

Expedited Claim Account Program (ECAP)

State Water Resources Control Board

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Terms

- Expedited Cleanup Account (ECA)
- Expedited Claim Pilot Project (ECPP)
- ECPP Report
- Expedited Claim Account Program (ECAP)
- Joint Execution Team (JET)
- Joint Execution Plan (JEP)
- Expedited Claim Pilot Project

Expedited Claim Account Program (ECAP)

- SB 445 (Hill, 2014) transfers July 1, 2015, \$100 million currently in the UST Cleanup Fund to the new Expedited Claim Account (ECA).
- Funds in the ECA are set aside to reimburse reasonable & necessary costs of Fund claims selected to participate in the ECAP.

State Water Board, with stakeholder input, must:

- Investigate potential methods for reducing the overall cost for site cleanup and the time to reach closure
- Increase collaboration among Fund staff, regulatory staff, and claimants and their consultants

State Water Board, with stakeholder input, must:

- Establish multi-year funding plans for claims
- Establish standard project milestones and cost estimates
- Establish reimbursement submission schedules

State Water Board, with stakeholder input, must:

- Develop criteria and select a limited number of claims to participate
- Develop metrics to track the effectiveness of the ECAP by designing the Expedited Claim Pilot Project (ECPP)
- Implement the ECPP within the ECAP
- Prepare and post an ECPP Report

Proposal: JET/JEP

- Form a Joint Execution Team (JET) for each case with a claim in the ECAP
- JET consists of the regulator, the claimant and their consultant, and Fund staff.
- The JET develops, implements, monitors, adjusts as necessary a Joint Execution Plan (JEP) to meet the goals of the ECPP

Proposal: JET/JEP

- The JEP is a multi-year plan that includes the activities needed to move the case to closure, the reason for each activity, schedule, estimated cost for each activity.
- To develop the JEP, the JET starts with impediments to closure from Low-Threat Closure Policy (LTCP) Checklist, Path to Closure Plan (PTCP), GT Conceptual Site Model (CSM) Report

Proposal: JET/JEP

The JEP for a claim is the foundation for:

- Regulatory directives
- Workplans and site work
- Annual site budget
- Costs submitted for reimbursement

Proposal: JET/JEP

- The JEP is dynamic based on real-world needs
- The JET re-evaluates the JEP periodically (at least semi-annually) to ensure timely effective & efficient progress toward case closure
- The ECAP process using JETs & JEPs is expected to reduce the submittal of costs for reimbursement that are found to be ineligible

Proposal: JET/JEP

- Document and manage JEP using MS Excel and MS Project
- Fund staff takes lead on tracking progress
- Most current JEP will be posted on GeoTracker with details visible to the JET

Proposal: Metrics

- Metrics calculated automatically by MS Project include:
 - % over/under budget
 - % ahead/behind schedule
- Additional metrics:
 - Time to move to next work phase or to close case
 - Time for claim closure
 - \$ reimbursed to close case
 - Others as appropriate

ECPP Study Period

- ECPP start date depends on:
 - Formalizing the implementation plan for the ECAP
 - Identifying of participating claimants, staffing
 - Forming and training JETs
- Study period ends July 1, 2017, in order for results to be included in report & posted by deadline of January 1, 2018

Timeline

2015: Develop ECA Program

2015 kickoff - July 2017: Implement ECAP process for ECPP

- Select claims using ECAP criteria
- JETs work develop & implement JEPs
- Track progress of ECAP claims
- Compare with non-ECAP claims for ECPP
- Identify & implement additional ECAP improvements, as needed

Timeline

July 2017: Draft ECPP Report

Sept 2017: Internal review of ECPP Report

Jan 2018: Post ECPP Report

>Jan 2018: Continue ECAP process until \$100M assigned to ECAP claims & longer, if recommended

Selection Criteria

➤ **Three SB 445 criteria:**

#1: Claims in all priority ranks pursuant to Section 25299.52:

- Representative of the proportion of claim priorities in the Fund:

Details

- Universe of claims not eligible for case closure:
 - All claims: ~ 1921
 - Only claims with LOCs ~ 1302
- ECPP claims by proportion of each priority class:
 - Proportion in entire universe of claims:
A: ~ 1% B: ~ 38% C: ~ 23% D: ~ 39%
 - Proportion with LOCs (& no claims on PL):
A: ~ 1% B: ~ 55% C: ~ 33% D: ~ 11%

Selection Criteria

➤ Three SB 445 criteria:

#2: Claims with cases that pose a significant threat to human health, safety, or the environment caused by contamination at the site:

2.1 Cases that have impacted a drinking water well per regulators = ~ 56 cases

2.2 Cases that pose a significant risk of vapor intrusion per regulators = ~ 682 cases

Selection Criteria

➤ Three SB 445 criteria:

#3: Claims with cases showing little cleanup progress:

- Claims with cases showing the same status code in GeoTracker for over five years = ~ 1077 cases (Priority List and LOC Issued. 694 cases LOC Issued.)
- Without substantive regulator action for more than one year = ~ 20%

Details

#3.1: All Claims with same GT status code for “x” years:

0-3 years: ~ 265 3-5 years: ~ 556 >5 years: ~1061

Priority	SI	RS/IRA	CAP/REM	VM
A	6 2 2	1 1 1	0 1 0	1 0 1
B	41 25 138	25 15 15	92 73 204	61 11 17
C	26 12 79	16 12 12	70 24 135	32 5 11
D	51 18 142	14 13 20	52 45 247	68 17 37
Total	124 57 361	56 32 48	214 143 586	162 33 66

Details

#3.2: LOC Claims with same GT status code for “x” years:

0-3 years: ~199 3-5 years: ~404 >5 years: ~690

Priority	SI	RS/IRA	CAP/REM	VM
A	3	1	0	1
	2	1	1	0
	2	1	0	1
B	39	25	92	61
	25	15	72	11
	137	15	203	16
C	25	16	70	32
	12	12	24	5
	73	12	135	11
D	13	2	10	14
	3	4	9	3
	25	2	50	7
Total	80	44	172	108
	42	32	106	19
	237	30	388	35

Selection Criteria

➤ Proposed additional criteria:

#4: Claims that have expended more than the average, and might exceed the cap:

- Cases with claims reimbursed to date over \$750K = ~ 524
- Cases with claims reimbursed to date over \$1M = ~ 311

Selection Criteria

➤ **Proposed additional criteria:**

#5: Cases where the claimant perceives corrective action progress is limited due to inadequate annual site budget amount:

Details

- #5: Claims with BCRs not approved in
FY 13/14 of 404 submitted: ~ 164
- BCR partially approved? ~ 110
 - BCR entirely not approved? ~ 54

Selection Criteria

➤ Proposed additional criteria:

#6: Test concept that case closure criteria can be met within 5 years and < \$500K after the Unauthorized Release is filed:

- Claims with regulatory cases open <3 years
~ 20 cases

Cases Open <5 Years

No. of Years Case Open	Claims with LOC	Claims on Priority List	Total
Total < 5 years	41	9	50
4-5 years	11	0	11
3-4 years	10	2	12
2-3 years	12	1	13
<2 years	8	6	14

Prioritization

- Needed due to limits on staff resources
- Nested priorities
- Separate spreadsheet shows number of claims in each priority group

Priorities

Separate Priority: Cases Open <3yrs and claims with LOC

1st Priority: Cases that may have affected supply wells

2nd Priority: Cases that may have vapor intrusion risk

3rd Priority: Cases reimbursed > \$1M

4th Priority: Cases reimbursed \$750K - \$1M

5th Priority: Cases >5 years in work phase

6th Priority: Cases 3-4 years in work phase

7th Priority: Cases with BCR not entirely approved

Example of Nested Priorities (see separate spreadsheet)

Group 1: Cases that may have affected supply wells ~56 cases

1.1: ~16 cases affected supply wells + may have vapor intrusion impacts

1.1.1: ~6 cases affected supply wells + VI impacts >\$1M reimbursed

1.1.1.1: ~4 cases affected supply wells + VI impacts >\$1M +
>5yrs in work phase

1.1.1.2: ~2 remaining cases affected wells + VI impacts > \$1M

1.1.2: ~1 case affected supply wells + VI impacts + reimbursed
between \$750K-\$1M

1.1.2.1: ~1 case affected supply wells + VI impacts + reimbursed
between \$750K-\$1M + >5yrs in work phase

1.1.2.2: ~0 remaining cases affected wells + VI impacts + \$750M-\$1M

1.1.3: ~9 remaining cases affected wells + VI impacts

1.2: ~40 remaining cases affected wells

Add "BCR not approved" to further prioritize within subgroups...

Additional Criteria

- Claimant must submit all Fund documents electronically using Fund GTO, including:
 - Reimbursement Requests using Online Invoicing
- Claimant must have sufficient resources to participate
 - Ability to teleconference, preferably WebEx[®]
 - Share JEP-related documents and comments

Next Steps

- Solicit claimant participation
- Train JET members
- Form JETs
- Develop JEPs
- Agree to JEPs

Next Steps

- Implement & revisit JEPs periodically
 - at least every 6 months
- Track using metrics
- Evaluate ECAP case progress compared to pre-ECAP progress
- Compare ECAP case progress with non-ECAP cases

FAQs

Question:

- Is ECAP funding in addition to the claim reimbursement cap?

Answer:

- No. ECAP does not increase the claim reimbursement cap.

FAQs

Question:

- How many JEPs per year?
- How does \$100M get distributed over time?

Answer:

- Depends on:
 - Staffing
 - Timing of JET formation
 - How well JETs form, storm, conform, & perform
 - Complexity of case issues
- Depends on how much is committed via JEPs as they are negotiated

FAQs

Question:

- Do JET members have to have MS Excel & MS Project?

Answer:

- It is preferable if the JET members have MS Excel & MS Project. However, the official JEP will be maintained by the Fund. Other JET members can provide input by sending information electronically in other formats, including Excel or PDF of marked up JEP.

FAQs

Question:

- How will JET communication occur?

Answer:

- In person, email, teleconference, WebEx[®], uploads to GT, etc.

FAQs

Question:

- Do we have to submit RRs electronically?

Answer:

- Yes. Electronic submittal is necessary to improve efficiency, to track progress, and evaluate the ECPP using metrics.
- Quarterly or more frequent submittal of RRs will ensure reasonable & necessary determinations are made close to real time so ineligible costs are communicated timely.