

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.

0003.001 ADEQ TRIBAL GOVERNMENT POLICY

Level One: **Arizona Department of Environmental Quality**

Originator: **Stephen A. Owens, Director**

Contact For Information: **Brian Davidson, Ombudsman
(602) 771-4881**

Date: **April 28, 2003**

PURPOSE

This policy establishes the basic principles governing the Arizona Department of Environmental Quality's (ADEQ) relations with Tribal governments in the State of Arizona.

INTRODUCTION

ADEQ is charged with preserving, protecting and enhancing the environment and the public health of the citizens/residents of the State of Arizona. However, there are 21 Tribal governments within the State of Arizona that have jurisdiction over approximately 28% of the land base. The State of Arizona and Tribes share the recognition that the environmental integrity of entire ecosystems cannot be regulated in isolation; pollution is not restricted by political boundaries. As a result, ADEQ and Tribal governments both have practical interests in assuring that pollution sources are effectively regulated throughout Arizona.

Environmental problems cross political boundaries, thus encouraging cooperation in environmental protection. Coordination efforts on environmental programs could provide a model and a practical basis for overall State-Tribal cooperation. It is primarily through specific, program-level interactions that mutual trust and understanding are developed.

The federal Environmental Protection Agency (EPA) has assisted in funding the development of State environmental programs but has provided only limited funds to Tribes. As a result, a de facto imbalance exists between the development of State and Tribal environmental management and regulatory capabilities. ADEQ believes that this policy will encourage the development of Tribal management and regulatory capacity.

POLICY

ADEQ recognizes the sovereignty of Tribal governments and their jurisdiction over lands within Indian Country as defined by federal law. (The definition in federal law includes all lands within reservation boundaries [18 U.S.C.A. §1151].) ADEQ will not assert authority over Indian Country.

ADEQ recognizes that the federal government has the primary responsibility for assisting Tribes to regulate and manage the environment within Indian Country.

ADEQ supports the strengthening of Tribal capacity for environmental management and regulation. ADEQ's support to Tribes will be provided in the interest of the State and will not be used as the basis for assertion of State authority within Indian Country.

ADEQ is committed to developing cooperative relationships with Tribes, and will respect the environmental concerns of Tribes. ADEQ requests that Tribes show similar respect for the environmental concerns of the State of Arizona.

Without Tribal consent, ADEQ will not solicit and asserts no claim to EPA resources that would otherwise be provided directly to Tribes.

RESPONSIBILITY

Responsibility for the enforcement of this policy lies with the division directors, section managers, the Office of Special Counsel, and the Office of the Director.

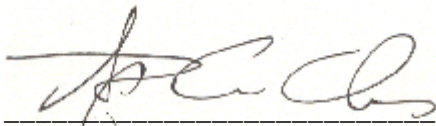
PROCEDURES

1. ADEQ will assist Tribal governments to develop environmental programs by providing technical assistance, sharing data, conducting joint Tribal-State projects, and cooperatively resolving environmental issues to the extent resources allow.
2. ADEQ will not conduct any activities within Indian Country without first receiving an invitation from the appropriate Tribal official.
3. ADEQ will enter into Intergovernmental Agreements (IGA) or Memoranda of Understanding (MOU) when considered mutually appropriate by ADEQ and an interested Tribal Government.
4. ADEQ will work cooperatively with Arizona Tribes to increase EPA funds for environmental activities within the State so that additional funds are available for Tribes.

5. ADEQ will work cooperatively with interested Tribes to develop State and Tribal capacity so that each Tribe, within its jurisdiction, can assume full responsibility for federal environmental programs.
6. ADEQ will conduct training, when appropriate and as resources allow, to encourage and improve Departmental/Tribal understanding and communication.
7. ADEQ will provide early notification to Tribes about decisions that may affect them. ADEQ requests reciprocity by Tribes.
8. ADEQ will not attempt to impose state environmental fees or taxes on Tribes or Tribal entities that operate solely within Tribal reservation boundaries.
9. ADEQ will not attempt to impose State environmental fees or taxes upon non-Tribal activities within Tribal reservation boundaries.
10. ADEQ will open its training programs to Tribal officials and Tribal staff whenever possible.
11. ADEQ will share appropriate technical information and data with Tribes. ADEQ requests that Tribes share appropriate technical data with ADEQ as well.
12. ADEQ staff will relay Tribal issues, including requests from Tribes for technical assistance, to the appropriate division director(s) as quickly as possible.
13. ADEQ staff will obtain approval from their division director before initiating contacts with Tribes. This does not apply to referral of complaints to the Tribes or contact on ongoing issues previously approved by the division directors.

APPROVED BY:

Arizona Department of Environmental Quality:



Stephen A. Owens
Director

Originally Issued: February 4, 1994
Previously Amended: May 9, 1997