

STATE OF CALIFORNIA
REGIONAL WATER QUALITY CONTROL BOARD
SAN FRANCISCO BAY REGION

STAFF SUMMARY REPORT: Laurent Meillier
MEETING DATE: July 10, 2024

ITEM: 5

Underground Storage Tank Program Update

STATE OF CALIFORNIA
REGIONAL WATER QUALITY CONTROL BOARD
SAN FRANCISCO BAY REGION

STAFF SUMMARY REPORT: Laurent Meillier
MEETING DATE: July 10, 2024

ITEM: 5

Underground Storage Tank Program Update

The Underground Storage Tank (UST) program is one of three cleanup programs at the San Francisco Bay Regional Water Board, the other two being the Site Cleanup and Department of Defense/Department of Energy cleanup programs. It focuses on investigating and cleaning up leaking fuel UST sites throughout the region. In 2012, the State Water Board established the [Low-Threat UST Case Closure Policy](#) to guide program implementation. A gasoline tax funds both UST cleanups and agency regulatory oversight. Qualified enrolled claimants are eligible under the Cleanup Fund if they are current or former owners and/or operators of the UST(s) that caused the unauthorized release(s). The UST Cleanup Fund was extended last year and is scheduled to sunset at the end of 2035. The extension of this funding ensures that qualified UST owners and operators will be able to seek reimbursement for costs for investigating and cleaning up pollution from UST leaks. This financial responsibility mechanism also satisfies both state and federal requirements for corrective action and discharger responsibility.

Together, the State and Regional Water Boards and county health agencies, known as Local Oversight Program agencies, oversee fuel UST cases. We currently oversee 204 cases and the three Local Oversight Program agencies in our region oversee 172 cases. These Local Oversight Programs include Alameda, San Mateo, and Santa Clara Counties. In addition, the Alameda County Water District oversees 42 UST cases under a 2013 memorandum of agreement with us. The number of cases in the UST program is trending downward due to case closures exceeding new case intake. As shown in the table below, we have closed about 20 to 30 cases per year while new leak discoveries and transfers from Local Oversight Programs have decreased. However, we anticipate an increase in new cases due to an expected increase in the discovery of leaking USTs as single-wall USTs and their associated distribution systems will be phased out effective December 2025.

UST Case Distribution

Fiscal Year (FY)	Total Cases Closed at Start Date	New Cases	Cases Closed	Cases Reopened	Cases Opened at End Date
2019-2020	2,085	5	34	1	260
2020-2021	2,119	5	29	2	237

2021-2022	2,143	51	16	0	230
2022-2023	2,159	4	16	0	220
2023-2024*	2,175	0	20	0	204

* Current Year

Performance

There are two performance measures in the UST program, 1) number of cases starting cleanup, 2) number of cases closed. At the start of each fiscal year, we set performance targets for each of these measures. The table below summarizes our targets and actual program performance over the past few years. These targets are also included in our [Strategic Workplan](#) update. In addition, the program uses two key numeric metrics to indicate overall progress toward the elimination of threats to human health and water quality: 1) cases where health exposure to contamination is controlled through abatement actions to limit contact with site contaminants (i.e., mitigation) or remediation (i.e., cleanup); and 2) cases where migration of contamination is controlled through actions to remove or reduce the contaminant source, such as removal of a leaking tank, excavation of the surrounding soil, and extraction of free product.

UST Program – Performance Targets

FY	Cases Starting Remediation		Cases Closed	
	Target	Actual	Target	Actual
2018-2019	4	0	35	43
2019-2020	5	6	31	34
2020-2021	5	11	32	29
2021-2022	6	4	37	16
2022-2023	6	7	35	16
2023-2024*	5	3	20	17

* Current Year

Human Health and Groundwater Migration Controlled

Human Health Exposure Controlled = “No”	Groundwater Contaminant Migration Controlled = “No”
4¹	12

¹ As of June 18, 2024, 204 UST active cases. The goal is to achieve 0 cases where human health and groundwater are not controlled. There is always a time interval between discovering the exposure/migration and controlling it.

Strategic Workplan

The Regional Water Board's [Strategic Workplan](#) establishes organizational and program-specific priorities, targets, and milestones over a two-fiscal-year period to measure our progress in advancing and achieving our Region's priorities. The UST Program priorities for FY 2024/2025 and 2025/2026 are listed below.

- Ensure cleanup cases are prioritized and that regulatory actions are taken to control vapor intrusion, contaminant migration, and other exposures and discharges as quickly as reasonably feasible to protect water quality, human health, and the environment.
- Address potential adverse impacts from sea level rise and groundwater rise.
- Apply an Environmental Justice lens to inform cleanup priorities.

The UST Program priorities are consistent with our Region's commitment to environmental justice and racial equity, which is outlined in more detail in our [Racial Equity and Environmental Justice Work Plan](#) and in the State Water Board's [Racial Equity Action Plan](#). This includes prioritizing regulatory actions on cases located in communities that have suffered and continue to suffer disproportional socioeconomic and pollution burdens and racial inequities.

Our approach to evaluating impacts from sea level rise and groundwater rise is one piece of our Region's climate action strategy. Our case managers consider the need for sea level rise and groundwater rise vulnerability assessments when evaluating remedial alternatives and post-remediation monitoring. For sites that meet the criteria specified in the UST Case Closure Policy (i.e., they are fully investigated, have taken appropriate corrective actions, and adequate monitoring has been performed to demonstrate plume stability or decrease), we evaluate the potential adverse effects of groundwater rise on the remaining low-level residual contamination.

Future Trends and Challenges

Our case closure pace has slowed as the portfolio of cases shrinks. This is mainly because the simpler cases have been cleaned up and closed thus increasing the proportion of more complex and recalcitrant cases. At the same time, over the next few years, we expect to receive about 50 new UST cases from the phase-out of single-walled USTs by December 31, 2025, and new cases referred by property owners and local agencies estimated at about 5 cases a year.

There are several funding programs and initiatives to support UST program implementation and achievement of our performance goals funded by the UST Cleanup Fund. These include:

1) Expedited Claim Account Program

The Expedited claim account program is a program led at the State Water Board level, it reduces the cost for site cleanup and time to reach closure by establishing multi-year budgets and fostering a synergy between Fund staff,

regulatory staff, claimants and their consultants. Our region has seven cases enrolled in this program and six cases closed to date.

2) Orphan site Cleanup Fund

The Orphan Site Cleanup Fund is a grant program administered by the State Water Resources Control Board, Division of Financial Assistance. \$1.5 million is available per enrolled case before 2015 and \$1M for cases moving forward. Two types of grants are available: assessment and cleanup. A total of \$8.5 million is currently available for grant funding. The funding program sunsets on January 1, 2026. Our Region has two cases enrolled in this program.

3) Emergency, Abandoned, Recalcitrant Account

The Emergency, Abandoned, Recalcitrant Account receives an annual \$5 million appropriation to provide funding to Regional Water Quality Control Boards. \$1.5 million available for cases enrolled before 2015 and \$1M for cases moving forward. \$200,000 is available if prompt action is required to protect human health, safety and the environment if the responsible party is either unable or unwilling to comply with a written corrective action order. We can recoup these cleanup costs by attaching a lien to the property or referring the case to the Attorney General's Office to file a civil action. Our region has one case eligible for enrollment.

4) Stalled Cases Initiative

The San Francisco Bay region in cooperation with the State Water Board, USEPA and Redhorse (environmental consulting firm contracted by USEPA which partly funds this initiative in addition to the Cleanup Fund) are aggressively managing a subset of 16 stalled cases to drive characterization, cleanup, monitoring and ultimately closure. Stalled cases are in this status due to a variety of reasons such as discharger recalcitrance, offsite property access, funding, and comingled nature of the contamination. This program is resulting in the closure of an additional 2 to 3 cases yearly.