

SUBSTANTIVE POLICY STATEMENT

This Substantive Policy statement is advisory only. A substantive policy statement does not include internal procedural documents that only affect the internal procedures of the agency and does not impose additional requirements or penalties on regulated parties or include confidential information or rules made in accordance with the Arizona Administrative Procedure Act. If you believe that this substantive policy statement does impose additional requirements or penalties on regulated parties, you may petition the agency under Arizona Revised Statutes section 41-1033 for a review of the statement.

0160.000 ESTIMATED ASSESSMENTS POLICY

Level One **Arizona Department of Environmental Quality**

Originator: Michael D. Clark, Chief Financial Officer
Office of Fiscal Services

Contact for Information: Michael D. Clark, Chief Financial Officer
Office of Fiscal Services

Issue Date: June 25, 1999

PURPOSE

The Estimated Assessments Policy provides guidelines for the agency to initiate action to bring a person or facility into compliance, when they are required to file a report and pay fees with the Department, but fail to do so.

AUTHORITY

Various statutes found in Title 49.

POLICY

A.R.S. §49-113 provides that certain self reported fees are required to be paid to the Department at specified times upon notification and on forms provided by the Department. In some instances, a fee may not be due for a particular reporting period, however, a report is still required to be filed.

When a person or facility has failed to file a report and/or pay the applicable fees due after the Department has sent out its demand letter, the following guidelines are established:

1. The Department shall proceed to obtain facts and information on which to base the fees.
2. The Department may examine the books, records, and papers of such person(s) to establish the fees due.
3. The Department may use the "Best Information Available" to determine the amount of fees due to the Department. "Best Information Available" is defined in the procedures.

4. Interest charges will be assessed from the original due date, as allowed by statute.
5. Estimated assessment invoices may constitute an appealable agency action pursuant to A.R.S. § 41-1092.

RESPONSIBILITY

It is the responsibility of all section/unit managers who have the responsibility of determining fees to ensure this policy is followed.

PROCEDURES

"Best Information Available" includes, but is not limited to, the following:

- Prior year(s) reports filed with the Department.
- Prior year(s) invoices.
- Review of federal documents required to be submitted to the Department.
- Industry standards or industry averages.
- Any other information available on which to base the applicable statutory fee.

The following guidelines will be in effect for issuing estimated assessments.

1. A person/facility required to file with the Department, which fails to file a timely report and remit the required payment, may have estimated assessments charged if they fail to respond to the collection efforts of the agency. If they do not respond to the demand letter (see policy 16.002 Collection of Penalties, Fees, Fines and Interest), an assessment invoice will be generated and mailed.

If the customer does not respond to the assessment invoice, another demand letter will be sent. A non response to the second demand letter will require the agency to forward the invoice to the Attorney General's office for collection.

2. As a list is established, the Collections unit will process the estimated assessment.

3. Criteria used to determine the fees:

- Prior year(s) reports filed with the Department, or prior year(s) reported invoices.
- If no prior year(s) reporting information is available, the industry average for that type of customer will be used.

Example of industry average: The average annual tons shipped off-site in a calendar year for all small quantity generators per information obtained by the program. This average would be used to assess the person for fees due for all delinquent reporting periods.

- The estimated assessments will be mailed "Certified, Return Receipt Requested" to last known address.

All estimated assessment invoices shall be accompanied by a Notice of Appeal form.

- The person/facility will have 30 days to file the required reports and remit the payment due, with interest and/or penalties.
- Estimated assessment action will not preclude the Department from requesting an audit to review records and documents used to support the filed reports.

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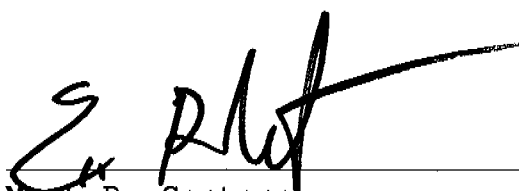
APPROVED BY:

Arizona Department of Environmental Quality:



Jacqueline E. Schafer
Director, ADEQ

9/14/99
Date



Mark R. Santana
Administrative Counsel
Office of the Administrative Counsel

6/25/99
Date

NOTE: The effective date of the policy is the director's signature date.