

Plan for Implementation of Low-Threat Underground Storage Tank Case Closure Policy and Additional Program Improvements

This Plan summarizes the roles, responsibilities and timeframes for the implementation of the [Water Quality Control Policy for Low-Threat Underground Storage Tank Case Closure](#) (Policy) in the immediate future. It also summarizes other actions to improve administration of the Underground Storage Tank program. This Plan is intended to provide consistent application of the Policy, and consistent implementation of the Underground Storage Tank (UST) program in general, throughout the state. The Policy was adopted by the State Water Resources Control Board (State Water Board) on May 1, 2012, via State Water Board [Resolution No. 2012-0016](#) and became effective August 17, 2012. The Policy is intended to lead to closure of low-threat cases as appropriate, so that available funds and regulatory agencies' resources can be used to clean up the highest-threat cases, particularly those without a viable responsible party. Additional information regarding the Policy is available on the State Water Board's website at: http://www.waterboards.ca.gov/water_issues/programs/ust/lt_cls_plcy.shtml.

The Plan's major elements are:

1. Related to implementing the Policy: the roles and responsibilities of the agencies in implementing the Policy.
2. Related to UST Program Improvement:
 - a. Focus on high-priority cases (such as impacted beneficial uses of drinking water wells, other human health impacts, and sources of free product still remaining in place); and
 - b. Development of Path to Case Closure Plans for each open case, including specific milestones and timelines.

I. State Water Board Staff Actions

State Water Board staff will take a number of actions to oversee the Plan. These include actions to ensure the implementation of the Policy is consistent by all the stakeholders involved. These actions include the following, some of which have already been completed, some of which are currently underway.

A. Notification to Stakeholders

Notification was sent via Lyris lists on August 24, 2012, to UST Program and Underground Storage Tank Cleanup Fund (Fund) stakeholders that the Policy is now in effect. Similar notification was sent to staff of the Regional Water Quality Control Boards (Regional Water Boards), Local Oversight Program (LOP) agencies, and local implementing agencies (collectively, "regulatory agencies") on the same day via email. The notification included links to the Policy, a paper checklist that is available for stakeholder use, as well as links to additional information.

B. Overall Coordination of the Plan

State Water Board staff will coordinate the overall Policy implementation and additional actions described in the Plan. This will include development and tracking of performance measures.

C. Development of Case Review Tools

State Water Board staff, with input from the regulatory agencies, have created case review tools to better help in the review of each case for Policy criteria compliance. These tools include:

1. Paper checklist that allows regulatory agencies, State Water Board staff, and stakeholders to quickly determine compliance with Policy criteria. The paper checklist is available at:
http://www.waterboards.ca.gov/water_issues/programs/ust/docs/checklist.pdf
2. Electronic version of the Policy checklist (Online Checklist) :
The primary case review tool for regulatory agency and State Water Board staff to use is an electronic online version of the Policy checklist in GeoTracker. This Online Checklist was made available to Regional Water Board and LOP staff on September 10, 2012. This Online Checklist:
 - a. Allows regulatory agency and State Water Board staff to quickly determine compliance with Policy requirements;
 - b. Helps regulatory agency staff describe the impediments to closure for cases that don't meet Policy requirements;
 - c. Reports on individual cases as well as summary information that will inform regulatory agencies and the public on the progress of the review of all UST cases; and
 - d. Tracks progress of the review of UST cases.
3. Frequently Asked Questions (FAQs):
State Water Board staff is developing FAQs to help all parties (regulatory agency staff, responsible parties, Fund claimants and consultants) better understand the Policy and the basis for the Policy. These FAQs are intended to normalize the implementation of the Policy and ensure consistent application of the Policy throughout the state. These FAQs will be an "evergreen" document, and will be updated and revised as necessary in the future.
4. Coordinate development and documentation of Regulatory "Path to Case Closure Plans" for all open cases, as described in Section II of this Plan.

5. LUFT Manual revisions:
State Water Board staff has worked with the U.S. EPA and its contractor (Sullivan International Group) to update the LUFT Manual to be consistent with the Policy. The LUFT Manual revisions were completed at the end of September 2012, and it is available at:
http://www.waterboards.ca.gov/water_issues/programs/ust/luft_manual/guidance_manual_sept2012.pdf
6. Training and guidance on the Policy and its implementation as necessary to the regulatory agencies and other stakeholders. Three WebEx meetings have already been conducted for staff of the regulatory agencies to discuss the Policy and its implementation. Additional web-based or onsite training by State Water Board staff will be provided as requested, and as the need arises. Additional training and discussion for staff of the regulatory agencies will be provided through roundtables and as requested.

D. State Water Board Staff Case Review Activities

1. Non-Cleanup Fund Cases:

- a. State Water Board staff will review existing case closure petitions for compliance with Policy requirements in the regular course of petition review. Regulatory agencies are responsible for completing the electronic Policy checklist for these sites. State Water Board encourages the regulatory agencies to resolve as many petitions as possible during the course of these reviews.
- b. After case closure petitions are cleared out, State Water Board staff will review GeoTracker reports to identify those non-Fund cases that the regulatory agencies have determined do not meet closure criteria. State Water Board staff may review those cases for possible closure under Health and Safety Code section 25296.10.
- c. Review the regulatory agency's decision when a regulatory agency has denied a case closure request submitted by a responsible party pursuant to the Low-Threat Closure Policy, and propose case closure as appropriate within six months of the update to GeoTracker indicating closure denial.

2. Cleanup Fund Cases:

There are a number of cases which have previously been reviewed through the Five-Year Review process and recommended for closure consideration.

- a. State Water Board staff will review these cases for compliance with Policy requirements and complete the Online Checklist. It is anticipated that these reviews will be completed no later than August 16, 2013.
- b. These cases do not require review by the regulatory agencies. It is anticipated that this will reduce duplication of efforts between the regulatory agencies and the Fund, and will reduce costs to the UST Cleanup Fund.
- c. The cases with Five-Year Review Case Closure Recommendation are listed on the State Water Board's website:
http://www.waterboards.ca.gov/water_issues/programs/ustcf/docs/ust_closure_list.pdf.

- d. The Fund Manager will recommend case closure to the State Water Board for those that meet the eight General Criteria and three Media-Specific Criteria of the Policy. The Fund Manager will continue to recommend case closure for those cases that meet [Resolution No. 92-49](#) and relevant State Board Orders but fail the specific Policy criteria.
- e. The Fund Manager will continue five-year and budgeting reviews. All future five-year reviews will include review of cases based on the Policy-specified criteria, as well as the case closure criteria of the decisional framework if the cases do not meet the Policy criteria.
- f. The Fund Manager will review GeoTracker reports to identify those Fund cases that the regulatory agency has determined do not meet closure criteria. The Fund Manager may review those cases for possible recommendation for case closure under the Health and Safety Code.

II. Regulatory Agency Implementation Actions

A. Policy Implementation

State Water Board [Resolution No. 2012-0016](#) directs regulatory agencies to take certain actions to implement the Policy. The following should be implemented by the regulatory agencies:

1. Review all active UST cases by August 16, 2013 to determine if any of the cases can be closed under the Policy. EXCEPTION: Those cases where the Cleanup Fund's Five-Year Review has recommended the agency pursue closure do not require review by the regulatory agency. See Section I.D.2 of this Plan.
2. Use the Online Checklist in GeoTracker to meet the requirements of [Resolution No. 2012-0016](#) and document the case reviews to determine whether each UST case meets the criteria in the Policy, or is appropriate for case closure based on a site-specific analysis. If the case does not meet the Policy criteria or is not low-risk based upon a site-specific analysis, then use the Online Checklist to identify the impediments to case closure.
3. For those UST cases that remain open after August 16, 2013, address removal of the impediments to closure identified by the regulatory agencies in the case reviews required to be completed by August 16, 2013:
 - a. Create a Path to Closure Plan in GeoTracker for each case. GeoTracker will be modified to allow the regulatory agency staff to create a brief Path to Closure Plan for each site with impediments to closure;
 - b. Identify regulatory agency actions needed to remove the impediments;
 - c. Identify responsible party actions needed to remove the impediments after consulting with the responsible party;
 - d. Include specific milestones and timelines for removal of impediments including goal date for closure as part of the Path to Case Closure for all open cases;
 - e. Take appropriate actions to ensure milestones and timelines are met including enforcement action; and

- f. Notify the State Water Board staff of cases where the responsible party has requested closure in accordance with Section III. This notification should take place as soon as possible after the request for closure has been received. GeoTracker will be modified to allow this notification to be made electronically. Higher priority for reviews should be given to cases where the responsible party has formally requested closure from the regulatory agency.
- 4. Whether it is the State Water Board or a regulatory agency that closes a case, ensure that monitoring wells are properly destroyed and any remaining conditions, such as waste soil piles or drums, are properly addressed as required by the Policy. The Plan is not suggesting any changes to this existing protocol that has been in use by both the State Water Board and the regulatory agencies for the past several years.

B. Additional Actions

Increase corrective action efforts on higher threat cases such as impacted drinking water wells, other human health impacts, and sources of free product still remaining in place as well as other cases where corrective action is critical for best use of available funds.

III. Responsible Party Implementation Actions

If responsible parties consider their cases to be ready for closure, they should continue their current practices regarding requests for case closure.

- A. Requests for closure should continue to be complete enough for the reviewing agency to determine if the case is ready for closure or not. Claimants should include appropriately completed paper copies of the paper checklist (http://www.waterboards.ca.gov/water_issues/programs/ust/docs/checklist.pdf).
- B. Requests for closure should include a rationale explaining how the case meets the Policy or [Resolution No. 92-49](#). The format and content of the UST Cleanup Fund Review Summary Reports is adequate for the request. This request and information uploaded by responsible parties to GeoTracker will help document that site conditions warrant closure, and will help ensure that requests are appropriately reviewed in a timely manner.
- C. If the regulatory agency determines that the case is not ready for closure, State Water Board staff may review the case, as noted above. This review may take several months following the responsible party's initial request for closure from the regulatory agency.

IV. Tracking (Using GeoTracker)

The State Water Board will monitor progress of the implementation of this Plan. Performance will be measured based on data entered into GeoTracker by the regulatory agencies. Progress on implementation of the Plan will be reported semi-annually to the State and Regional Water Boards. This will include the following elements:

- A. Summary information from the Online Checklist which will be publicly available;
- B. Data reports providing information about the impediments to closure for individual cases as well as groups of cases;
- C. Reports to track progress made in reviewing individual as well as groups of case reviews;
- D. Case closure requests received by the regulatory agencies and the actions taken. GeoTracker will be modified to track this information; and
- E. Performance measures required by Section I.B.