	Agency-Wide Substantive Policy	ADEQ
		Page 1 of 3
	Interest Charges During Appeals	Policy No. 0200.2022
		Effective: 3/18/2022

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.

1.0 Purpose

Pursuant to A.R.S. § 41-1001(24), “substantive policy statement” means a written expression which informs the general public of an agency’s current approach to, or opinion of, the requirements of the federal or state constitution, federal or state statute, administrative rule or regulation, or final judgment of a court of competent jurisdiction, including, where appropriate, the agency's current practice, procedure or method of action based upon that approach or opinion. The clarification provided in this substantive policy statement has been determined by ADEQ to meet applicable state and federal law and, therefore, ADEQ provides this substantive policy to assist persons in interpreting rules pertinent to ADEQ. Notwithstanding this substantive policy statement, ADEQ may consider alternative approaches to comply with applicable law.

This policy establishes procedures for the Arizona Department of Environmental Quality (ADEQ) to consistently apply interest charges during informal agency reviews or appealable agency actions relating to amounts due. The regulated community occasionally seeks review of ADEQ decisions that particular fees, fines or penalties, are due and owing.

Some of these requests are appeals to the Arizona Office of Administrative Hearings based on ADEQ final decisions which constitute appealable agency actions. Other requests for an informal agency review of a non-final agency decision on whether an amount is due and owing, or the amount has been correctly assessed. This policy sets forth how interest will be assessed on the disputed amount during the appeal or review period.

2.0 Definitions

Administrative Law Judge (ALJ)

An individual or an agency head, board or commission that sits as an administrative law judge, that conducts administrative hearings in an appealable agency action and that makes decisions regarding the appealable agency action. A.R.S. § 41-1092(1).

Appealable Agency Action

A state agency action that determines the legal rights, duties, or privileges of a party
A.R.S. § 41-1092(3)

Director

The director of ADEQ.

Regulated Community

A community defined by their responsibility to comply with laws, regulations or policies.

3.0 Policy Statement

Any amount due to the agency that is contested by the payee will be charged a maximum of 30 days interest while in the review process. This policy will only apply to informal agency reviews. If the request is an appealable agency action, interest will continue to accumulate until the director issues a final decision.

Procedures

1. Request for Informal Review - The review process begins on the date when ADEQ receives a document, with a request for an informal agency review. Interest will be charged for a maximum of thirty (30) days during the review. If the review is not resolved within thirty days, no additional interest will accrue until a decision is made. If the amount due and owing is modified by the review, interest will accumulate on that amount until payment is received. Prior interest accrued will be recalculated on the basis of the modified amount. If there is a decision that an amount is still due and owing, interest will resume once the invoice is re-issued by ADEQ and will continue until payment is received. If the review determines that no money is due and owing to ADEQ, no interest will be assessed.

2. Appealable Agency Action - If the ALJ affirms the amount due and owing to ADEQ, and that amount is adopted as the final decision of the Director, interest will continue on the amount from date of issuance of the original invoice until payment is received. If the amount due and owing is modified by the ALJ order, and that modified amount is adopted as the final decision of the Director, interest will accumulate on that amount until payment is received. Prior interest accrued will be recalculated on the basis of the modified amount. If the ALJ determines that no money is due and owing to ADEQ and the director affirms that decision, no interest will be assessed.

4.0 Authority

A.R.S. § 49-113 authorizes the Director to collect interest on the unpaid amount of every payment.

A.R.S. § 49-185 authorizes a dispute regarding billing by the Department for reimbursement of costs.

Title 41, Chapter 6, Article 10 authorizes and describes the right to appeal and an administrative hearing for all ADEQ agency final decisions.

5.0 Audience

ADEQ employees

Regulated community

6.0 Policy Steward

ADEQ Chief Financial Officer

7.0 Communication & Training

This substantive policy will be noticed in accordance with A.R.S. § 41-1091. ADEQ will make this policy available on its external website.

Managers will be informed about this policy at the All Managers Meeting. Applicable financial staff will be trained initially and thereafter when appropriate. Office of Administrative Counsel staff will be trained on this policy.


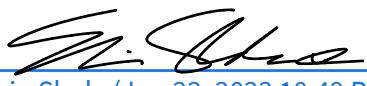
8.0 Annual Policy Review

This policy will be reviewed annually during the Agency Annual Policy Review and will be revised or withdrawn as necessary at that time.

9.0 Additional Documents

Water Quality Division Surface Water AZPDES Permits Fee Dispute Form

10.0 Approval

Title	Name	Signature	Date
ADEQ Director, if necessary	Misael Cabrera		Jun 22, 2022
ADEQ Deputy Director	Michael Keyack	<i>Michael Keyack</i>	Jun 10, 2022
Affected Executive Leadership Team Member	Jared Sprunger	<i>Jared Sprunger</i>	Jun 9, 2022
Administrative Counsel, as to form	Edwin Slade	 Edwin Slade (Jun 22, 2022 10:49 PDT)	Jun 22, 2022

11.0 Historical Note

Date	Number, Name, and Issue Date of Previous Version	Replaces Listed Sections/Entire Document	Reason
3/18/2022	0134.000 Interest Charges During Appeals Policy, April 14th 1999	Entire Document	Out of Date