

PATH TO CLOSURE MEETING PROCESS

STATE WATER RESOURCES CONTROL BOARD DIVISION OF WATER QUALITY

Introduction

The Division of Water Quality's (DWQ) Path to Closure (PTC) meetings were developed to provide another opportunity for negotiation for eligible underground storage tank (UST) sites. These meetings are part of DWQ's ongoing stalled case efforts to move UST cases towards closure by defining clear, reasonable PTC plans. PTC meetings can be requested by either the Lead Regulatory Oversight Agency (Lead Agency) or the Responsible Party (RP) for eligible UST cases. These meetings occur by request only and will not be initiated by DWQ. PTC meetings are voluntary and only occur if both the Lead Agency and RP agree to participate.

Background

The UST Cleanup Fund's (Cleanup Fund) Expedited Claims Account Program (ECAP) was created to reduce both the time consumed to close a site and the cost associated with extended site assessment and cleanup. The December 29, 2017 *Expedited Claim Pilot Project Report*¹ concluded that sites which participated in ECAP did achieve both a reduction in time and cost associated with site assessment and remediation. This reduction in time and money was largely due to the Joint Execution Team (JET) meetings required for participation in ECAP. DWQ's PTC meetings are intended to provide an equivalent process for cases that are either not in the Cleanup Fund or do not qualify for ECAP.

Purpose

The purpose of DWQ's PTC meetings is to provide an opportunity for the Lead Agency and RP to negotiate a PTC with the assistance of DWQ staff, who will be a neutral third party and will provide another tool to help move stalled UST cases toward closure. The PTC meetings have been modelled after the Cleanup Fund's JET meetings due to their noted success in moving cases towards closure.

Eligible Sites

DWQ will facilitate a PTC meeting for UST cases that meet one or more of the following conditions:

- UST cases that do not have a clear, defined PTC.
- UST cases where past negotiations with the Lead Agency and RP have failed to result in an agreed upon PTC.
- UST cases where the Lead Agency and RP have a strained relationship due to previously unresolved issues.

¹California State Water Resources Control Board, 2017, *Expedited Claim Pilot Project Report*, Underground Storage Tank Cleanup Fund Program, December 29.
<https://www.waterboards.ca.gov/water_issues/programs/ustcf/docs/ecap/expedited_claim_pilot_project_report.pdf>

PATH TO CLOSURE MEETING PROCESS

STATE WATER RESOURCES CONTROL BOARD DIVISION OF WATER QUALITY

If a site meets one or more of the above criteria, DWQ will arrange a PTC meeting only if both the Lead Agency and RP are willing to participate. Sites which are in the process of receiving enforcement action will not be eligible to participate in the PTC meetings.

These meetings are not to take place of standard DWQ processes, such as Closure Denial Reviews, or petitions, but are intended to be an additional tool to move cases to closure within reasonable timeframes that are agreeable to both the Lead Agency and RP. DWQ staff will screen PTC meeting requests and hold a PTC meeting only if it seems it is an appropriate method to advance Lead Agency and RP agreement on a PTC.

Any UST case that may be eligible for Cleanup Fund reimbursement and would like to participate in DWQ's PTC meetings would need prior authorization from the Cleanup Fund and/or have a Cleanup Fund representative present at the meeting.

Potential Benefits

The following are some of the benefits of conducting the PTC meetings with the Lead Agencies and RPs:

- Reduces the number of petitions received by the State Water Board.
- Provides the Lead Agency and RP a neutral forum where they can openly discuss their concerns.
- Reduces tension between Lead Agencies and RPs for sites where relationships are strained due to past actions.
- Offers an outlet for JET-type meetings for UST cases that are not eligible for ECAP.
- Allows for complex site data to be reviewed by a third party to ensure that no critical information has been missed.
- Helps move "stuck" or "stalled" cases forward towards closure.
- Reduces regulatory time and RP costs by expediting assessment and remedial efforts.

Responses to Potential Concerns

The following bullets address anticipated concerns:

- The PTC meetings are a voluntary process. Participation in a PTC meeting can be requested by either the Lead Agency or the RP; however, neither is required to participate and there are no negative consequences if an agency or individual does not wish to participate in a PTC meeting.
- The State Water Board understands that cases are prioritized by the Lead Agencies based on specific issues that affect their regions. The PTC meetings are not intended to cause the Lead Agencies to re-prioritize their cases, but rather to provide an opportunity to negotiate a clear, reasonable PTC.
- The PTC meetings are not intended to interfere with or alter normal processes for site assessment and remediation, but rather to provide another option to assist in reasonable negotiations of PTCs that are mutually agreeable to both the Lead Agency and RP.

PATH TO CLOSURE MEETING PROCESS

STATE WATER RESOURCES CONTROL BOARD DIVISION OF WATER QUALITY

PTC Meeting Process

A PTC meeting can be requested by either the Lead Agency or RP for eligible UST cases. These meetings will occur by-request only and will not be initiated by DWQ. The PTC meeting process is voluntary and will only occur if both the Lead Agency and RP agree to participate.

PTC meetings may be accomplished via teleconference, webcast, face-to-face, or other means agreed upon by both the Lead Agency and RP. Participants will include, at a minimum, the Lead Agency, RP, and DWQ. Additional participants can include consultants, technical experts, site owners, etc.

DWQ will review the site history and current conditions prior to the PTC meeting. DWQ staff will also contact both the Lead Agency and the RP to determine their primary concerns for the site. During the meeting, DWQ will present the facts of the case, potential data gaps, the Lead Agency and RPs concerns, the Lead Agency's PTC (if available), and the RP's proposed next steps. DWQ will only review data available in GeoTracker; the Lead Agency and RP are responsible for uploading any data not available in GeoTracker which they would like reviewed by DWQ prior to the PTC meeting.

PTC Meeting Goals

The goal of the PTC meeting is to increase collaboration and communication between the Lead Agency and RP and to develop a mutually agreed-upon PTC that is clear and reasonable and protective of human health, safety, and the environment.

PATH TO CLOSURE MEETING PROCESS

STATE WATER RESOURCES CONTROL BOARD DIVISION OF WATER QUALITY

PTC Meeting Roles and Responsibilities

The table below summarized the roles and responsibilities of the staff that contribute to the PTC meeting, including supervisory staff that may only have a background role for a particular UST case. In most cases, a PTC meeting will include DWQ Staff that reviewed the case, DWQ supervisory staff, the Lead Agency assigned to the UST case, the RP, and the RP's consultant. There may be instances when additional parties are appropriate and their attendance will be evaluated on a case-by-case basis.

PTC Meeting Roles and Responsibilities	
DWQ Representatives	
<u>Title:</u>	UST Cleanup Section Manager
<u>Role:</u>	Manages the UST Cleanup unit, leads the development of the PTC meetings, and resolves any process issues, as needed.
<u>Responsibility:</u>	The UST Cleanup Section Manager (UST Manager) oversees the implementation of PTC meetings, evaluates the effectiveness of the PTC meetings, and communicates the status of the PTC meetings to stakeholders. Attends PTC meetings, as necessary.
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<u>Title:</u>	UST Cleanup Unit Supervisor
<u>Role:</u>	Oversees the daily activities of UST Cleanup unit staff, oversees the implementation of the PTC meetings, supervises UST Cleanup staff conducting the PTC meetings, and participates in the PTC meetings.
<u>Responsibilities:</u>	The UST Cleanup Unit Supervisor (UST Supervisor) ensures consistency between the PTC meetings. Discusses the case with the UST Cleanup Staff and reviews meeting presentations. The UST Supervisor communicates with Lead Agency and RP representatives, as necessary to develop a clear, reasonable PTC and attends all PTC meetings. The UST Supervisor assists with tracking the effectiveness of the PTC meetings.
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<u>Title:</u>	UST Cleanup Staff
<u>Role:</u>	Facilitates communication, reviews site data, and plans and attends PTC meetings.
<u>Responsibilities:</u>	The UST Cleanup Staff (UST Staff) is the primary point of communication for the Lead Agency and the RP and consultant. UST Staff reviews available data in GeoTracker and contacts both the Lead Agency and RP to discuss their concerns and their desired next steps for the site. UST Staff arranges a meeting with the Lead Agency and RP to discuss a PTC. UST Staff prepares a presentation for the PTC meeting that documents the facts of the case, the Lead Agency's and RP's concerns, the Lead Agency's PTC (if available), and the RP's next proposed next steps. UST Staff document the meeting discussion and sends out draft notes to be reviewed, edited, and approved by the attendees of the PTC Meeting.

PATH TO CLOSURE MEETING PROCESS

STATE WATER RESOURCES CONTROL BOARD DIVISION OF WATER QUALITY

PTC Meeting Roles and Responsibilities	
Lead Agency Representatives	
<u>Title:</u>	Lead Agency Program Manager
<u>Role:</u>	Approves sites for participation in PTC meetings and oversees management of cases participating in the PTC meetings.
<u>Responsibilities:</u>	The Lead Agency Program Manager works with the UST Manager and UST Supervisor to resolve process issues (as needed), assists with development of the PTC meeting, selects cases to recommend for participation in the PTC meetings, and attends the PTC meetings (as necessary).
Lead Agency Supervisor	
<u>Title:</u>	Lead Agency Supervisor
<u>Role:</u>	Recommends UST cases for participation in PTC meetings, ensures UST cases have reasonable PTCs, and provides an elevated determination of Policy criteria.
<u>Responsibilities:</u>	The Lead Agency Supervisor coordinates with UST Supervisor to effectively evaluate site conditions against the Policy and ensures consistent interpretations of the Policy. The Lead Agency Supervisor reviews the RP's proposed path forward for the site and assists the Lead Agency Caseworker with development in a reasonable and effective PTC Plan. The Lead Agency Supervisor assists the Lead Agency Program Manager in selecting cases to recommend for participation in the PTC meetings, determines what concerns will be discussed in the PTC meeting, coordinates with the UST Supervisor and UST staff to set up a PTC meeting, and attends the PTC meetings.
Lead Agency Caseworker	
<u>Title:</u>	Lead Agency Caseworker
<u>Role:</u>	Develops PTC plans for UST cases, evaluates sites for PTC meeting eligibility, and evaluates conditions for closure under the Policy.
<u>Responsibilities:</u>	The Lead Agency Caseworker evaluates site data for UST cases against the Policy and develops a clear, reasonable PTC that is protective of human health, safety, and the environment. The Lead Agency Caseworker evaluates "stalled" UST cases to determine if a PTC meeting would be appropriate. The Lead Agency Caseworker works with UST Staff to coordinate a PTC meeting with the RP and their consultant (if applicable). The Lead Agency Caseworker communicates with the UST Staff to identify the Lead Agency's concerns and communicate the Lead Agency's PTC. The Lead Agency Caseworker develops a presentation identifying their concerns, if deemed appropriate by the Lead Agency Supervisor. The Lead Agency Caseworker works with UST staff to coordinate and participate in the PTC meetings. The Lead Agency Caseworker reviews notes sent out by the UST Staff and provides comments, as necessary.

PATH TO CLOSURE MEETING PROCESS

**STATE WATER RESOURCES CONTROL BOARD
DIVISION OF WATER QUALITY**

RP and Consultant	
Title:	Responsible Party
Role:	Recommends UST case for participation in PTC meeting.
Responsibilities:	The RP is responsible for taking corrective action in response to an unauthorized release. Corrective action includes, but is not limited to, abatement, site assessment, investigation, remediation, and monitoring. The RP may evaluate their UST case for eligibility to participate in the PTC meeting and contact the UST Supervisor to discuss the case. The RP must have working knowledge of the Policy. The RP hires and approves the consultant to do work on the RP's behalf and pays all costs incurred for the consultant's services. The RP works with UST Staff to coordinate and participate in the PTC meetings. The RP reviews notes sent out by the UST Staff and provides comments, as necessary.
Title:	
Role:	Consultant
Responsibilities:	Evaluates sites for PTC meeting eligibility, evaluates conditions for closure under the Policy, and communicates with the Lead Agency and UST Supervisor regarding site conditions. The consultant provides UST Staff with site-specific information and history as it relates to past and proposed work. The consultant uses professional expertise to determine and justify the most appropriate investigative and remedial options for the site. The consultant conducts corrective action tasks directed by the Lead Agency, and properly documents results of investigation and corrective actions, and uploads documents to GeoTracker. The consultant communicates with UST Staff regarding the RP's concerns and answers questions about site data. The consultant works with UST staff to coordinate and participate in the PTC meetings. The consultant reviews notes sent out by the UST Staff and provides comments, as necessary.

PTC Meeting Requests

If you would like to request a PTC meeting with the State Water Board, contact Matthew Cohen by phone at (916) 341-5751 or by email at Matthew.Cohen@waterboards.ca.gov.