

ARIZONA DEPARTMENT OF ENVIRONMENTAL QUALITY  
Tank Programs Division  
**Corrective Action Section**

## MNA PROGRAM STATUTES AND RULES

### ARIZONA REVISED STATUTES (A.R.S.)

#### **A.R.S. § 49-1015.01. REGULATED SUBSTANCE FUND; PURPOSE**

- A. A regulated substance fund is established. The director shall administer the fund. Monies in the fund are exempt from the provisions of section 35-190 relating to lapsing of appropriations. On notice from the director, the state treasurer shall invest and divest monies in the fund as provided in section 35-313, and monies earned from investment shall be credited to the fund.
- B. The regulated substance fund consists of monies appropriated by the legislature, underground storage tank tax revenues, assurance account monies encumbered by the director for implementing work plans and corrective action plans in which monitored natural attenuation is all or a portion of the selected remedy, monies reimbursed to the fund and gifts, grants and donations.
- C. Monies in the fund shall be used for releases from underground storage tanks. Monies in the fund are continuously appropriated and shall be used at sites selected based on an analysis of risk to human health and the environment by the director as follows:
  - 1. For the reasonable and necessary costs of administering and taking corrective actions of regulated substances if the department cannot locate an owner or operator of the underground storage tank within ninety days or within such shorter period as necessary to protect human health or the environment.
  - 2. Notwithstanding paragraph 1, for the reasonable and necessary costs of taking corrective actions of regulated substances.
- D. Monies in the fund may also be used for corrective actions related to a work plan or corrective action plan approved by the department before July 1, 2010 in which monitored natural attenuation is all or a portion of the selected remedy, including corrective actions at sites at which monitored natural attenuation is not adequate. Monies for monitored natural attenuation shall be deposited in the monitored natural attenuation account of the fund and shall only be used for those purposes.
- E. Monies in the fund shall not be used to implement the water quality assurance revolving fund program pursuant to chapter 2, article 5 of this title.

### ARIZONA ADMINISTRATIVE CODE (A.A.C.)

#### **A.A.C. R18-12-902. Monitored Natural Attenuation (MNA) Account**

Monies in the monitored natural attenuation account created under A.R.S. § 49-1015.01(D) and deposited in the account on or after July 1, 2011, may be used by the Director to perform corrective actions in accordance with R18-12-903.

#### **A.A.C. R18-12-903. Monitored Natural Attenuation (MNA) Program**

- A. MNA Program eligibility. An UST owner or operator, or a person who undertakes corrective actions pursuant to A.R.S. § 49-1052(I) may request that the Department perform groundwater corrective actions in accordance with A.R.S. § 49-1015.01(D) beginning July 1, 2011, if the following conditions occur:
  - 1. The UST release or releases of a regulated substance were reported to the Department before July 1, 2006; and are eligible for the assurance fund in accordance with A.R.S. § 49-1052;
  - 2. Removal or control of the source of contamination is complete, to the extent practicable;

3. The soil contamination associated with the release is at or below the applicable corrective action standards in accordance with R18-12-263.01;
  4. Natural attenuation is occurring;
  5. A groundwater corrective action plan conforming to R18-12-263.02, has been submitted and approved by the Department before July 1, 2010, in which monitored natural attenuation is all or a portion of the selected remedy; and
  6. A MNA Program application in accordance with subsection (B) has been submitted and approved by the Department before July 1, 2010.
- B. Contents of an MNA Program application. The MNA Program application shall be on or attached to a form provided by the Department and include:
1. Information on the applicant;
  2. Information on each applicable release;
  3. Environmental media currently impacted by each applicable release;
  4. A site vicinity map, site location map and a site plan;
  5. The as built construction diagrams of existing monitoring wells;
  6. A tabulation of soil and groundwater analytical results and water level data;
  7. Documentation that removal or control of the source of contamination has been completed to the extent practicable;
  8. Documentation that natural attenuation is occurring; and
  9. Other information that is pertinent to the MNA Program application approval.
- C. Conditions for approval of a MNA Program application. After receipt of a MNA Program application submitted in accordance with subsections (A) and (B), the Department shall review and approve, deny, or request modifications to the application. The Director may deny a MNA Program application if approval would present an imminent and substantial danger to public health, welfare, or the environment. The Department may request additional information before acting on the application. The Department shall approve the application if the applicant has demonstrated to the Department's satisfaction that the information submitted under subsections (A) and (B) is true, accurate, and complete. Approval of an application under this Section means that a no further action letter as described in subsection (E) will be sent to the applicant and the Department will perform future corrective action in accordance with subsection (F).
- D. Notice of approval of a MNA Program application. The Department shall provide written notice to the applicant that the MNA Program application has been approved by issuing a no further action letter in accordance with subsection (E).
- E. Contents of no further action letter. The no further action letter shall notify the applicant of the following:
1. The Department is not requiring the applicant to perform additional corrective actions for soil or groundwater for the property at which the referenced UST release occurred;
  2. The soil contamination associated with the release is at or below the applicable corrective action standards in R18-12-263.01;
  3. The groundwater contamination associated with the release is greater than the applicable corrective action standards in R18-12-263.01;
  4. The additional corrective actions will be performed by the Department as specified in subsection (F);
  5. The Department shall not approve closure of the LUST case file under R18-12-263.03(E) until the applicable groundwater corrective action standards in R18-12-263.01, or the conditions of R18-12-263.04, are met for the groundwater contamination;
  6. The conditions of subsection (G) that may result in rescinding the MNA Program application and no further action letter; and
  7. The Department is requiring:
    - a. A property access agreement from the UST owner or operator if they own the property, or from the person who undertakes corrective actions pursuant to A.R.S. § 49-1052(I), which allows the Department to access the property to perform the necessary corrective actions specified in subsection (F);
    - b. A transfer of ownership of monitor wells selected by the Department to be used to perform the corrective actions specified in subsection (F), from the UST owner or operator, or a person who undertakes corrective actions pursuant to A.R.S. § 49-1052(I) to the Department;

- c. The proper abandonment of monitor wells not selected by the Department for future monitoring; and
  - d. The decommissioning of any remedial equipment not selected by the Department.
- F. Additional corrective actions. The following corrective actions shall be performed by the Department in accordance with A.R.S. §§ 49-1005, 49-1015.01, and 49-1017:
  - 1. Activities related to monitoring the natural attenuation of the groundwater contamination related to the UST release;
  - 2. Other necessary corrective actions in accordance with A.R.S. § 49-1005 and the rules made thereunder, if information, which was previously not known to the Department, is received by the Department and indicates that soil or groundwater contamination on the property at which the referenced UST release occurred does not meet the applicable corrective action standard under R18-12-263.01; and
  - 3. Other necessary corrective actions in accordance with A.R.S. § 49-1005 and the rules made thereunder, if site conditions change rendering monitored natural attenuation not adequate to meet the applicable corrective action standard under R18-12-263.01.
- G. Rescinding an approved MNA Program application and no further action letter. The Department may rescind the approval of the MNA Program application and no further action letter under subsection (C) and require the UST owner or operator to perform corrective actions pursuant to A.R.S. § 49-1005 and the rules made thereunder, if one of the following occurs:
  - 1. Information submitted pursuant to subsections (A), (B), or (C) was inaccurate, false, or misleading, or
  - 2. Upon written request by the applicant.