

DRAFT

**NO FURTHER ACTION & MONITORED
NATURAL ATTENUATION (NFA & MNA)
RULE**

By
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Purpose of Rule

- To implement new statutes created by SB 1306 (46th Legislature, 2nd regular session, 2004):
 - No further action (NFA) letter, and
 - Monitored natural attenuation (MNA) account.
- To create another process of closing certain groundwater LUST sites in accordance with A.R.S. 49-1005(E).

SAF Milestone Dates

- July 1, 2006: New releases not eligible for SAF.
- July 1, 2009: Pre-approval work plans no longer accepted.
- July 1, 2010: SAF applications no longer accepted.
- July 1, 2011: SAF money put into regulated substance fund.

2006 LUST STATISTICS

- As of 01/01/2007:
 - Cumulative LUST reported: 8284
 - Cumulative LUST closed: 6843 (83%)
 - Cumulative LUST open: 1441 (17%)
- Currently there are ~450 UST facilities with groundwater contamination.

MNA PROGRAM

Summary:

- Only for SAF eligible LUST sites,
- Strictly a voluntary program,
- NFA letters are not LUST case closure letters,
- If LUST site meets program requirements, ADEQ will perform future corrective actions.

GROUNDWATER LUST CASE CLOSURES

Summary:

- Not related to MNA Program or NFA letter,
- Applicable to certain SAF and non-SAF LUST sites,
- Public notice will be required,
- A DUER would not be required,
- ADWR will be notified.

NFA & MNA Rule Contents

CITATION

TITLE

R18-12-101	Definitions (revised)
R18-12-263.04	Groundwater LUST case closures (new)
R18-12-264.01	Public participation (revised)
R18-12-265	MNA program (new)
R18-12-901	MNA account (new)

R18-12-101: Definitions

Adds three new definitions to the existing definitions:

- Monitored natural attenuation,
- Natural attenuation, and
- Source of contamination.

R18-12-263.04: Groundwater LUST case closures

- A:** Specifies 2 ways that ADEQ can approve corrective actions that result in exceedances of the AWQS:
- under the existing rule, and
 - under this new section.
- B:** Lists site specific information that ADEQ will consider in making the decision to close a LUST case.
- C:** Requires ADEQ to provide public notice when considering LUST case closure under this new section.

R18-12-263.04: Groundwater LUST case closures

- D:** Explains conditions for approving LUST case closure under this new section.
- E:** Requires ADEQ to notify the UST owner and operator when approving LUST case closure under this new section.
- F:** Specifies conditions that would warrant ADEQ to re-open the LUST case and require additional corrective actions.

R18-12-264.01: Public Participation

Revises existing rule section to make it applicable for groundwater LUST case closures.

R18-12-265: MNA Program

- A:** Specifies which LUST sites are eligible for this new program.
- B:** Describes the contents of the MNA Program application.
- C:** Explains the conditions for approving the MNA Program application.
- D:** Requires ADEQ to notify the applicant when approving the MNA Program application.

R18-12-265: MNA Program

- E:** Describes the contents of a no further action letter.
- F:** Describes the future corrective actions that will be performed by ADEQ.
- G:** Describes the conditions under which ADEQ may rescind the approval of a MNA Program application and no further action letter.

R18-12-901: MNA Account

- A:** Describes the uses of the MNA account.
- B:** Describes the conditions under which the MNA account monies can be used by ADEQ to perform corrective actions other than MNA.
- C:** Describes how corrective actions funded by the MNA account will be performed by ADEQ.

Future Rulemaking Activities

- Written comments due by 4/30/2007.
- ADEQ considers stakeholder comments.
- Revised rule provided to the UST Policy Commission (USTPC).
- ADEQ considers USTPC comments.
- Final draft rule created.

Future Rulemaking Activities (cont'd)

- Formal rulemaking process begins.
- Formal public comment.
- Final rule sent to Governor's Regulatory Review Council (GRRC).
- Approved rule filed with Secretary of State.
- Rule becomes effective.

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QUESTIONS ?