

**SAFE DRINKING WATER ACT ASSESSMENTS
BILLING and COLLECTION POLICY**

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SAFE DRINKING WATER ACT ASSESSMENT BILLING AND COLLECTION PROCEDURE

This policy describes the standard procedures for billing and collection of the federal safe drinking water act assessment established by M.G.L. c.21A, §18A and 310 CMR 21.00, using the BARS subsystem of MMARS, the Commonwealth's accounting system, for non-state-owned facilities, and the IE/IV processes of MMARS for state-owned facilities.

A. GENERAL

1. The Assessment Rate shall be set by DEP by October 1 of each year for the bills issued in the following state fiscal year, after consultation with the Safe Drinking Water Act Assessment Advisory Committee (SDWAAAC) as required by statute (M.G.L. c.21A§18A and regulations at 310 CMR 21.00).
2. Public drinking water end suppliers ("end suppliers") report their water withdrawal in February and are notified by November 1 of the rate. The rate applies to the prior calendar year water use reported in February. The bill is sent no earlier than the first day of the July following the November notice. In this program, the statute requires that the bill issue two years after the year of water use which is the basis for the bill. The calendar year or base year is the year of actual water withdrawal by the end supplier. The billing year is identified by state fiscal year (SFY). For example, calendar year 1997 water use is reported in February 1998, has its rate set in October and end suppliers notified of the rate in November 1998 and is billed after July 1, 1999 in SFY2000.
3. Initial annual assessment calculation resulting in amounts under \$5.00 are determined to be below the minimum assessment threshold and no bill issues. Beginning with the SFY2001 billing for 1998 water use, no bill shall be less than the minimum amount set by recommendation of the Safe Drinking Water Act Assessment Advisory Committee and acceptance by the Commissioner each year.
4. An end supplier with master meter(s) is billed on the basis of the amount of water reported as used in its Annual Statistics Report to DEP. If the end supplier does not have master meters it will be billed a "payment in lieu of assessment" on the basis of a calculation applied to the most recent population of record supplied prior to the creation of the billing record in the billing year.
5. The end supplier universe is both numerically large and economically diverse. It includes, for example, seasonal camps, schools, restaurants, large publicly and privately owned water suppliers. By statutory provision, there is an unusually long waiting period between the year of water use and the issuance of a bill. This adds to the number and complexity of changes affecting billing and collection. Procedures in this Policy have been carefully analyzed for both efficiency for the Commonwealth and equity for the end suppliers.

Bill Establishment Procedures

- (a) Metered End Suppliers: An annual SDWA Assessment rate will be set at \$ X.00 per million gallons used for metered end suppliers.

Non-metered End Suppliers: The “payment in lieu of” the SDWA Assessment is based on the most recently reported population statistics in the Water Quality Testing System (WQTS) prior to the creation of the Department’s Billing Report for the base year. An annual flat rate scale is set and applied to the population statistics in categories of: Population 25 – 100

	\$ XX.00
Population 101 – 200	\$ XX.00
Population 201 – 899	\$ XXX.00
Population over 900	(Population) x (XXX.XX million gallons per person per day) x (# of days operated) = Volume in million gallons Volume / 1000 x \$ X.00 (the metered rate) = \$ Payment in Lieu of Assessment Amount

- (b) Through the SFY 2000 billing (base year 1997), metered end suppliers that report water use less than .625 million gallons for the base year, resulting in an assessment amount of less than \$5.00, are below the billing threshold and will not be billed for that base year’s use.
- (c) Bills will be sent to those end suppliers that were registered and used water within or prior to calendar/base year. End suppliers that are active at the time of bill issuance but not during the base year receive no bill.
- (1) In cases where the end supplier is an active, registered PWS, used water but is proven to be dissolved as a company prior to billing, it will not be billed .
 - (2) In cases where end suppliers used water, are inactive suppliers at the time of billing, but continue to operate as a company, a bill will issue.
 - (3) An end supplier may cease supplying water. If the supplier notifies the Department and is delisted by written Department determination before October 1 of the billing year, the Department will not bill the end supplier for its last year of water use. The end supplier will receive the two bills applicable to the two base years before its last year of water use.
- (d) Seasonal end suppliers
- (1) For seasonal end suppliers that have off-season mailing addresses listed in Department records, the SFY2000 Assessment bill will be sent to the off-season address at the regularly scheduled time of billing for the year-round customer population.
 - (2) For seasonal end suppliers whose off-season mailing address is not in Department records, the billing of the SFY2000 Assessment will be held, without penalty, until those end suppliers re-open for business. The bill will then be issued and mailed approximately 6 months after other end supplier bills.
- (e) In cases where a metered end supplier fails to report use statistics, the program will contact the end supplier prior to billing to give opportunity to submit metered statistics. A filing of statistics results in a bill based upon metered use rates. But if the end supplier fails to supply statistics prior to October 1 of the billing year, the invoice will issue reflecting a payment in lieu of Assessment, The invoice amount will be based upon the most recently reported

population statistics and the rate formula for unmetered suppliers. See also Post Bill Adjustments (g)(4) below.

- (f) DEP will make and retain copies of the bills for a period of no less than five years as a provision for legal evidence in cases of non-payment.

Post Bill Adjustments

- (g). Notice of changed suppliers or conditions

- (1) If an end supplier proves to be a dissolved company at the time of billing, the end supplier will not be billed, or if a bill has issued, the bill will be reduced to \$0.00.
- (2) If an end supplier uses water for one (1) day or more in the calendar/base year of use, a bill will issue. Upon notice of a partial year use of water by a non-metered end supplier, the billee may have the bill prorated to include just the month(s) of use. Prorating is calculated in units no smaller than one month.
- (3) When the end supplier ownership changes during a base year and the public water system registration continues with the new owner, then the assessment shall be billed to the most recent owner listed in Department records. Upon notice of the existence of a successor/predecessor end supplier using water during the same base year, DEP will also issue a bill to the second end supplier. When feasible, DEP will bill both parties equitably.
- (4) End suppliers have the option to request an approval for an amendment of their reported population and metered use statistics. The request must be in writing and approval will be considered on a case by case basis. An end supplier may request review of more than one year's statistics.

B. STANDARD LANGUAGE FOR TEXT ON BACK OF ORIGINAL INVOICE

A copy of the most recent back text of bills is attached to this policy. Text on the back of the bill contains a statement of billing rights and a form for supplying the Federal Employer Identification Number (FEIN) or Social Security Number (SSN) of the end supplier.

C. STANDARD DUNNING NOTICES AND AUTOMATIC ASSIGNMENT TO INTERCEPT AND OR DEBT COLLECTION AGENCY

If the assessment is not fully paid and no bill correction request, or dispute resolution request is received before the assessment is due, a sequence of four overdue notices shall be sent to the debtor. All past due notices shall include information for requesting bill correction and the right to request a hearing within 21 days, as well as reference to Intercept.

The fourth notice shall also contain the required language for constituting a Notice of Noncompliance for violation of 310 CMR 21.03(4) and pursuant to 310 CMR 5.00.

The final notice shall indicate the debt is being automatically referred to "intercept" and/or to a collection agency.

A copy of an example invoice and the four notices is attached.

D. **BILL CORRECTION/ DISPUTE RESOLUTION PROCESS**

1. When a bill correction request is received, the BARS field "dispute" in table OREO must be manually flagged by DEP Revenue Unit Staff at the notification of the Drinking Water Program. Automatic mailing of BARS notices will then stop until final written determination is issued along with any necessary correction of the amount due. The Drinking Water Program shall work with the Revenue Unit to revise or correct bills, and adjust the BARS database as appropriate, releasing the "dispute" flag at this time.
2. All requests for bill correction, both timely (received by or before the date due) and late (received after the date due) shall be considered by the Department. All requests will conclude with a written determination, which may be an invoice or an overdue notice. That determination will accompany (or include) one of the following actions:
 - (a) issuance of a new bill (canceling the original bill and sending a new bill, with no interest accrued for timely dispute request); or
 - (b) correction of the original bill or issuance of an adjusted invoice including past due interest, if any (modification of the amount due in the BARS system); or
 - (c) an affirmation of the original bill amount, timely requests resulting in no interest, late requests resulting in interest. Documentation for the decision shall be maintained. Documentation includes evidence to show liability for the debt amount.

E. **PAYMENT PLANS**

Timely requests for a payment plan shall be those which are received in writing by the Department on or before the original due date for the assessment as listed in the invoice. Timely requested payment plans shall result in suspension of the interest accrual and therefore no interest will be due if all payments are made on or before each payment plan date.

Untimely requests for a payment plan are those requests, written or verbal, received at any time after the original invoice date due. A payment plan may be offered but interest shall continue to accrue and shall be payable up to and including the final payment of principal (see also section G., Late Payment Interest waiver, below).

General Payment Plan Terms Upon agreement to a payment plan, BARS payment plan notices shall issue. The program shall generate an initial payment plan letter setting forth the payment plan terms (see attached two form letters). Any discrepancies between the notices or other unique information pertaining to the debtor shall be explained in the program letter.

Payment plans shall generally extend payment for up to one year but may continue for a longer period for good and sufficient reason in the sole discretion of the Department. The requestor may be required to submit financial information prior to the Department's approval of a payment plan.

F. **REQUEST FOR A HEARING**

A request for an adjudicatory hearing shall result in a "dispute" flag being manually placed in Table OREO of

BARS to place it in "HOLD" status. A new BARS invoice will issue after the final hearing decision is issued and all appeal periods have ended.

G. **LATE PAYMENT INTEREST**

Pursuant to 310 CMR 21.00, interest at the rate set by M.G.L. c.29§29 published by EOAF the July prior to issuance of the original invoice shall begin accruing on an unpaid assessment balance upon the first date the payment is overdue as stated in the original BARS invoice statement.

A payment plan may or may not result in interest accrual suspension depending upon the timeliness of the date the request for a plan is received by the Department. See section E for further description.

Interest under \$5.00 shall be waived routinely if the Assessment principal is paid in full, in accordance with the Comptroller's interest tolerance policy.

I. **INTERCEPT, DEBT COLLECTION, LAWSUIT**

1. **Intercept.** After issuance of the BARS demand notice, any debtor with an unpaid balance may be referred to Intercept, providing that a valid FEIN/SSN is on record with the Department. Debtors having no FEIN/SSN on record shall be referred to the Department's debt collector after the date due on the demand notice.

Uncollected invoices shall be left in intercept status for one year following the date referred for intercept. If the entire balance is not collected by intercept after a year, non-municipal bills shall be referred to the Department's debt collector. Uncollected municipal bills shall remain in Intercept until satisfied.

2. **Lawsuit.** Upon recommendation by the DEP debt collector that assets and debt amount warrant a law suit for collection of the unpaid balance, the program and its attorney and Revenue will analyze and formally refer the debt to the debt collector's Special Assistant Attorney General for suit.

J. **PROCEDURE IN THE EVENT OF POSTAL RETURNS**

1. If the envelope is marked with a new address, the original receivable sent to the invalid address shall be reduced to zero, and a new receivable and invoice issued in the original amount to the new address as of the current date. The standard dunning cycle will follow.
2. If the returned envelope bears no forwarding address:
3.
 - a. put the receivable on BARS hold;
 - b. a request shall be made to the appropriate Department regional office to determine the new billing address of the water supply in question;
 - c. see section A on seasonal end supplier billing procedure exception.
4. **No address found** If a search for a new address should prove unproductive, the assessment amount and interest due, if any, shall be referred to the Department's debt collector.
5. **New address found** The original invoice receivable shall be reduced to zero and a new invoice shall be issued and mailed.

K. **BANKRUPTCY**

The Department's Office of General Counsel (OGC) tracks bankruptcy notices received and confers with the Office of Attorney General for the filing of proofs of claim for billed but unpaid fees. The program shall refer notices of bankruptcy filing or state insolvency to this system.

Approved:_____

Effective:_____

Arleen O'Donnell, Assistant Commissioner
Bureau of Resource Protection