

## Information about Oregon DEQ's No Further Action Decisions



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### Background

DEQ's Cleanup and Leaking Underground Storage Tank (LUST) programs manage a wide variety of sites with different levels and types of contamination from hazardous substances, including petroleum. Some sites may have one contaminant in a small area of shallow soil, while others may have high concentrations of many substances in soil, surface water, sediments or groundwater. A common goal of the Cleanup and LUST programs is to lead these sites to *No Further Action* (NFA) determinations.

### What does an NFA mean?

DEQ's Cleanup and LUST programs make a No Further Action decision after determining that a site – or one part of a site – poses *no unacceptable risks* to human health or the environment. This usually follows investigative or cleanup activities under DEQ oversight or review. It means DEQ will not require additional remedial action, based on the agency's knowledge of site conditions when it issues the NFA. Some NFAs rely on [institutional or engineering controls](#) – often less expensive to implement than the removal of contamination – that are designed to prevent exposure to contaminants left in place. DEQ's Cleanup Program labels such sites as *Conditional* NFAs (CNFAs); the LUST Program uses the NFA label even at sites where such controls are in place.

### How do LUST & Cleanup NFAs differ?

All No Further Action determinations are based on meeting established risk standards designed to protect human health and the environment. However, a LUST NFA usually applies only to the contamination relating to the underground storage tank system. The LUST NFA may not apply to other spills or releases not associated with tanks or piping. Conversely, a Cleanup NFA usually does apply to the entire facility and all suspected sources of contamination. Always review DEQ's *NFA letter* to know what environmental conditions it covers.

### What about heating oil tanks?

Heating oil tanks (HOTs) are a special category. Until 1999, DEQ reviewed HOT releases and issued No Further Action letters for those sites. In 1999, the state legislature created a third-party certification program, implemented in 2000. Under this program, DEQ licenses independent contractors to perform tank decommissioning and cleanup, if needed. The contractor certifies whether the project involved a clean decommissioning or completion of a cleanup meeting DEQ's acceptable risk standards. Licensed contractors submit certifications to DEQ, and DEQ randomly audits a portion of these reports.

### What contingencies might an NFA have?

Sites with Conditional No Further Action decisions, and some LUST sites with NFA decisions, have formal controls in place that are recorded on the property deed and must be maintained for the NFA to remain valid.

Other NFA determinations are based on current and reasonably likely land and water uses (as required by Oregon law), or on expectations of certain activities occurring (for example, well removal) or NOT occurring (for example, razing buildings). When such unanticipated uses or events occur, they may create unacceptable risks. In any case, site contingencies, which are typically identified in the NFA letter, may require future actions or ongoing considerations on the part of owners/lessees.

### NFAs are not forever

While it does not happen often, DEQ may rescind an NFA or CNFA if:

- DEQ learns of a new contaminant release or a previously unknown past release;
- Contaminant risk factors change dramatically as scientific knowledge advances; or
- Conditions linked to the NFA are not implemented or maintained as expected.

## How can I learn more about an NFA?

The single most important document to review is the site's NFA letter, which usually outlines the basis for the NFA and any associated conditions or contingencies. This is often accompanied by a *DEQ Staff Report* that provides details on the No Further Action decision process.

To find out more about a site's conditions, please review DEQ's [Cleanup](#) and [LUST](#) program databases, respectively.

## Conclusions

Know your site. A CNFA label indicates that controls are in place, but an NFA (that is, no *Conditional* label) does not necessarily mean the site is available for unrestricted use.

Before leasing, purchasing, or financing a site with a DEQ NFA or CNFA, know the circumstances or conditions that DEQ based its decision on. (See also [Liability Management Tools for Buyers of Contaminated Property in Oregon](#), available on DEQ's Prospective Purchaser Agreement page.) If you're an owner or operator of such a site, be familiar with use restrictions or other conditions that DEQ may have attached to its NFA decision before you make changes to the property.

## For more information

Contact Gil Wistar, Operations Division, Portland, 503-229-5512; toll-free in Oregon at 1-800-452-4011, x5512  
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## Alternative formats

Documents can be provided upon request in an alternate format for individuals with disabilities or in a language other than English for people with limited English skills. To request a document in another format or language, call DEQ in Portland at 503-229-5696, or toll-free in Oregon at 1-800-452-4011, ext. 5696; or email [deqinfo@deq.state.or.us](mailto:deqinfo@deq.state.or.us)