addition, there are fewer Title V sources to share the cost of the Title V program because a number of Title V sources have changed to Non-Title V as a result of the area's redesignation to attainment for 1-hour ozone and the subsequent change in the major source threshold.

<b>Fee Category</b>	<b>Current Fee (Effective 01/01/2008)</b>	<b>New Fee (Effective 04/01/2008)</b>	<b>Change (\$)</b>	<b>Change (%)</b>
<b>Title V: Annual Administrative Fee</b>				
Aerospace	\$14,880	\$18,320	\$3,440	+23.1%

<b>Fee Category</b>	<b>Current Fee (Effective 01/01/2008)</b>	<b>New Fee (Effective 04/01/2008)</b>	<b>Change (\$)</b>	<b>Change (%)</b>
Air Curtain Destructors	N/A	\$840	N/A	N/A
Cement Plants	\$48,780	\$68,590	\$19,810	+40.6%
Combustion/Boilers	\$11,860	\$16,680	\$4,820	+40.6%
Compressor Stations	\$10,320	\$13,630	\$3,310	+32.1%
Expandable Foam	\$10,910	\$14,800	\$3,890	+35.7%
Landfills	\$12,930	\$18,140	\$5,210	+40.3%
Lime Plants	\$45,690	\$64,790	\$19,100	+41.8%
Copper & Nickel Mines	\$11,480	\$16,150	\$4,670	+40.7%
Gold Mines	\$11,480	\$16,150	\$4,670	+40.7%
Paper Mills	\$15,680	\$22,060	\$6,380	+40.7%
Petroleum Products Terminal Facilities	\$19,150	\$25,800	\$6,650	+34.7%
Polymeric Fabric Coaters	\$12,670	\$18,140	\$5,470	+43.2%
Reinforced Plastics	\$9,910	\$13,630	\$3,720	+37.5%
Semiconductor Fabrication	\$20,630	\$29,010	\$8,380	+40.6%
Copper Smelters	\$48,780	\$68,590	\$19,810	+40.6%
Utilities – Primary Fuel Natural Gas (base)	\$9,260	\$9,500	\$240	+2.6%
+ per-turbine fee	\$16,580	\$16,480	(\$100)	-0.6%
Utilities – Fossil Fuel Except Natural Gas	\$24,940	\$35,080	\$10,140	+40.7%
Vitamin/Pharmaceutical Manufacturing	\$12,110	\$17,020	\$4,910	+40.5%
Wood Furniture	\$10,760	\$15,010	\$4,250	+39.5%
Others	\$13,420	\$18,130	\$4,710	+35.1%
Others with Continuous Emissions Monitoring	\$15,690	\$22,070	\$6,380	+40.7%

In addition to the changes for Title V sources, annual administrative fees for Non-Title V and general permitted sources, dust control permits, and asbestos plan review and notifications increase under the amendments to better reflect the share of costs directly related to these programs. Most of the categories of permits are impacted by the increased fees; however, the permit fees for Table A, B, E, F, and G Non-Title V permits and Table C, D, E, and G general permits decrease slightly when compared to the current fees.

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 1/5 of the permit processing fee for permit renewal as well as the annual costs for inspection, emission inventory, and regulatory activities. The structure allows the Non-Title V source to pay approximately the same fee each year and avoid the second fee due every five years at permit renewal. For the number of permit renewal actions, the department assumed that 20 percent (1/5) of the existing permits would be renewed each year.

Fee Category	Current Fee (Effective 01/01/2008)	New Fee (Effective 04/01/08)	Change (\$)	Change (%)
Source listed in Table A	\$6,440	\$5,980	(\$460)	-7.1%
Source listed in Table B	\$1,820	\$1,550	(\$270)	-14.8%
Source listed in Table C - D	\$570	\$610	\$40	7.0%
Source listed in Table E	\$410	\$320	(\$90)	-22.0%
Source listed in Table F	\$8,090	\$7,940	(\$150)	-1.9%
Source listed in Table G	\$5,240	\$4,790	(\$450)	-8.6%
Source listed in Table H	N/A	\$7,940	N/A	N/A
Source listed in Table I	N/A	\$4,790	N/A	N/A
<b>General Permits: Annual Fees</b>				
Title V General Permits	Admin. fee	Admin. fee	varies	N/A
Table A	\$3,920	\$4,870	\$950	24.2%
Table B	\$1,300	\$3,250	\$1,950	150.0%
Tables C - D	\$420	\$320	(\$100)	-23.8%
Table E	\$320	\$240	(\$80)	-25.0%
Table F	\$6,790	\$6,970	\$180	2.7%
Table G	\$4,420	\$4,170	(\$250)	-5.7%
Table H	N/A	\$6,970	N/A	N/A
Table I	N/A	\$4,170	N/A	N/A

The following table compares the current dust control permit fees to the new fees:

Fee Category	Current Fee	New Fee (Effective 04/01/08)	Change (\$)	Change (%)
<b>Dust Control Permit Fee</b>				
Annual Block Permit	\$2,000	\$2,000	\$0	0.0%
0.1 to less than one acre	\$150	\$350	\$200	133.3%
One acre or greater: fixed fee	\$150	\$350	\$200	133.3%
One acre or greater: per acre	\$36	\$77	\$41	112.6%

The following table compares the current asbestos notification and plan review filing fee to the new fee structure:

Fee Type	Current Fee	New Fee Schedule (Effective 04/01/08)			
<b>Renovation Fee</b>	\$425	<b>Amount of Regulated Asbestos Containing Materials (RACM) Removed</b>			
		<b>Linear Feet</b>	<b>Square Feet</b>	<b>Cubic Feet</b>	<b>Fee*</b>
		0 – 259	0 – 159	0 – 34	\$0
		260 – 499	160 – 499	35 – 109	\$200
		500 – 999	500 – 999	110 – 218	\$350
		1,000 – 2,499	1,000 – 2,499	219 – 547	\$800
		2,500 – 4,999	2,500 – 4,999	548 – 1,094	\$1,500
		5,000 – 9,999	5,000 – 9,999	1,095 – 2,188	\$3,100
		10,000 – 14,999	10,000 – 14,999	2,189 – 4,499	\$6,200
		15,000 or more	15,000 or more	4,500 or more	\$7,500
*If materials are reported on the notification in more than one category, only the highest fee will apply.					
<b>Demolition Fee</b>	\$425	<b>Building Size (square feet)</b>		<b>Fee</b>	
		0 – 999		\$150	
		1,000 – 2,499		\$300	
		2,500 – 4,999		\$450	

		5,000 or more	\$525
<b>Annual Operation and Maintenance Fee</b>	\$425	<b>Annual Operation and Maintenance</b>	\$1,250

The following table shows fees for new fee categories: gasoline delivery vessel replacement decals, dust control training classes, and subcontractor registration.

<b>New Fee Category</b>	<b>Fee</b>
Gasoline Delivery Vessel Replacement Decal Fee	\$80.00
Basic Dust Control Training Class Fee	\$50.00
Comprehensive Dust Control Training Class Fee	\$125.00
Requests for Dust Control Training that provide for training room space and a minimum of 10 and maximum of 30 class participants.	\$35.00 per person for basic dust control training; \$100.00 per person for comprehensive dust control training
Requests for Dust Control Training - a discounted fee is required for issuance of training cards at third-party provider dust control training classes	\$30.00 per person
Subcontractor Registration Fee	\$50.00

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

Since the final draft of Rule 280 was published in the Notice of Proposed Rulemaking on November 30, 2007, the following changes to Rule 280 have been made:

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

Added the text "per hour" in the first sentence following \$133.50. This language is contained in the current version of Rule 280 (July 12, 2006) but was inadvertently removed in the November 30, 2007, Notice of Proposed Rulemaking for Rule 280.

Added the text "to the Control Officer" in the first sentence following "The owner or operator of a Title V source shall pay" for clarification.

Added an "s" to "fee" in the last sentence.

Deleted Section 301.1(b) and added similar text to the second sentence in the Section 301.1 introduction. The second sentence now reads: "The owner or operator of a Title V source shall also pay to the Control Officer the actual costs incurred by the Control Officer to meet the public participation requirements of Rule 210 of these rules; including costs incurred by the Control Officer to publish public notice of a public hearing and/or draft permit, to hire a hearing officer, to hire transcription or court reporting services, and to rent meeting room space." Subsequent sections were renumbered accordingly.

Revised the second sentence in re-numbered Section 301.1(c) as follows: "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."

**Section 302 Non-Title V Permit Fees, 302.1 Fees for Billable Permit Actions:**

Deleted Section 302.1(b) and added similar text to the second sentence in the Section 302.1 introduction. The second sentence now reads: "The owner or operator of a Non-Title V source shall also pay to 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 by the Control Officer to publish public notice of a public hearing and/or draft permit, to hire a hearing officer, to hire transcription or court reporting services, and to rent meeting room space." Added an "s" to "fee" in the last sentence. Subsequent sections were renumbered accordingly.

Revised the second sentence in re-numbered Section 302.1(c) as follows: "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."

**Section 311 Dust Control Training Class Fee, 311.3 Requests for Dust Control Training:**

Added the text "A discounted fee of \$30.00 per person shall be required for issuance of training cards at third-party provider dust control training classes." The purpose of this change is to allow third-party trainers the option of undertaking the full responsibility of training while allowing MCAQD to recover the costs of attending training classes to issue training certification cards and perform database management.

**12. Summary of the comments made regarding the rule and the department response to them:**

The Maricopa County Air Quality Department (MCAQD) conducted four public workshops throughout the rulemaking process for Rule 280 and received formal comments during the formal comment period (November 30, 2007 through January 4, 2008) from Native Environmental, LLC, Arizona Chamber of Commerce and Industry, Maricopa Utilities Group, Southwest Hazard Control-Phoenix Division, and Four Corners Environmental, Inc. The formal comments and the MCAQD's responses to comments are provided below:

**Comment #1:** The bottom three tiers for the proposed sliding scale for the asbestos portion of the program indicates a raise in fees of up to 17 times the current fee of \$425.00. The commenter stated that a great deal of their work is performed in these bottom three tiers of the sliding scale and the new fees would have significant ramifications to their clients who have multiple properties and to smaller "mom and pop" type owners who are trying to establish and maintain viable businesses while working within the regulatory framework. This would be especially evident to those who are removing large amounts of floor tile mastic

using chemical and a buffer causing the mastic to become RACM. The proposed fees may double the cost of these floor mastic projects. Because the fee portion of the NESHAP program seems to have been poorly executed over the years that the fee was not being raised incrementally, building owners are now being asked to shoulder a burden that will be hard to explain when the commenter's prices double because of the new fees and the building owners' projects are in jeopardy of not being done properly or done at all, possibly ending in more health and safety concerns because of poorly executed work outside of the regulatory framework. EPA's Mission Statement of Protecting Human Health and the Environment in the Least Burdensome Manner is not being served by such a radical one-time increase in fees. The commenter believes that the implementation of the new fees, while necessary, should be reviewed and phased in over time in order to lessen the "Burden" on the building owner.

**Response #1:** The current flat fee of \$425 for asbestos projects of any size has remained unchanged since January 1998, and as a result, the asbestos NESHAP program has been subsidized by other fee revenue. The proposed increase simply brings the fees to an appropriate level to cover MCAQD asbestos NESHAP program costs for the foreseeable future.

In 2005, the MCAQD proposed to increase the asbestos notification and plan review filing fee to \$1,060. This proposal met with significant resistance from asbestos stakeholders. Concerns raised at that time included the observation that no additional asbestos NESHAP compliance inspectors would be hired with the proposed fee increase. It was recommended that MCAQD consider a fee structure based on overall project size that minimizes notification fees on small projects. At the time, MCAQD decided to leave the existing \$425 fee in place until the workload analysis and fee model could be revisited and MCAQD committed to working with stakeholders to determine if an alternative fee structure for the asbestos NESHAP program would be more appropriate.

In October 2007, the MCAQD conducted two asbestos stakeholder workshops to present new workload and cost estimates for the asbestos NESHAP program and to discuss options for a new fee structure. The asbestos NESHAP program workload indicated that additional compliance inspectors were needed; thus MCAQD will seek Board of Supervisor's approval to add two additional inspectors and one program supervisor to the program. Several alternative fee structures were presented at the workshops for stakeholder discussion and feedback.

The option preferred by stakeholders was a sliding scale flat fee. Based on stakeholder input, the MCAQD proposed a new sliding scale asbestos NESHAP fee structure based on project size, under which smaller projects pay no or lower fees. In fact, many projects' fees will be lower than under the present structure, while the smallest projects will not be required to pay a fee. Proposed fees for asbestos renovation projects

range from \$0 to \$7,500 (vs. the present \$425) while proposed fees from demolition projects range from \$150 to \$525 (vs. \$425).

The proposed asbestos plan review and filing fee structure addresses the issues raised in 2005, including hiring of additional compliance inspectors (for a total of five inspectors) to support the asbestos NESHAP program and based on overall project size that minimizes notification fees on small projects. The proposed fees also generate the revenue necessary to fully fund the asbestos NESHAP program.

**Comment #2:** The commenter feels that it needs to be reiterated that if NESHAP fees become so onerous to a building owner that it is worth risking the fine rather than paying the fee, then the program isn't working, especially when the fines are not being used to fund the program. The feeling is that with the current proposed fee structure and implementation plan, the problem of non-compliance will become much worse, causing the program to become more ineffectual rather than more effective, even with the addition of the 2 full time employees through the increase in fees. Currently, the commenter feels that at times the program already focuses too much on the companies and owners that are trying to legitimately perform work in accordance with the regulations and not enough on the companies that perform work out of compliance. The health and safety concerns come from work being done out of compliance with the regulation. This is where the "major" air quality issues and health and safety issues need to be addressed. This is where the focus of the program should predominantly lie. Will the increase in fines and two new inspectors make this kind of focus possible, or will the program operate as is? If enforcement of non-compliance is still not going to be as effective as the industry needs it to be, then should consideration be given to raising the fees a little more modestly and forego more inspectors for the time being? This large of an increase in fees dictates that everyone involved at least review whether the increase is justified and that the fees will actually improve the program proportionately or should the fees be raised more modestly and keep the program as is and increase man power and enforcement in a phased approach?

**Response #2:** The MCAQD acknowledges the risk involved with increasing fees, causing building owners and contractors to risk a fine rather than notifying. The MCAQD believes adding two additional asbestos inspectors (for a total of five inspectors) will assist in discovering and pursuing penalties against those owners/contractors that choose non-compliance over compliance. The MCAQD's asbestos program also reviews Dust Control Permit applications that involve renovation or demolition activities for asbestos NESHAP applicability, and we have found this to be an effective way to inform parties of their NESHAP requirements, including notification of applicable projects. The MCAQD will also continue to rely on the support of the regulated community to inform the MCAQD of activities they observe for which the asbestos NESHAP requirements may be applicable, but the owners/contractors may not be legitimately conducting their projects in compliance with the asbestos NESHAP.

The MCAQD does not devote the majority of its resources to those companies that conduct their projects in accordance with the asbestos NESHAP regulations. Rather, MCAQD will continue to focus its enforcement efforts more heavily on those owners/operators that are, for whatever reason, not aware of or purposely ignoring the asbestos NESHAP regulations. Since 2005, with the support of the asbestos community reporting renovation/demolition projects to the MCAQD for investigation, the number of inspections at sites that have no NESHAP notification has increased dramatically. The table below clearly shows the trend since 2004 in the number of inspections of non-notified sites. In addition, the table shows that the number of enforcement referrals with notifications is relatively small compared to the number of enforcement referrals and cases in backlog.

**Number of Asbestos NESHAP Inspections & Enforcement Referrals, 2004–2007**

Activity	2004	2005	2006	2007
# of Notifications Submitted	545	774	903	977
Total # Inspections of Notified Sites	188	341	316	356
Total # Notified Sites Inspected	167	246	197	260
Total # Inspections of Non-Notified Sites	34	63	231	238
Total # Non-Notified Sites Inspected	34	57	195	201
# of Enforcement Referrals	13	24	33	41
# of Cases Currently in Backlog	0	0	1	41
# of Enforcement Referrals with Notification Submitted	unknown	unknown	2	9

The data presented above shows that the MCAQD is expending resources in the area of non-notified projects. Again, the MCAQD is depending on the continued support of the asbestos community to report activities they observe for which the Asbestos NESHAP requirements may be applicable. A partnership between the MCAQD and the asbestos community is the most effective means to bring those entities not adhering to the asbestos NESHAP regulations into compliance with the regulations.

**Comment #3:** Many times when courting a client for a project, the two-week time frame for filing a NESHAP becomes an issue with the schedule and timing of a project, requiring abatement companies to pay the NESHAP fees up front for the client in order to start the two-week clock ticking. While this is not an issue with larger companies such as the commenter, smaller abatement companies will have issues paying for projects located in the bottom three tiers of the proposed sliding fee schedule. If there are three or more jobs at one time in the bottom three tiers of the proposed fee schedule, the amount of money that the company has to try to collect up front or has to “carry” for the client until contracts are finalized or until invoicing for the project can be performed will be unduly onerous on some businesses. While good business practices may deflect some of this issue, it will not change the way that business is being done and has been done for years. Clients will want the abatement companies to file the NESHAP and pay the fee up front. And those who will, will get the business, those who won’t or can’t, may suffer because the fees are more than they can handle.

**Response #3:** Please see MCAQD's response to comment #1 concerning the appropriateness of the proposed fees and fee structure in addressing the relative size of smaller companies and projects. Comments pertaining to business practices are outside the scope of this rulemaking.

**Comment #4:** Maricopa County has recently become very serious about enforcement of the vacant lot and fugitive dust programs because of the fact that if Arizona does not come into compliance with several EPA regulations, the region may lose highway funding. While the commenter has no issue with the County's approach and plan to come into compliance and secure the funding, the NESHAP program doesn't have the same kind of punch that the loss of Federal highway funds supplies and the real reason the community should be strengthening the NESHAP program, public health and safety, doesn't seem to be enough to garner the same kind of attention and resources. The change in fees is extremely significant to this industry and as a business owner could have lasting repercussion on the type and amount of business that the commenter does in Maricopa County. The commenter is not sure that the end result of the price increase is going to supply enough of a change in a program that is severely overtaxed to justify the increase.

**Response #4:** Please see the response to comment #1 pertaining to the appropriateness of the asbestos notification fee structure and comment #2 pertaining to the asbestos program's compliance focus.

**Comment #5:** In the recent discussions about the proposed NESHAP fee increase, Maricopa County Representatives indicated that the fines collected from enforcement actions can not be used to fund the program. The main reason indicated in the meetings was that Maricopa County did not want the perception that they had a "Quota System" and that use of the enforcement action funds had caused perception problems in other programs. The commenter feels that the enforcement fines, if justified, don't constitute a "Quota System" as the fines stem from legitimate regulatory action. The regulatory framework and enforcement process doesn't really lend to spurious and unjustified enforcement actions. Use of the fines to fund the program would go a long way to cutting the need for such drastic fee increases and may also be a good catalyst for compliance. As more inspectors are added, more "legitimate" enforcement actions can take place, in a couple of years there may be a healthier asbestos NESHAP program paid for not only by those who do legitimate, notified asbestos work but also by those who are trying to skirt the regulations willfully.

**Response #5:** The Maricopa County Office of Management and Budget (OMB) does not consider fine revenues as an ongoing revenue source and therefore, allows fine revenue to be used to fund one-time expenses only, and not to cover expenses of ongoing programs in perpetuity. One exception to this policy is the MCAQD vacant lot program. The OMB allows the MCAQD to fund the vacant lot program through the Air Quality Fee Fund because, at this time, there is no funding source for the vacant lot program.

**Comment #6:** The commenter feels that the size of the proposed (NESHAP) fees may be too large to implement all at one time and that other implementation approaches should be reviewed and discussed so as not to present too much of a burden to building owners and abatement businesses. The commenter would like to continue to be a part of the process and is available to provide any input or information if the County requires the assistance.

**Response #6:** The MCAQD is unable to phase in the asbestos NESHAP fees. The current flat fee of \$425 for asbestos projects of any size has remained unchanged since January 1998, and as a result, the asbestos NESHAP program has been subsidized by other fee revenue. The proposed increase simply brings the fees to an appropriate level to cover MCAQD asbestos NESHAP program costs for the foreseeable future. The MCAQD proposed to increase the asbestos notification and plan review filing fee to \$1,060 in 2005. This proposal met with significant resistance from asbestos stakeholders. Concerns raised at that time included the observation that no additional asbestos NESHAP compliance inspectors would be hired with the proposed fee increase. It was recommended that MCAQD consider a fee structure based on overall project size that minimizes notification fees on small projects. At the time, the MCAQD decided to leave the existing \$425 fee in place and the MCAQD committed to working with stakeholders to determine if an alternative fee structure for the asbestos NESHAP program would be more appropriate. After a series of stakeholder workshops in October 2007, the MCAQD proposed a new sliding scale asbestos NESHAP fee structure based on project size where smaller projects pay low fees and that includes hiring of two additional compliance inspectors (for a total of five inspectors) to support the asbestos NESHAP program. The MCAQD addressed the concerns raised in 2005 and can not continue to subsidize the program.

**Comment #7:** State law requires MCAQD's fees program to be "approximately equal" to the Arizona Department of Environmental Quality's (ADEQ's) fees program. MCAQD can impose a more stringent fees program than ADEQ, but only if the program is (1) necessary to address a peculiar local condition; and (2) either necessary to prevent a significant threat to public health or the environment, or required under a federal statute or regulation. MCAQD acknowledges that its proposed fees program is more stringent than ADEQ's, but asserts that the County's nonattainment status for ozone and particulate justify a more stringent program.

However, in 2005 (when the County also was nonattainment for ozone and particulate), MCAQD expressly conceded that Arizona law "limits the amount counties may charge for permit fees to an amount that is approximately equal to or less than the fee the state program may charge." The commenter agrees with MCAQD's 2005 position and is unclear why MCAQD now appears to have changed its position. MCAQD's fees program must be approximately equal to ADEQ's program.

The commenter recognizes that MCAQD is entitled to recover its reasonable air program expenses, that it regulates more sources than ADEQ, and that it therefore requires more revenue to administer its program. Although the total dollar amount MCAQD must recover is thus greater, state law does not allow MCAQD to impose a fee structure fundamentally different from ADEQ's; MCAQD itself recognized this in 2005. Yet MCAQD does just that.

**Response #7:** The 2005 quote noted by the commenter is a description by the U.S. Environmental Protection Agency (EPA) rather than a quote by the MCAQD. The official position of the MCAQD on this issue is contained in the July 1, 2005, Notice of Final Rulemaking for Rule 280 (11 A.A.R. 2459).

**Comment #8:** ADEQ imposes a flat annual administrative fee for all Title V source categories, including a flat fee of \$16,440 per gas-fired utility. By contrast, MCAQD's proposed Fee Rule would impose a flat administrative fee for all Title V sources *except* utilities; for utilities, MCAQD would impose a fee of \$9,500 plus an additional \$16,480 *per turbine*. No other source category is charged per process line.

**Response #8:** The MCAQD established the per turbine fee in 2005 (11 A.A.R. 2459, July 1, 2005) because of the substantial workload associated with conducting utility turbine source performance testing and continuous emissions monitoring relative accuracy test audit certifications (CEM RATA) and the variation in the number of turbines per utility. The ten Maricopa County permitted utilities have 30 turbines that are subject to annual performance and CEM RATA testing. The number of turbines at an individual utility ranges from 1 to 8 turbines per utility. Thus, the workload associated with annual testing and CEM RATA of utility turbines ranges from 67 hours to 401 hours per facility. The significant variation in the number of turbines and the associated workload per utility lead to the decision to develop the per turbine fee. Justification for the per turbine fee was provided in the July 1, 2005, Notice of Final Rulemaking for Rule 280 (11 A.A.R. 2459).

**Comment #9:** MCAQD contends that, under the proposed Fee Rule, "[t]he annual administrative fee would increase substantially from current levels, but not greater than ten percent more than the ADEQ Title V annual administrative fees." While this is generally true for other sources, it is entirely untrue for utilities. In comparison to ADEQ's flat \$16,440 per utility, a County gas-fired plant with only one turbine would be required to pay \$25,980 in administrative fees – approximately 57% more than ADEQ's fee. A plant with two turbines would be required to pay \$42,460 in administrative fees, or 158% more than ADEQ's fee. Many gas-fired plants have more than two turbines, rendering their annual administrative fees greater than ADEQ's by an order of magnitude. To comport with ADEQ's rule and state law, MCAQD's flat fee for gas-fired utilities should not exceed \$18,084 *per utility* (\$16,440 plus 10%), and there should be no separate fee per turbine. Additionally, it is unnecessary for Maricopa County to list separate fee structures for Utilities. ADEQ lists separate fee structures for Utilities to distinguish between coal-fired and

other fossil fuel-fired utilities. Since there are no coal-fired utilities within Maricopa County, it is unnecessary to maintain a separate fee structure.

**Response #9:** The MCAQD has clarified in Addendum A of the Notice of Final Rulemaking for Rule 280 (Fees) that MCAQD's Title V annual administrative fee for primary fuel natural gas utilities is greater than ten percent above ADEQ's annual administrative fees. The justification for this is provided in Section 7 "Demonstration of compliance with A.R.S. § 49-112" of the Notice of Final Rulemaking. MCAQD's response to comment # 8 explains the MCAQD's decision to develop the per turbine fee.

The Title V source categories contained in Rule 280 Section 301.2 were originally derived from ADEQ's list of Title V source categories in 2003. The categories are not proposed to change as a result of this current rulemaking. The MCAQD will consider removing those categories for which the MCAQD has no sources in a future rulemaking.

**Comment #10:** As is obvious, MCAQD's fee structure for utilities is fundamentally different from and more stringent than ADEQ's fee structure for utilities, and there is no "peculiar local condition" or "federal statute" that warrants this difference. Even if there are peculiar local conditions that warrant additional regulation and thereby increase costs, there is no legal justification for departing from ADEQ's fee structure and treating utilities differently than other sources. Any peculiar local conditions, and the associated increased costs, certainly are not unique to utilities. MCAQD cannot lawfully go beyond ADEQ's fee structure by differentiating between utilities and other sources for fee purposes. Nor is there any practical justification for departing from ADEQ's single, flat fee for utilities. It is understood that MCAQD has explained its per-turbine fee structure for utilities by noting that utilities are required to perform source testing every year. However, according to the Arizona Testing Manual, *all* major sources must perform annual source testing ("Major sources having multiple emission points must submit facility test schedules assuring annual testing ...") [Arizona testing manual for Air Pollutant Emissions, Section 1.1] The commenter thus fails to grasp MCAQD's logic. Moreover, MCAQD has offered no data to support that its personnel spend more time administering utility-related Title V permits (because of more frequent source testing or otherwise) than non-utility Title V permits. Without sound data confirming that MCAQD personnel spend substantially more time administering utility Title V permits than other Title V permits, MCAQD must revise the Fee Rule to impose the same flat administrative fee for utilities that it imposes on all other Title V sources; any other approach is unlawful and inequitable.

**Response #10:** Maricopa County is nonattainment for PM<sub>10</sub> and ozone. This nonattainment status represents a "peculiar local condition" and requires more stringent controls under the Clean Air Act. Because of Maricopa County's nonattainment status, combined cycle systems at utilities permitted by the MCAQD 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). Further, the Arizona Testing Manual states that "Major sources having multiple emission points must submit facility test schedules assuring annual testing of major emission points and rotational testing of minor emission points as required by permit conditions." According to the Arizona Testing Manual, annual testing is required of major emission points at major sources; thus, not all Title V sources require annual testing. Also, the applicable rules for a source specify compliance determination methodology and associated test methods which may not involve performance testing of control devices but instead require analysis of coating formulations or tracking of material usage, etc. Further, most non-utility Title V sources do not require continuous emissions monitoring (CEM) or the annual CEM relative accuracy test audit (RATA) certifications. Because of these differences and because of 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, the MCAQD established the per turbine fee for natural gas utilities in 2005 (11 A.A.R. 2459, July 1, 2005).

The ten Maricopa County permitted utilities have 30 turbines that are subject to annual performance and CEM RATA testing. The number of turbines at an individual utility ranges from 1 to 8 turbines per utility. Thus, the workload associated with annual testing and CEM RATA of utility turbines ranges from 67 hours to 401 hours per facility. The significant variation in the number of turbines and the associated workload per utility lead to the decision to develop the per turbine fee.

For this current rulemaking, the MCAQD used the same source testing workload assumptions as were used for the 2005 rulemaking for Rule 280 with one exception; the MCAQD lowered the source testing hours for utility turbines. The 2005 workload assumptions (including assumptions pertaining to source testing) were provided to stakeholders during the 2005 Rule 280 workshops. Detailed workload assumptions for utility turbine source testing and CEM RATA certifications were provided to the utility representatives at the October 9, 2007, Rule 280 workshop.

In response to these comments and due to changes in testing requirements in upcoming Title V permit renewals in response to EPA's Compliance Assurance Monitoring (CAM) rule, the MCAQD believes that a time study to assess source testing workload hours for Title V permits is warranted. Therefore, the MCAQD commits to conducting a time study and updating the workload hours as needed for the next Rule 280 rulemaking.

**Comment #11:** MCAQD has represented to EPA Region 9 that it now separately tracks its costs associated with administering permits. The commenter therefore respectfully requests that MCAQD provide data demonstrating that it spends more time administering utility Title V permits than non-utility Title V permits.

**Response #11:** The MCAQD separately tracks Title V revenue and expenditures from other activities using activity codes. The activity codes established for the MCAQD are shown below. Title V revenue and expenditures are tracked using the Large Source Permit Engineering Review (LSPR), Large Source Permit Compliance (LSPC), and Large Source Permit Enforcement (LSPE) activity codes. These codes are reflected in the MCAQD's financial accounting system (Advantage), personnel system (PeopleSoft), and budgeting system (Cognos) for all revenues and expenditures. The MCAQD is able to track revenue by source categories (e.g. aerospace, utilities, landfills, etc.) within the activity code (LSPC and LSPR) and expenditures are tracked by activity code and expense type (e.g. salaries, benefits, and supplies). Because the MCAQD charges an hourly fee for permit processing, MCAQD's Air Quality Permit Engineering division tracks permit processing time by permit.

**Maricopa County Air Quality Department Activity Codes**

Activity Code	Description
<b>Air Quality Program</b>	
CAQM	Countywide Air Quality Monitoring
DCPC	Dust Control Permit Compliance
DCVL	Dust Control Vacant Lot Compliance
DCPE	Dust Control Permit Enforcement
LSPC	Large Source Permit Compliance
LSPR	Large Source Permit Engineering Review
LSPE	Large Source Permit Enforcement
PLAA	Planning and Analysis
SBRC	Small Business Resource Center
SSPC	Small Source Permit Compliance
SSPE	Small Source Permit Enforcement
SSPR	Small Source Permit Engineering Review
TRDA	Trip Reduction Activity
VVRR	Voluntary Vehicle Repair & Retrofit
<b>Administrative Services &amp; General Government</b>	
ODIR	Executive Management
BDGT	Budgeting
FSAC	Financial Services
HRAC	Human Resources
PROC	Procurement
CSCA	Central Service Cost Allocation
ISFC	Internal Service Fund Charges

The MCAQD will review the level of detail in the current system and modify as needed to track direct hours spent administering each permit. Further, the MCAQD based the workload analysis on past experience and made assumptions for new and expanded programs whose implementation is still in development. The MCAQD plans to collect actual data once these programs are implemented and will revisit the workload analysis and corresponding fees as needed.

**Comment #12:** In its 2005 evaluation of MCAQD's Title V program, EPA Region 9 stated that MCAQD's "Title V revenues [must be] used solely to support the Department's Title V program." EPA's position is grounded in the Clean Air Act requirement that Title V fees be "sufficient" to cover Title V

program expenses and be used “solely” to cover the costs of Title V program administration. Arizona law requires MCAQD to adopt a Title V fees program that is “consistent with and equivalent to” these federal requirements. In short, MCAQD can only recover from Title V sources fees necessary to administer the Title V program, and cannot use those revenues for non-Title V program purposes.

In 2005, EPA found that MCAQD failed to comply with this requirement: “Title V funds are commingled with non-Title V permit fees ... In addition; [MCAQD] does not have a clear accounting of its Title V costs. As a result ... it is difficult to tell whether Title V permit fees are used solely to cover Title V permit program costs.” According to EPA, MCAQD’s mere “estimates” of Title V expenditures were inadequate; MCAQD must “directly account” for Title V expenditures.

In response to EPA’s findings, MCAQD was required to make a “Demonstration of Title V Fees Being Used Solely for the Title V Program.” To make this demonstration, MCAQD agreed to implement an “automated method” of tracking Title V revenues and costs. The commenter respectfully requests that MCAQD confirm it has implemented a system that assures Title V revenues are used solely for Title V program purposes, and to provide information regarding how that system works (for example, how do MCAQD personnel track and charge their time working on Title V issues; how are Title V revenues segregated from non-Title V revenues?, etc.). The commenter also requests a copy of the document MCAQD submitted to EPA containing a “table of Title V revenues and costs, listed by activity code and by general category of revenue/cost, for fiscal year 2006,” any similar table for 2007, and a copy of the Deloitte Consulting LLP Fee Analysis (modified November 1, 2007).

**Response #12:** The MCAQD has implemented an activity-based accounting system which separately tracks Title V revenue and expenditures from other activities using activity codes. All Title V expenditures and revenues are captured within three activity codes: Large Source Permit Engineering Review (LSPR), Large Source Permit Compliance (LSPC), and Large Source Permit Enforcement (LSPE). The response to comment #11 includes a table of all activity codes established for MCAQD.

The activity codes are reflected in the MCAQD’s financial accounting system (Advantage), personnel system (People Soft), and budgeting system (Cognos) for all revenues and expenditures. Employees record their time in PeopleSoft, which tracks personnel costs (salaries and benefits) by activity codes, operating units, and fund codes with task profiles. Each employee is assigned default task profiles with an allocation amount based on their primary work assignment(s). Employees can charge their time to other activities, if they are given work assignments that pertain to a different activity. In general, the MCAQD has compliance inspectors and permit engineers assigned to either Title V or Non-Title V permits. However, during times of high turnover, the MCAQD has assigned inspectors and engineers to work on both Title V and Non-Title V permits. During these times, it has been necessary for employees to specify in PeopleSoft

the amount of time spent working on either Title V (LSPC or LSPR) or Non-Title V (SSPC or SSPR). Ancillary expenditures (e.g., supplies) are charged to the individual operating unit and activity code that will use the purchased items. Authorization of both a division manager and the Department's Financial Administrator are required prior to incurring the expenditure.

The MCAQD provided the fee model (the Deloitte Consulting LLP Fee Analysis) to those who requested it. The fee model was provided to the commenter via email on October 10, 2007, and was provided to stakeholders during the October 9, 2007, workshop. In response to this comment, the Deloitte Consulting LLP Fee Analysis (modified November 1, 2007) and the revenue and cost document MCAQD submitted to EPA (Maricopa County Air Quality Department Accounting System Description in Response to EPA's Notice of Deficiency and title V Permit Program Evaluation Finding 7.4) have been provided to the commenter via email. A similar revenue and cost table was not completed for 2007 because the MCAQD used fiscal year 2008 for the proposed fees; however, the MCAQD provided the 2008 revenue and cost document to the commenter via email.

**Comment #13:** The commenter asks whether MCAQD is in fact recovering from Title V sources only those fees necessary to administer the Title V program, and whether MCAQD is using Title V revenues only for Title V program administration. MCAQD proposes to increase total Title V fees from \$1,320,413 (under the current fee rule) to \$2,021,352 (under the proposed Fee Rule) – an increase of about 53%. Yet MCAQD proposes only one new FTE position for its Title V permit compliance program, and perhaps receives marginal support from other new Administrative personnel. In fact, MCAQD acknowledges that its “Five Percent Plan” (related to dust control) is the primary driver of the fee increases. The Five Percent Plan does not significantly impact most Title V sources, and the commenter therefore sees no Title V-specific reason to increase Title V fees by 53%. MCAQD provides a chart comparing the 2008 CPI-adjusted annual administrative fees to the proposed administrative fees for all source types. According to this chart, annual administrative fees for Title V sources would increase by an average of approximately 40%. By contrast, annual administrative fees for both non-Title V sources and general permittees would generally decrease. This doesn't comport with MCAQD's explanation that dust control is the main reason fee increases are needed, and it is inconsistent with the fact that MCAQD personnel spend a relatively small percentage of their time on Title V program administration. (Table 1 in the NOPR shows that Title V expenditures constitute only about 14 percent of MCAQD's total permit-related expenditures.)

**Response #13:** Yes, all revenues and expenditures related to Title V program are used only for those (direct and indirect) activities that support the Title V program, as required by statute. The MCAQD has added an explanation for the increase in Title V fees to the Notice of Final Rulemaking for Rule 280 (Fees), and provides a more detailed explanation below on the calculation and apportionment of fee increases.

The costs of indirect programs (such as air quality monitoring) are apportioned among all permit programs, including Title V. Indirect costs are comprised of two components: (1) administrative services costs, which are apportioned among all departmental programs based on staffing levels (FTEs), and (2) other departmental programmatic costs, allocated among all fee-based activities. The table below shows how these indirect costs are apportioned among the various departmental programs. Approximately 30% of the \$2,021,352 Title V permit-related expenditures (Title V Permit Review and Title V Permit Compliance) are attributable to allocation of administrative services and programmatic indirect costs (e.g. Planning & Analysis, Air Quality Monitoring, and Small Business Resource Center), as shown in the table below. The administrative services and programmatic indirect programs support all MCAQD programs.

Activity	Direct Costs			FTEs <sup>1</sup>	Allocation of Indirect Costs		
	Present Costs	+ New FTEs and Programs	=Total Direct Costs		Admin. Svc. <sup>2</sup>	+ Indirect Program Costs <sup>3</sup>	= Costs After Allocations
Title V Permit Review	\$704,543	\$0	\$704,543	10	\$144,686		\$849,229
Title V Compliance	615,870	75,048	690,918	10	146,971	334,234	1,172,122
<b>Subtotal Title V:</b>	<b>\$1,320,413</b>	<b>\$75,048</b>	<b>\$1,395,461</b>	<b>19</b>	<b>\$291,657</b>	<b>\$334,234</b>	<b>\$2,021,352</b>
Small Source Permit Review	948,999	0	948,999	15	220,837		1,169,836
Small Source Compliance	1,121,511	895,521	2,017,032	29	440,151	1,551,543	4,008,727
<b>Subtotal Small Source:</b>	<b>\$2,070,510</b>	<b>\$895,521</b>	<b>\$2,966,031</b>	<b>43</b>	<b>\$660,989</b>	<b>\$1,551,543</b>	<b>\$5,178,563</b>
Dust Control Permit Compliance	1,862,578	3,635,589	5,498,167	86	1,312,839	792,490	7,603,497
<b>Subtotal All Permits:</b>	<b>\$5,253,501</b>	<b>\$4,606,158</b>	<b>\$9,859,659</b>	<b>149</b>	<b>\$2,265,485</b>	<b>\$2,678,267</b>	<b>\$14,803,412</b>
Administrative Services	2,900,047	1,056,876	3,956,923	0	(3,685,697)		271,226
Enforcement	417,107	407,478	824,585	12	182,762		1,007,347
Air Quality Monitoring	1,854,898	291,554	2,146,452	19	289,373	(1,009,377)	1,426,448
Planning and Analysis	988,278	0	988,278	14	213,222	(1,201,500)	0
Small Business Resource Center	391,239	0	391,239	5	76,151	(467,390)	0
Trip Reduction Program	1,839,432	0	1,839,432	13	190,377		2,029,809
Vehicle Repair & Retrofit	725,000	0	725,000	3	38,075		763,075
Dust Control Vacant Lot	758,326	1,257,382	2,015,708	28	430,252		2,445,959
<b>Subtotal, Other Costs</b>	<b>\$9,874,327</b>	<b>\$3,013,290</b>	<b>\$12,887,617</b>	<b>93</b>	<b>(\$2,265,485)</b>	<b>(\$2,678,267)</b>	<b>\$7,943,865</b>
<b>Department Totals:</b>	<b>\$15,127,828</b>	<b>\$7,619,449</b>	<b>\$22,747,277</b>	<b>242</b>	<b>-0-</b>	<b>-0-</b>	<b>\$22,747,277</b>

1. Totals shown may not equal the sum of individual values due to independent rounding.

2. Administrative services include financial services, budgeting, human resources, etc.

3. Air quality monitoring, planning & analysis, and small business resource center.

Although Non-Title V sources receive a higher allocation of indirect costs, Title V fees increase more than Non-Title V fees because there are fewer Title V sources among which these costs are apportioned. There are 3,800 Non-Title V and general permitted sources and 800+ asbestos notifications that share in the cost of the small source permit compliance activity. There are also more than 5,000 dust control permits that share the costs of the dust control permit compliance program. In contrast, there are only 44 Title V sources to share the cost of the Title V program. Since 2005, the MCAQD has implemented market studies, the cost of fringe benefits have increased, administrative services staff are proposed to increase, and some Title V sources have changed to Non-Title V sources as a result of the area's redesignation to

attainment for 1-hour ozone and the subsequent change in the major source threshold. All of these changes impact the Title V program costs and fees.

The MCAQD agrees with the commenter that Table 1 in the Notice of Proposed Rulemaking shows that Title V expenditures constitute only about 14 percent of MCAQD's total permit-related expenditures; however, please note that Title V revenue also constitutes only about 14% of total permit-related revenue.

**Comment #14:** MCAQD's proposed emission-based fees are inequitable. The commenter also cannot support the proposed increase in emission-based fees by 170% (from \$13.24 to \$38.25 per ton of actual emissions). This change effectively shifts a substantial portion of the air program costs from non-Title V sources to Title V sources (because only Title V sources pay the emission-based fee), even though MCAQD personnel spend a relatively small amount of time on Title V program administration. In its Notice of Proposed Rulemaking (NOPR) for the Fee Rule, MCAQD stated several times that its budgeted costs are allocated to different fee categories based on "workload." The commenter understands this to mean that the Fee Rule is intended to constitute a "user-based" fee structure, in which fees are assessed to sources based on the amount of time MCAQD personnel spend regulating those sources. The commenter believes that this approach has merit, is equitable, and is consistent with federal and state law. However, MCAQD's proposal to increase emission-based fees by 170% – and effectively shift a substantial portion of fees to Title V sources – is inconsistent with a user-based fee structure.

**Response #14:** If the MCAQD were shifting a substantial portion of the air program costs from Non-Title V sources to Title V sources, this disproportion would be seen in the estimated revenue with proposed fees. However, this is not the case. Tables 1 and Table 2 in the Rule 280 Notice of Proposed Rulemaking demonstrate parity between projected revenues and expenditures under the proposed fee structure for both the Title V and Non-Title V programs. Title V revenue with proposed fees (\$2,035,640) is in line with Title V expenditures (\$2,021,352) and that estimated Small Source Permit revenue with proposed fees (\$5,157,833) is in line with Small Source Permit expenditures (\$5,178,562). The MCAQD proposes to adopt the same emission-based fee that ADEQ has adopted and subtracts the revenue generated from the emission-based fee from the total cost before calculating the annual administrative fee needed to recover the remaining costs. Further, the increased emissions fee (i.e. \$38.25 per ton of pollution emitted), is still **less than** fees charged to similar sources by the U.S. EPA and other states pursuant to 40 CFR 70.9 (i.e. approximately \$41.93 per ton).

The fee model allocates budgeted costs to various fee categories based on average workload hours for the different source types. The revenue generated from emission-based fees is subtracted from the total cost of the Title V permit compliance activity before calculating the annual administrative fee. This is shown in the table below. The total cost of the Title V compliance activity (\$1,172,122) and a small portion of

permit processing costs (\$140,829 not recovered by the billable permit action fees) equal \$1,312,951. The \$1.3 million is allocated to each Title V source category based on the workload hours shown in the "Total Time per Permit Type (hrs/yr)" column. The allocated cost for each Title V source category is shown in the "Total Cost per Inspection Type" column. To calculate the annual administrative fee, the emissions fee revenue is subtracted from the "Total Cost per Permit Type" before dividing the remaining costs by the number of permitted sources in the category and then adding additional costs. The equation below shows the calculation of the annual administrative fee for the aerospace source category:

Fee = (Total Cost per Inspection Type – Emissions Fee) / No. of Aerospace Sources + Addtl Costs  
Calculation

$$= (\$36,878 - \$7,733) / 2 + \$3,748$$

$$= \$18,320$$

**Title V Permit Compliance Activity**

Title V Source Category	2005 Billable Tons <sup>5</sup>	No. of Sources	Total Hours Per Activity	Total Time per Permit Type (hrs/yr)	Total Cost per Inspection Type	Emissions Fee Revenue (\$38.25 /ton)	Addtl Costs <sup>1</sup>	Fee Calc <sup>2</sup>
Aerospace	202	2	113	226	\$36,878	\$7,733	\$3,748	\$18,320
Compressor Station <sup>3</sup>	0	0	71	0	\$0	\$0	\$3,748	\$13,630
Expandable Foam	181	2	89	178	\$29,046	\$6,941	\$3,748	\$14,800
Landfill	69	9	90	810	\$132,175	\$2,641	\$3,748	\$18,140
Petroleum	102	1	159	159	\$25,945	\$3,890	\$3,748	\$25,800
Polymeric Coating <sup>4</sup>	0	0	93	0	\$0	\$0	\$3,748	\$18,140
Reinforced Plastics	244	5	72	360	\$58,744	\$9,347	\$3,748	\$13,630
Utilities - Natural Gas	2,592	10	96	960	\$156,651	\$99,144	\$3,748	\$9,500
Utility Turbine	0	30	101	3,030	\$494,431	\$0	\$0	\$16,480
Wood Furniture	498	9	82	738	\$120,426	\$19,059	\$3,748	\$15,010
Others	253	6	98	588	\$95,949	\$9,665	\$3,748	\$18,130
Complaints		9	2	17	\$2,790			
Enforcement referrals		98	10	980	\$159,915			
<b>TOTAL</b>	<b>4,142</b>			<b>8,046</b>	<b>\$1,312,951</b>	<b>\$158,420</b>		

1. Includes complaint inspections, enforcement referrals, administrative amendments, permit notifications, etc.
2. Fee calculation = (total cost per inspection type - emissions fee revenue) ÷ number of sources) + additional costs. The fee is rounded to the nearest multiple of 0 or 5.
3. For compressor station, assumed same fee as reinforced plastics.
4. For polymeric coating, assumed same fee as landfill.
5. Billable tons are rounded to the nearest whole number.

**Comment #15:** The commenter made the following suggestions on the proposed rule language. Section 301.1 sets forth “Fees for Billable Permit Actions.” This section states that “The owner or operator of a Title V source shall pay \$133.50 adjusted annually ... The fee shall be paid as follows...” The section then sets forth the application fee and other required fees. The commenter believes this section is confusing. It is assumed MCAQD means \$133.50 *per hour* and therefore suggested that MCAQD add this clarification in Section 301.1. It is also unclear whether the \$133.50 per hour fee is *in addition* to the fees set forth in (a) through (e), or whether the hourly fee is somehow calculated based upon (a) through (e) (the language

suggests the latter). If the intent is that permittees pay an hourly permit processing fee *and* the fees specified in (a) through (e), then it is suggested that MCAQD delete the phrase “The fee shall be paid as follows:” and substitute the phrase “In addition, the owner or operator of a Title V source shall pay the following fees:”

In addition, Section 301.1(b) is an incomplete sentence. The suggestion is that MCAQD revise this language as follows: “The Control Officer shall include in the itemized invoice required in (d) the actual cost of public notice ... [etc.]” or something to that effect.

**Response #15:** The MCAQD determined that the "per hour" text is contained in the current version of Rule 280 (July 12, 2006) but was inadvertently removed in final draft of Rule 280 published in the Notice of Proposed Rulemaking on November 30, 2007. The MCAQD has corrected this error. The MCAQD has also added the text "to the Control Officer" to the first sentence in Section 301.1 to clarify who shall be paid.

The MCAQD agrees with the commenter that the language in Section 301.1 is confusing. In response, the MCAQD revised Section 301.1 by deleting Section 301.1(b) and adding similar text to the second sentence in the Section 301.1 introduction. The second sentence now reads: "The owner or operator of a Title V source shall also pay to the Control Officer the actual costs incurred by the Control Officer to meet the public participation requirements of Rule 210 of these rules; including costs incurred by the Control Officer to publish public notice of a public hearing and/or draft permit, to hire a hearing officer, to hire transcription or court reporting services, and to rent meeting room space." The subsequent sections were renumbered accordingly.

The MCAQD also revised the second sentence in re-numbered Section 301.1(c) to clarify that when permit processing is completed for a facility, the Control Officer shall send an itemized invoice and the invoice shall indicate the total cost of reviewing and acting upon the application, the actual costs to meet public participation requirements, **minus** all fees previously submitted, and the balance due. Similar clarifications were made to Section 302.1

**Comment #16:** In the proposed revised abatement fee schedule it says that the “sliding fee schedule is based on the amount of RACM being removed”. What fee schedule applies to other materials being removed, such as Category I and II?

**Response #16:** It is correct that under the proposed Rule 280 revisions, fees will only be charged for removal of RACM. Section 40 CFR 61.145(b)(4)(vi) states, “[i]nclude the following in the notice: ... Estimate of the approximate amount of RACM to be removed from the facility in terms of length of pipe in

linear meters (linear feet), surface area in square meters (square feet) on other facility components, or volume in cubic meters (cubic feet) if off the facility components. Also, estimate the approximate amount of Category I and Category II non-friable ACM in the affected part of the facility that will not be removed before demolition.” MCAQD requests this information on the notification as well as the approximate amount of Category I and Category II non-friable ACM in the affected part of the facility that will be removed before demolition. Fees will not be charged for the removal of Category I and Category II non-friable asbestos-containing materials where RACM is also being removed as long as the Category I and Category II materials remain non-friable. Should Category I and Category II non-friable asbestos-containing materials become friable as a result of forces or actions acting upon them (e.g. using mechanical means of removal), then that material is RACM and fees for its removal would be applicable. Note that the notification requirements of the Asbestos NESHAP regulation (and MCAQD Rule 370, Section 301.8) are not applicable to projects that involve removal of only non-friable Category I and Category II asbestos-containing materials (i.e. do not involve the removal of RACM). Courtesy notifications notifying of Category I and Category II non-friable asbestos-containing materials are acceptable and no fee is or will be charged for a courtesy notification.

**Comment #17:** The vast majority of Maricopa County NESHAP notification fees are currently paid by municipal agencies and utilities. These include Maricopa County, State of Arizona, City of Phoenix, City of Mesa, City of Tempe and other cities within Maricopa County. Increase fees [sic] simply move funding from one arm of Maricopa County to another. Capital and Facilities Management costs for Maricopa County (including courts, jails, parks and support facilities) will increase due to the proposed fee structures. Data regarding the potential economic impacts to Maricopa County projects was not provided in the evaluation conducted by MCAQD.

**Response #17:** The MCAQD has added text to this Notice of Final Rulemaking for Rule 280 (Fees) noting the possible financial impact on municipal agencies and other entities.

**Comment #18:** The asbestos consulting and contracting community estimates that only 20 to 30% of renovation/demolition projects comply with the current NESHAP notification requirements for asbestos abatement of regulated asbestos-containing materials (RACM). The MCAQD NESHAP personnel have indicated that additional personnel are needed to enforce current regulations and complaints. However, there is no assurance that enforcement actions will be targeted towards nonnotifying parties. Historically, it has been easier to inspect and enforce the regulations on the 20 to 30% of businesses that sincerely wish to comply with the regulations and forget about the contractors that continually evade and violate the regulations.

**Response #18:** The MCAQD's response to comment #2 addresses this issue.

**Comment #19:** Fines obtained from enforcement actions are reportedly paid into the Maricopa County general fund. To reduce overall program costs and fees, these funds should be directed toward continued enforcement of the NESHAPs program. This would reduce overall costs to those who comply with the regulations.

**Response #19:** The MCAQD's response to comment #5 addresses this issue.

**Comment #20:** As fees increase from \$425 up to as much as \$7,500 per project, contractors and owners are more likely to ignore the regulations to save money.

**Response #20:** The MCAQD's response to comment #2 addresses this issue.

**Comment #21:** The proposed increase in the emission-based fee from \$13.24 to \$38.25 and the substantial increase in annual administrative fees appear to result in disproportionately higher permit costs for Title V sources than for other source categories. Generally, non-Title V permit fees listed in Rule 280 § 302.2 (Annual Administrative Fees) either increase by a nominal amount or decrease. For example, a Title V boiler source would pay both an annual emission-based fee and an administrative fee that increases from \$10,820 to \$16,680 per year; whereas a non-Title V boiler source listed in rule 280 §403.2, Fee Table B, would pay no emission-based fee and an annual administrative fee that decreases from \$1660 to \$1550 per year.

**Response #21:** MCAQD's responses to comment #13 and #14 address this issue.

**Comment #22:** What is MCAQD's detailed rationale for setting the proposed Title V and Non-Title V permit fees?

**Response #22:** MCAQD's response to comment #14 describes how Title V annual administrative fees were calculated; Non-Title V and general permit annual administrative fees were calculated in a similar manner. MCAQD's fee model allocates budgeted costs to the various fee categories based on average workload hours for the individual source types. The table below shows the fee calculation for Non-Title V and general permits. The total cost of the small source permit compliance activity (\$4,008,727) and a small portion of small source permit processing costs (\$157,836 not recovered by the billable permit action fees) equal \$4,166,563. The \$4.1 million is allocated to each small source fee category based on the workload hours shown in the "Total Time per Permit Type (hrs/yr)" column. The allocated cost for each fee table category is shown in the "Total Cost per Inspection Type" column. To calculate the annual administrative fee, the "Total Cost per Inspection Type" is divided by the number of permitted sources within the fee table

category ("No. of Sources" column) and then adding additional costs. The equation below shows the calculation of the annual administrative fee for the Table A Non-Title V sources:

Fee Calculation = (Total Cost per Inspection Type / Number of Table A) + Additional Costs

$$= (\$560,884 / 113 \text{ Table A sources}) + \$1,020$$

$$= \$5,983$$

**Small Source Permit Compliance Activity (Non-Title V, General Permit, Burn Permit, Tank Truck, etc.)**

Source and Fee Table Category	No. of Sources	Total Hours Per Activity	Total Time per Permit Type (hrs/yr) <sup>1</sup>	Total Cost per Inspection Type	Addtl Costs <sup>2</sup>	Fee Calculation <sup>5</sup>
<b>Non-Title V</b>						
Table A	113	79.32	4,482	\$560,884	\$1,020	\$5,980
Table B	435	14.30	3,110	\$389,257	\$654	\$1,550
Table C&D	825	8.02	3,329	\$416,622	\$101	\$610
Table E	15	5.00	25	\$3,098	\$113	\$320
Table F "full inspection"	55	36.68	2,017	\$252,484	\$999	\$5,590
Table F "partial inspection"	55	4.70	1,034	\$129,408		\$2,350
Total Table F			3,051	\$381,892	\$999	\$7,940
Table G "full inspections"	89	14.30	1,273	\$159,282	\$650	\$2,440
Table G "partial inspections"	89	4.70	1,673	\$209,406		\$2,350
Total Table G			2,946	\$368,689	\$650	\$4,790
<b>General Permits</b>						
Table A	0	0.00	0	\$0	\$23	ADEQ Fee
Table B	0	0.00	0	\$0	\$23	ADEQ Fee
Table C&D	1,926	2.75	3,558	\$445,307	\$87	\$320
Table E	398	3.80	499	\$62,463	\$85	\$240
Table F	0	0.00	0	\$0	\$0	See Note #3
Table G	0	0.00	0	\$0	\$0	See Note #4
<b>Total Non-Title V &amp; General Permits</b>	<b>3,856</b>		<b>21,000</b>	<b>\$2,628,212</b>		
Complaints	377	1.90	716	\$89,647		
<b>Burn Permits, Asbestos and Tank Trucks</b>						
Tumbleweeds	4	2.00	16	\$2,002		Fee Was Not Revised
Fire Hazard	0	2.00	0	\$0		Fee Was Not Revised
Fire Fighting Instruction	5	2.00	20	\$2,503		Fee Was Not Revised
Ditch Bank/Fence Row	50	2.00	200	\$25,031		Fee Was Not Revised
Disease/Pest prevention	0	2.00	0	\$0		Fee Was Not Revised
Land Clearance (< 5 acres)	7	2.50	44	\$5,475		Fee Was Not Revised
Land Clearance (>= 5 acres)	0	2.50	0	\$0		Fee Was Not Revised
Land Clearance (Air Curtain Destructor 30 days)	7	2.50	44	\$5,475		Fee Was Not Revised
Asbestos	898		9,411	\$1,166,000		New Fee Structure Est.
Tank Trucks	801	1.80	1,442	\$180,446		Fee Was Not Revised
<b>TOTAL w/ Training Program</b>	<b>6,005</b>		<b>32,893</b>	<b>\$4,104,792</b>		
Training Programs (Permitted Sources Subject to Rule 316)						
Basic	891	4.00	280	\$26,892		New Fee Structure Est.
Comprehensive	297	8.00	240	\$23,051		New Fee Structure Est.
<b>TOTAL</b>	<b>1,188</b>		<b>520</b>	<b>\$49,943</b>		

1. Total time per permit type (hrs/yr) = inspections per year \* total hours per activity. The following inspections per year are assumed for Non-Title V and general permitted sources: .5 per year for Table A, B, C; 1 per year for Table D sources; .33 per year for Table E sources; 1 full inspection per year + 4 partial inspections per year for Table F; 1 full inspection per year + 4 partial inspections per year for Table G
2. Includes complaint inspections, enforcement referrals, administrative amendments, permit notifications, etc.
3. The general permit Table F fee equals the Non-Title V Permit Table F fee minus permit renewal costs.
4. The general permit Table G equals the Non-Title V Permit Table G fee minus permit renewal costs.
5. Fee calculation = (total cost per inspection type/number of sources) + additional costs. The fee is rounded to the nearest multiple of 0 or 5.

**Comment #23:** In setting new fees, how far back in time did MCAQD look when evaluating program costs for sources and source categories?

**Response #23:** The MCAQD used FY2008 budgeted costs plus estimated costs for new FTEs/programs associated with the Five Percent Plan commitments, stationary source and asbestos NESHAP compliance, administrative services divisions, and information technology costs as inputs into the fee model to calculate fees.

**Comment #24:** How has MCAQD ensured that general permitted sources will pay their fair share for both permit processing and administrative fees?

**Response#24:** Please see the MCAQD's responses to comments #13 and #22 which describe how fees were calculated.

**Comment #25:** The commenter's legal position on the appropriate use of Title V fees is set forth in a comment letter dated October 18, 2007, to Nancy Wrona, Director, Air Quality Division, ADEQ (*the referenced letter is not included in this responsiveness summary*). Title V revenues must be used solely for Title V program costs and not for non-Title V program administration.

In the *Notice of Resolution*, EPA commented, "With the improvements to its accounting system, MCAQD only partially addressed the issue of demonstrating that title V permit fees are used solely for title V program costs." . . . "However, to facilitate tracking of title V revenues and costs, MCAQD plans to implement an automated method of tracking the title V portion of the Air Quality Fee Fund by setting up a reporting category code in the financial system, similar to the way its grant revenue and costs are tracked." *See Notice of Resolution*, page 67064.

Accordingly, the commenter requests that MCAQD explain the current status of its Title V program cost accounting and what measures MCAQD is taking to ensure that Title V revenues are used solely for the Title V program.

**Response #25:** Maricopa County has an activity-based accounting system that tracks revenues and expenditures by organizational units which reflect the MCAQD's management structure. Financial tracking within each organization unit is further delineated by activity codes. All Title V-related permit review and permit compliance expenditures and revenues are captured within two activity codes: large source permit engineering review (LSPR) and large source permit compliance (LSPC). To automate tracking of Title V revenues and expenditures, MCAQD established a reporting category code in the financial system similar to the way grant revenue and expenditures are tracked. This reporting code will, in effect, generate a "fund balance report" on a regular basis to provide a year-to-date total of Title V revenues, a year-to-date total of Title V expenditures, and the net balance. This will allow the MCAQD to track the Title V balance in the Air Quality Fee Fund. MCAQD has also developed a spreadsheet that allocates administrative services activity costs and programmatic indirect costs to direct service activities to determine overall department costs by activity.

**Comment #26:** A fair fee rule must be based on accurate information about how, where, and why agency time and costs are incurred. Since MCAQD is requiring permitted sources to pay fees, and now proposes to increase the fees for many sources, MCAQD has an obligation to the regulated community and the public to be open and accountable for its time and activities that result in its expenses and budget.

The MCAQD proposal does not explain in any detail how the agency does or will track and record its employees' time spent on each permit and on each permit category. This documentation is important not only for accounting how Title V fees are set and used, but also for how each type of fee and fee category is justified, now and in the future, for all Title V and non-Title V sources.

The commenter requests that MCAQD explain in detail the types of employee time record it has been keeping and how those records are used to justify the proposal. The commenter also requests that the County commit, either in the fee rule or in the County's formal response to comments, that it will implement an auditable employee timekeeping and tracking system for the time spent administering the program for each permittee.

**Response #26:** The MCAQD's personnel system (PeopleSoft) is an auditable employee timekeeping system. Please see the MCAQD's response to comments #12 for a description of the MCAQD's personnel system, which tracks personnel costs (salaries and benefits) by activity codes, operating units, and fund codes.

The MCAQD will review the level of detail in the current system and modify as needed to track direct hours spent administering each permit. Further, the MCAQD based the workload analysis on past experience and made assumptions for new and expanded programs whose implementation is still in

development. The MCAQD plans to collect actual data once these programs are implemented and will revisit the workload analysis and corresponding fees as needed.

**Comment #27:** The commenter understands MCAQD believes that air permit fee increases are necessary to meet commitments for the Maricopa Association of Government 2007 Five Percent Plan. It is understood that the proposed hiring includes four additional full time employees (FTEs) for a dust control training program, four additional FTEs for the subcontractor registration program, fifty two additional FTEs for increased proactive inspections at Rule 310 and 316 regulated facilities, and three additional FTEs for a mobile air monitoring program. The commenter has the following questions about the proposal: Given the magnitude of this hiring program, please explain in detail the justification for hiring in each category, particularly for the inspections program.

**Response #27:** A background document explaining the MCAQD's increased workload associated with the 2007 MAG Five Percent Plan and with other MCAQD compliance activities was provided to stakeholders at the September 20, 2007, workshop. In addition, the MCAQD provided printouts of the fee model showing activities by fee structure, total time to meet demand, and fee calculations at the October 9, 2007, workshop. A detailed description of the workload assumptions for the dust control training program, subcontractor registration program, and increased proactive inspections at permitted facilities subject to Rule 310 and Rule 316 is also provided below.

#### **Dust Control Training Program**

The MCAQD estimated the workload associated with a dust control training program as follows:  
For Basic Dust Control Training, the MCAQD assumed a 4-hour training would be required for site superintendents, water truck and water pull drivers. The MCAQD estimated that 10,336 individuals would be required to attend Basic Dust Control training based on the following 2007 permit activity levels:  
3,003 dust control permits > 1 acre (assumed 1 superintendent/permit)  
1,185 dust control permits > 10 acres (assumed 2 drivers/permit)  
4,072 dust control permits ≤ 10 acres (assumed 1 driver/permit)  
297 Rule 316 sources (assumed 1 superintendent and 2 drivers/source)

Assuming 30 individuals per training class, the MCAQD estimated 345 ( $10,336 / 30 = 345$ ) training classes would be needed annually. Assuming 4 hours per training class, the MCAQD estimated 1,380 workload hours ( $345 \text{ classes} \times 4 \text{ hours}$ ) for Basic Dust Control training. The MCAQD also assumed 320 hours (160 hours each) to develop the Rule 310 and Rule 316 basic dust control training class.

For Comprehensive Dust Control Training, the MCAQD assumed an 8-hour training for dust coordinators and fugitive dust technicians. The MCAQD estimated that 1,994 individuals would be required to attend

Comprehensive Dust Control training based on 2007 permit activity: 1,697 dust control permits  $\geq$  5 acres (assumed 1 dust coordinator/permit), and 297 Rule 316 sources with 1 fugitive dust technician per source.

Assuming 30 individuals per training class, the MCAQD estimated 66 training classes (1,994 / 30) would be required. Assuming 8 hours per training class, the MCAQD estimated 528 workload hours (66 classes  $\times$  8 hours) for Comprehensive Training. The MCAQD also assumed 320 hours (160 hours each) to develop the Rule 310 and Rule 316 comprehensive dust control training class.

Lastly, the MCAQD assumed 320 hours to develop two "Train the Trainer" courses, one for Rule 310 and one for Rule 316 and 360 hours to develop a training video for municipal staff.

Based on the assumptions provided above, the MCAQD estimated 3,230 workload hours to develop and conduct the dust control training classes. Using the county's standard estimate of 1,478 productive hours per full-time equivalent (FTE), the MCAQD estimated 2.2 FTEs (3,230 workload hours / 1,478 productive hours per FTE) would be needed to develop and conduct dust control training classes. In addition, the MCAQD assumed 2 administrative support FTEs would be needed to support the 2 trainer FTEs during classes (e.g. issue ID cards, copy materials, and maintain the training database).

#### **Subcontractor Registration Program**

The MCAQD estimated the workload associated with a subcontractor registration program as follows: The MCAQD assumed that each registration would require 30 minutes (0.50 hr) to review, process, data entry, file, etc.. The MCAQD estimated that 10,000 subcontractors would be required to register with the MCAQD. The MCAQD estimated 5,000 workload hours (10,000 subcontractors  $\times$  0.50 hours/registration) to administer the subcontractor registration program. Assuming 1,478 productive hours per FTE, the MCAQD estimated 3.4 FTEs (5,000 workload hours / 1,478 productive hours per FTE) to administer the subcontractor registration program.

#### **Increased proactive inspections at permitted facilities subject to Rule 310**

The MCAQD estimated the workload associated with increased proactive inspections at permitted facilities subject to Rule 310 as follows:

The MCAQD assumed 2.25 hours per inspection and 3 inspections per year for dust control permits  $<$  10 acres in size and 4.25 hours per inspection and 8 inspections per year for dust control permits  $\geq$  10 acres. The MCAQD estimated there are 3,984 dust control permits  $<$  10 acres and 1,207 dust control permits  $\geq$  10 acres. The MCAQD also assumed 1,627 dust permit-related complaint inspections and that these would require 1 initial complaint inspection and 1 follow-up inspection at 1.75 hours per inspection. In addition the MCAQD assumed follow-up inspections for 50% of the permits  $<$  10 acres at 2.75 hours per inspection.

Lastly, the MCAQD assumed 25 high PM<sub>10</sub> risk events per year and 5 2-person inspector teams would conduct 4 hours surveillance during these events. Overall workload associated with increased proactive inspections at permitted facilities subject to Rule 310 resulted in approximately 80,000 workload hours per year. Assuming 1,478 productive hours per FTE, the MCAQD estimated that 34 additional dust control permit compliance inspectors (for a total of 54) would be needed to address increased proactive inspections at permitted facilities subject to Rule 310. Supervisor and support staff were determined using a 6:1 ratio for inspectors to supervisors, and for inspectors to administrative support staff and taking in to consideration the current number of dust compliance supervisors and support staff. The analysis resulted in the need for 4 additional dust compliance supervisors and 9 additional support staff and support supervisors.

### **Increased proactive inspections at permitted facilities subject to Rule 316**

The MCAQD estimated the workload associated with increased proactive inspections at permitted facilities subject to Rule 316 as follows:

The MCAQD conducts 1 "full" and 4 "partial" inspections at permitted facilities subject to Rule 316. The MCAQD assumed 12 hours per "full" inspection and 4.7 hours per "partial" inspection for Table F sources and 7.5 hours per "full" inspection and 4.7 hours per "partial" inspection for Table G sources. The MCAQD assumed 55 Table F sources, 89 Table G sources and 118 portable sources. The MCAQD also assumed 4.9 hours for document review per full inspection for Table F sources and 3 hours per full inspection for Table G sources. Overall workload associated with increased proactive inspections at permitted facilities subject to Rule 316 resulted in approximately 8,500 workload hours per year for inspections and document review. Assuming 1,478 productive hours per FTE, the MCAQD estimated that 5 additional stationary compliance inspectors would be needed to address increased proactive inspections at permitted facilities subject to Rule 316. The MCAQD assumed no additional supervisors or support staff would be needed.

**Comment #28:** How will the staffing levels result in attainment of the 24-hour PM<sub>10</sub> national ambient air standard?

**Response #28:** The MCAQD believes that increased proactive inspections at permitted facilities subject to Rule 310 and Rule 316 will result in increased compliance with fugitive dust regulations which in turn will result in reduced PM<sub>10</sub>. The Maricopa Association of Governments (MAG) quantified the expected emission reductions in the MAG 2007 Five Percent Plan for PM<sub>10</sub> which would result from an increased number of proactive Rule 310 and Rule 316 inspections. MAG estimates that the additional compliance personnel will increase compliance with Rule 310 by four percent in 2008, six percent in 2009, and eight

percent in 2010. MAG also estimates that increased inspection rates would increase compliance with Rule 316 by three percent in 2008, six percent in 2009, and nine percent in 2010.

**Comment #29:** How do these staffing levels compare to those of other regions such as Clark County, Nevada or the San Joaquin Valley Air Pollution Control District in California?

**Response #29:** The MCAQD has not recently researched staffing levels in other regions. The staffing levels necessary to meet the MCAQD commitments for the Maricopa Association of Government 2007 Five Percent Plan and other MCAQD programs were based on the number of permitted sources, inspection frequency, hours per inspection, number of complaints received, follow-up inspections at non-compliant sites, and high PM<sub>10</sub> surveillance events.

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

None

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

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)

**15. Was this rule previously an emergency rule?**

No.

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

**REGULATION II – PERMITS AND FEES**

**RULE 280  
FEES**

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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

**MARICOPA COUNTY  
AIR POLLUTION CONTROL REGULATIONS**

**REGULATION II – PERMITS AND FEES**

**RULE 280  
FEES**

**SECTION 100 – GENERAL**

- 101 PURPOSE:** To establish fees to be charged to owners and operators of sources of air pollution subject to these rules.
- 102 APPLICABILITY:** Every person owning/operating equipment or engaged in activities that may cause or contribute to air pollution is subject to the prescribed fees in this rule.

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

- 201 ANNUAL ADMINISTRATIVE FEE** – Paid annually by a source to recover the average cost of services required to administer the permit and conduct inspections. 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 (~~NOX~~) (NO<sub>x</sub>), lead, sulfur oxides (~~SOX~~) (SO<sub>x</sub>) measured as sulfur dioxides (~~SO<sub>2</sub>~~) (SO<sub>2</sub>), ozone, and particulates).
  - 206.2** Nitrogen oxides (~~NOX~~) (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 ~~\$108.00~~ \$133.50 per hour, adjusted annually under Section 304 of this rule, for all permit processing time required for a billable permit action. The owner or operator of a Title V source shall also pay the Control Officer the actual costs incurred by the Control Officer to meet the public participation requirements of Rule 210 of these rules; including costs incurred by the Control Officer to publish public notice of a public hearing and/or draft permit, to hire a hearing officer, to hire transcription or court reporting services, and to rent meeting room space. The fees shall be paid as follows:
- a. An application shall be submitted with the applicable fee from the table below:

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

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

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

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

<b>Title V Source Category</b>	<b>Annual Administrative Fee</b>
Aerospace	<del>\$13,580</del> <u>\$18,320</u>
Air Curtain Destructors	<u>\$840</u>
Cement Plants	<del>\$44,520</del> <u>\$68,590</u>
Combustion/Boilers	<del>\$10,820</del> <u>\$16,680</u>
Compressor Stations	<del>\$9,420</del> <u>\$13,630</u>
Expandable Foam	<del>\$9,960</del> <u>\$14,800</u>
Landfills	<del>\$11,800</del> <u>\$18,140</u>
Lime Plants	<del>\$41,700</del> <u>\$64,790</u>
Copper & Nickel Mines	<del>\$10,480</del> <u>\$16,150</u>
Gold Mines	<del>\$10,480</del> <u>\$16,150</u>
Paper Mills	<del>\$14,310</del> <u>\$22,060</u>
Petroleum Products Terminal Facilities	<del>\$17,480</del> <u>\$25,800</u>
Polymeric Fabric Coaters	<del>\$11,560</del> <u>\$18,140</u>
Reinforced Plastics	<del>\$9,040</del> <u>\$13,630</u>
Semiconductor Fabrication	<del>\$18,830</del> <u>\$29,010</u>
Copper Smelters	<del>\$44,520</del> <u>\$68,590</u>
Utilities – Primary Fuel Natural Gas	<del>\$8,450</del> <u>\$9,500</u> + <del>\$15,130</del> <u>\$16,480</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>\$22,760</del> <u>\$35,080</u>
Vitamin/Pharmaceutical Manufacturing	<del>\$11,050</del> <u>\$17,020</u>
Wood Furniture	<del>\$9,820</del> <u>\$15,010</u>
Others	<del>\$12,250</del> <u>\$18,130</u>
Others With Continuous Emissions Monitoring	<del>\$14,320</del> <u>\$22,070</u>

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

- b. An emissions-based fee of ~~\$13.24~~ \$38.25 per ton of actual emissions of all regulated pollutants emitted during the previous calendar year as determined by Section 305 of this rule. The fee is adjusted annually under Section 304 of this rule.

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

**302.1 Fees For Billable Permit Actions:** Except for the renewal of an existing permit, the owner or operator of a Non-Title V source shall pay to the Control Officer ~~\$108.00~~ \$133.50 per hour, adjusted annually under Section 304 of this rule, for all permit processing time required for a billable permit action. The owner or operator of a Non-Title V source shall also pay the Control Officer the actual costs incurred by the Control Officer to meet the public participation requirements of Rule 220 of these rules; including costs incurred by the Control officer to publish public notice of a public hearing and/or draft permit, to hire a hearing officer, to hire transcription or court reporting services, and to rent meeting room space. The minimum fee due shall be \$200.00. The fees shall be paid as follows:

- a. An application shall be submitted with an application fee of \$200.00.
- b. At any time after the submittal of an application the Control Officer may request an additional application fee based on the cost to date of reviewing and acting on the application, minus all fees previously submitted for the application.
- c. When permit processing is completed and final costs are greater than the fee submitted with the application under Section 302.1(a) of this rule, the Control Officer shall send an itemized invoice. The invoice shall indicate the total cost of reviewing and acting upon the application, the actual costs incurred by the Control Officer to meet the public participation requirements of Rule 220 of these rules, minus all fees previously submitted, and the balance due.
- d. The maximum fee for processing permit applications listed in Section 302.1 of this rule is \$25,000.00.
- e. The Control Officer shall not issue a permit or permit revision until the balance due on the itemized invoice is paid in full. The Control Officer may deny a permit or a permit revision in accordance with Rule 200 of these rules if the applicant does not pay fees required for billable permit actions within 90 days of the invoice date.

**302.2 Annual Administrative Fees:** The owner or operator of an existing Non-Title V source shall pay the applicable annual administrative fee from the table below, as adjusted annually under Section 304 of this rule. The fee is due on the first anniversary date of the initial permit covering construction and startup of operations and annually thereafter on that date.

<b>Fee Tables</b>	<b>Annual Administrative Fee</b>
Source categories designated as Fee Tables <del>A–G</del> <u>A–I</u> are listed in Sections <del>403.1–403.7</del> <u>403.1–403.9</u> of this rule	
Sources listed in Fee Table A (see Section 403.1)	<del>\$5,880</del> <u>\$5,980</u>
Sources listed in Fee Table B (see Section 403.2)	<del>\$1,660</del> <u>\$1,550</u>
Sources listed in Fee Tables <del>C – D</del> (see Sections <del>403.3 and 403.4</del> <u>403.4</u> )	<del>\$520</del> <u>\$610</u>
Sources listed in Fee Table E (see Section 403.5)	<del>\$370</del> <u>\$320</u>
Sources listed in Fee Table F (see Section 403.6)	<del>\$7,380</del> <u>\$7,940</u>
Sources listed in Fee Table G (see Section 403.7)	<del>\$4,780</del> <u>\$4,790</u>
Sources listed in Fee Table H (see Section 403.8)	<u>\$7,940</u>
Sources listed in Fee Table I (see Section 403.9)	<u>\$4,790</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 <del>A–G</del> <u>A–I</u> are listed in Sections <del>403.1–403.7</del> <u>403.1–403.9</u> of this rule	<b>Application Fee</b>
Title V General Permits	Fee from Section 301.1(a) table for Title V source category
Sources listed in Fee Table A (see Section 403.1)	<del>\$3,580</del> <u>\$4,870</u>
Sources listed in Fee Table B (see Section 403.2)	<del>\$1,190</del> <u>\$3,250</u>
Sources listed in Fee Tables <del>C – D</del> (see Sections <del>403.3 and 403.4</del> )	<del>\$380</del> <u>\$320</u>
Sources listed in Fee Table E (see Section 403.5)	<del>\$290</del> <u>\$240</u>
Sources listed in Fee Table F (see Section 403.6)	<del>\$6,200</del> <u>\$6,970</u>
Sources listed in Fee Table G (see Section 403.7)	<del>\$4,030</del> <u>\$4,170</u>
<u>Sources listed in Fee Table H (see Section 403.8)</u>	<u>\$6,970</u>
<u>Sources listed in Fee Table I (see Section 403.9)</u>	<u>\$4,170</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 <del>A–G</del> <u>A–I</u> are listed in Sections <del>403.1–403.7</del> <u>403.1–403.9</u> of this rule	<b>Application 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>\$3,580</del> <u>\$4,870</u>
Sources listed in Fee Table B (see Section 403.2)	<del>\$1,190</del> <u>\$3,250</u>
Sources listed in Fee Tables <del>C – D</del> (see Sections <del>403.3 and 403.4</del> )	<del>\$380</del> <u>\$320</u>
Sources listed in Fee Table E (see Section 403.5)	<del>\$290</del> <u>\$240</u>
Sources listed in Fee Table F (see Section 403.6)	<del>\$6,200</del> <u>\$6,970</u>
Sources listed in Fee Table G (see Section 403.7)	<del>\$4,030</del> <u>\$4,170</u>
<u>Sources listed in Fee Table H (see Section 403.8)</u>	<u>\$6,970</u>
<u>Sources listed in Fee Table I (see Section 403.9)</u>	<u>\$4,170</u>

**304 ANNUAL ADJUSTMENT OF FEES:**

**304.1** The Control Officer shall adjust the hourly rate every January 1, to the nearest 10 cents per hour, beginning on January 1, ~~2006~~ 2009. The Control Officer will multiply ~~\$108.00~~ \$133.50 by the Consumer Price Index (CPI) for the most recent year as described in Section 304.4 of this rule, and then divide by the CPI for the year ~~2004~~ 2008.

**304.2** The Control Officer shall adjust the administrative or permit processing fees listed in Sections 301–303 of this rule every January 1, to the nearest \$10, beginning on January 1, ~~2006~~ 2009.

The Control Officer will multiply the administrative or permit processing fee by the Consumer Price Index (CPI) for the most recent year as described in Section 304.4 of this rule, and then divide by the CPI for the year ~~2004~~ 2008.

**304.3** The Control Officer shall adjust the rate for emission-based fees every January 1, beginning on January 1, ~~2006~~ 2009. The Control Officer will multiply ~~\$13.24~~ \$38.25 by the Consumer Price Index (CPI) for the most recent year as described in Section 304.4, and then divide by the CPI for the year ~~2004~~ 2008.

**304.4** The Consumer Price Index (CPI) for any year is the average of the monthly CPI for all urban consumers published by the United States Department of Labor, as of the close of the 12-month period ending on August 31 of that year.

### **305 CALCULATION AND PAYMENT OF EMISSIONS-BASED FEES:**

**305.1** For purposes of this section, actual emissions means the actual quantity of regulated air pollutants emitted over the preceding calendar year or any other period determined by the Control Officer to be representative of normal source operations, determined as follows:

- a. Emissions quantities, including fugitive emissions, reported under Rule 100, Section 500 of these rules shall be used for purposes of calculating the emissions-based fee.
- b. Actual emissions quantities calculated under Rule 100, Section 500 of these rules shall be determined using the following methods:
  - (1) Whenever available, emissions estimates shall be calculated from continuous emissions monitors certified under 40 CFR Part 75, Subpart C and referenced appendices, or data quality assured pursuant to Appendix F of 40 CFR, Part 60 which are incorporated by reference in Appendix G of these rules.
  - (2) When sufficient data obtained using the methods described in Section 305.1(b)(1) of this rule is not available, emissions estimates shall be calculated from source performance tests conducted pursuant to Rule 270 of these rules.
  - (3) When sufficient data obtained using the methods described in Sections 305.1(b)(1) or (2) of this rule is not available, emissions estimates shall be calculated from material balance using engineering knowledge of process.
  - (4) When sufficient data obtained using the methods described in Sections 305.1(b)(1) through (3) of this rule is not available, emissions estimates shall be calculated using emissions factors from EPA Publication No. AP-42 "Compilation of Air Pollutant Emission Factors," Volume I: Stationary Point and Area Sources, which is incorporated by reference in Appendix G.
  - (5) When sufficient data obtained using the methods described in Sections 305.1(b)(1) through (4) of this rule is not available, emissions estimates shall be calculated by equivalent methods approved by the Control Officer. The Control Officer shall only approve methods that are demonstrated as accurate and reliable as the applicable methods in Sections 305.1(b)(1) through (4) of this rule.
- c. Actual emissions quantities calculated under Section 305.1(b) of this rule shall be determined for each source on the basis of actual operating hours, production rates, in-place process control equipment, operational process control data, and types of materials processed, stored, or combusted.

**305.2** The following emissions of regulated air pollutants shall be excluded from a source's actual emissions for purposes of this section:

- a. Emissions of a regulated air pollutant from the source in excess of 4,000 tons per year.
- b. Emissions of any regulated air pollutants that are already included in the fee calculation for the source, such as a federally listed hazardous air pollutant that is already accounted for as a VOC or as 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 ~~PERMIT TO BURN FEE~~ OPEN BURN FEE:**

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

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

**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:** A person applying for 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:

**310.1** A person applying for 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:	\$2000.00
0.1 to less than one acre:	<del>\$150.00</del> \$350.00
One acre or greater:	<del>\$36.00</del> \$77.00 per acre plus <del>\$150.00</del> \$350.00

Example: 6 acres = ~~6 x \$36.00 + \$150.00 = \$366~~ 6 x \$77.00 + \$350.00 = \$812.00

**310.2 DUST CONTROL PERMIT FEE REFUNDS:**

- a. Refunds Prior to Project Start Date and Prior to Commencement of Dust Generating Operations:** If a dust control permit is cancelled by the permittee prior to the project start date and before commencing any dust generating operations, the Control Officer shall refund the dust control permit fee, less a \$150.00 nonrefundable processing fee.
- b. Refunds After Project Start Date and Prior to Commencement of Dust Generating Operations:** If a dust control permit is cancelled by the permittee after the project start date and before commencing any dust generating operations, the Control Officer shall refund the dust control permit fee, less a \$350.00 nonrefundable processing and initial inspection fee.
- c.** No dust control permit refund shall be given for a dust control permit cancelled by the permittee after commencing any dust generation operations.

**311 DUST CONTROL TRAINING CLASS FEE:**

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

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

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

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

**313 ASBESTOS NOTIFICATION AND PLAN REVIEW FILING FEES:** Any person required to file notification under the provisions of Rule 370 of these rules shall pay a fee as follows 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 of ~~\$425.00~~ based on the amount of regulated asbestos-containing materials removed as shown in the table below:

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

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

**311.2313.2 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 ~~\$425.00~~, based on the building size (building size floor area multiplied by the number of floors affected) in square feet as shown in the table below:

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

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

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

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

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

**312.314.1 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.

**312.2314.2 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.

- 313315 DELINQUENCY FEE:** An applicant or permittee who fails to pay any required fee(s) by 30 days after invoice due date shall pay a delinquency fee of \$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.
- 314316 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.
- 315317 ACCELERATED PERMIT PROCESSING FEE:** An applicant requesting accelerated permit processing shall pay fees to the Control Officer according to the following provisions:
- 315-1317.1** Such a request shall be accompanied by an initial fee of \$15,000. The fee is nonrefundable to the extent of the Control Officer's costs for accelerating the processing if the Control Officer undertakes to provide accelerated processing as described in Rule 200, Section 313 of these rules.
- 315-2317.2** At any time after an applicant has requested accelerated permit processing, the Control Officer may request an additional advance payment fee based on the most recent estimated cost of accelerating the processing of the application.
- 315-3-317.3** 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.
- 315-4317.1** Any additional costs incurred as a result of accelerated permit processing shall not be applied toward any applicable maximum fee described in this rule.
- 316318 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.
- 317319 INFORMAL REVIEW OF PERMIT PROCESSING HOURS:**
- 317-1319.1** 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.
- 317-2319.2** 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.

## SECTION 400 – ADMINISTRATIVE REQUIREMENTS

- 401 EFFECTIVE DATE OF FEES:** The fees, except for the ~~emissions fee~~ emissions-based fee, in this rule ~~became~~ become effective ~~July 1, 2005~~ April 1, 2008. The revised ~~emissions fee~~ emissions-based fee ~~became~~ becomes effective January 1, ~~2006~~ 2009, beginning with the emissions reported for calendar year ~~2005~~ 2008.
- 402 PAYMENT OF FEES:** All fees required by this rule shall be payable to Maricopa County Air Quality Department.
- 402.1 Annual Administrative Fees:**
- a. Title V and Non-Title V Permits:** The Control Officer shall mail the owner or operator of a Title V or Non-Title V source an invoice for the annual administrative fee due under Sections 301.2 and 302.2 of this rule at least 30 days prior to the anniversary date of the permit.
  - b. General Permits:** The Control Officer shall mail the owner or operator of a source authorized to operate under a General Permit an invoice for the annual administrative fee due under Section 303.2 of this rule at least 30 days prior to the anniversary date of the authorization to operate.
- 402.2 Gasoline Delivery Vessel Decal Fee:** Gasoline delivery vessel decal fee shall be paid at the time the application is submitted showing satisfactory test results and prior to the issuance of the decal required in the provisions of Rule 352 of these rules.
- 402.3 Asbestos Removal Notification And Plan Review Filing Fee:** The asbestos notification and plan review filing fee shall be paid at the time the notification is submitted. The notification is not considered filed until the appropriate filing fee is paid.
- 402.4 Other Fees:** Other fees shall be paid in the manner and at the time required by the Control Officer.
- 403 FEE TABLE A, B, C, D, E, F, AND G, H, AND I SOURCES:** Fee Tables ~~A—G~~ 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, ~~or G, H or I,~~ as applicable. Sources reclassified to a higher fee table due to the receipt of ~~3~~ three complaints on different dates during a one-year period from different individuals resulting in violations resolved by an order of abatement by consent or judicial action shall remain in that fee table until two calendar years pass without complaints against the facility resulting in violations resolved by an order of abatement by consent or judicial action.
- 403.1 Fee Table A Sources:**
- Aircraft Manufacturing
  - Chemical Manufacturing, Dry
  - Chemical Manufacturing, Liquid
  - Circuit Board Manufacturing ≥ Greater Than Or Equal To 5 Tons per Per Year VOC
  - Coating Line, Can/Coil/Fabric/Film/Glass/Paper
  - Ethylene Oxide Sterilization
  - Gypsum, Calcining
  - Incinerator, Medical Waste
  - Incinerator, Hazardous Material
  - Insulation Manufacturing

Jet or ~~Auxiliary~~ 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  $\geq$  Greater Than Or Equal To 25 Tons Per Year Potential  
     Uncontrolled VOC Emissions Or Facility With Controls Subject To Source Testing  
 Power Plant  $\geq$  Greater Than Or Equal To 25 Tons Per Year Potential Uncontrolled NOx  
     Emissions  
 Printing Facilities  $\geq$  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  $\leq$  Less Than 25 Tons Per Year Of Potential Uncontrolled VOC  
     Emissions  
 Solid Waste Landfill  
 Source Subject To BACT Determination  
 Source Subject To A MACT, NESHAP Or NSPS Standard Under CAA Section 111 Or 112  
     Unless Otherwise Identified In Another Fee Table  
 Source With 3 Or More Fee Table B Processes  
 Vegetable Oil Extraction

**403.2 Fee Table B Sources:**

Aerospace Products Manufacturing & 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  $\geq$  Greater Than Or Equal  
     To 10 MMbtu/Hr)  
 Chemical/Fertilizer Storage, Mixing, Packaging And Handling  
 Concrete Product Manufacturing  
 Cement Terminal  
 Cotton Gin  
 Cotton Seed Processing  
 Crematory  
 Cultured Marble  
 Fiberglass Product Manufacturing  
 Flour Milling  
 Foundry  
 Furnace, Metals  
 Furnace, Burn-Off  
 Furnace, Electric Arc  
 Furnace, Other  
 Gas Turbine, Non-Utility (Utility In Fee Table A)  
 Grain Cleaning/Processing  
 Grain Storage  
 Incinerator, Non-Hazardous Material  
 Internal Combustion Engine, Other Than Emergency  
 Metal Recovery/Reclamation  
 Pipeline Transmission Facility  
 Plating Tanks, Electrolytic ~~or~~ Or Electrowinning (Includes Decorative Chrome And Hard  
     Chrome Operations  $\leq$  Less Than Or Equal To 60 Million Amp/Hrs Per Year Subject To  
     Area Source MACT)

Polymeric Foam Products  $\leq$  Less Than 25 Tons Per Year Potential Uncontrolled VOC Emissions  
 Power Plant  $\leq$  Less Than 25 Tons Per Year Potential Uncontrolled NOx Emissions  
 Reinforced Plastics  
 Rubber Products Manufacturing With Only Molding  
 Soil Treatment/Remediation  
 Soil Solvent Extraction System With Package Thermal/Catalytic Oxidizer/Carbon Adsorption  
 Solvent Degreasing/Cleaning System, Solvent Use  $\geq$  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 ~~TPY~~ Tons Per Year VOC  
 Any Fee Table A, F, or G Source Whose Aggregate ~~of~~ Of All Equipment, Processes Or Production Lines Has Enforceable Permit Limits of  $\leq$  Less Than 2.0 Tons Per Year VOC ~~or~~ Or NOx, ~~or~~ And  $\leq$  Less Than 1.0 Ton Per Year PM<sub>10</sub>  
 Any Fee Table C Source That Receives 3 Complaints On Different Dates During A One Year Period From Different Individuals Resulting In Violations Resolved By An Order Of Abatement By Consent Or Judicial Action

**403.3 Fee Table C Sources:**

Abrasive Blasting  
 Asphalt Day Tanker/Kettle  
 Cement Products Packaging/Distribution  
 Circuit Board Assembly  
 Circuit Board Manufacturing  $\leq$  Less Than 5 Tons Per Year Of VOC  
 Dry Cleaning (Includes Perchloroethylene Dry Cleaning Facilities Subject To Area Source MACT)  
 Emergency Internal Combustion Engine  
 Engine Testing  
 Food Processing  
 Incinerator, Paper And Cardboard Products  
 Injection ~~molding~~ Molding  
 Landscape And Decorative Rock, Gravel, And Sand Distribution  
 Laundry, Other Than Dry Cleaning  
 Miscellaneous Acid/Solvent Use  
 Packaging, Mixing & Handling, Granular Or Powdered Material Other Than Cement Or Grain  
 Petroleum Storage, Non-Retail Dispensing Operations Exempted From Stage I Vapor Recovery By Rule 353  
 Plastic Or Metal Extrusion  
 Plating, Electroless  
 Powder Coating  
 Printing Facilities  $\leq$  Less Than 25 Tons Per Year Of Potential Uncontrolled VOC Emissions  
 Semiconductor Lab/Testing/Services  
 Non-Halogenated Solvent Cleaning,  $\leq$  Less Than 3 Gallons Per Day  
 Solvent Storage/Handling  
 Spray Coating  
 Bulk Plant Loading Facilities As Defined By Rule 351, Section 305.1  
 Storage Tank, Non-Petroleum Volatile Organic Compounds  
 Stripping Operation, Liquid Chemical Groundwater/Wastewater Remediation  
 Vehicle Refinishing  
 Waste Transfer Facility

Water Reclamation  
Sewage Lift Pump Station  
Drinking Water Plant  
Wood Furniture/Millwork/Small Source Less Than 10 ~~TPY~~ Tons Per Year VOC  
Yard/Stockpiling

- 403.4 Fee Table D Sources:**  
Service Station And Non-Resale Dispensing Operations > Greater Than 120,000 Gallons Per Year
- 403.5 Fee Table E Sources:**  
Fuel Burning Equipment
- 403.6 Fee Table F Sources:**  
Aggregate Production/Crushing Subject To An NSPS Under CAA Section 111  
Hot Mix Asphalt Plants  
~~Semiconductor Manufacturing  $\geq$  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~~
- 403.7 Fee Table G Sources:**  
Aggregate Production/Crushing Not Subject To NSPS Under CAA Section 111 Concrete Batch Plant  
~~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~~
- 403.8 Fee Table H Sources:**  
Semiconductor Manufacturing Greater Than Or Equal To 25 Tons Per Year Potential Uncontrolled VOC Emissions Or Facility With Controls Subject To Source Testing  
Any Fee Table A Or G Source That Receives 3 Complaints On Different Dates During A One Year Period From Different Individuals Resulting In Violations Resolved By An Order Of Abatement By Consent Or Judicial Action
- 403.9 Fee Table I Sources:**  
Any Fee Table B Source That Receives 3 Complaints On Different Dates During A One Year Period From Different Individuals Resulting In Violations Resolved By An Order Of Abatement By Consent Or Judicial Action

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