

State Water Board May Soon Adopt the Low-Threat UST Case Closure Policy

February 8, 2012 By [Sedina L. Banks](#)



Last week, the [California State Water Resources Control Board \(SWRCB\)](#) gave notice of public opportunity to comment on its proposed April adoption of the Water Quality Control Policy for [Low-Threat Underground Storage Tank Case Closure \(Low-Threat Closure Policy\)](#). This should come as welcome news for the thousands of underground storage tank (UST) sites in California

because the Low-Threat Closure Policy will hopefully make it easier to obtain closure.



The Low-Threat Closure Policy recognizes that many petroleum release cases pose a low-threat to human health and the environment. The policy's purpose is to establish consistent California statewide case closure criteria for low-threat petroleum UST sites. To potentially qualify for closure, the site must satisfy eight general criteria (applicable to all sites), as well as media-specific criteria as it pertains to groundwater, vapor intrusion to indoor air and direct contact, and outdoor air exposure. Below is a brief description of each of these criteria.

The general criteria are as follows:

- **Site must be in a service area of a public water system:** The policy recognizes that while new water supply wells are unlikely to be installed in the shallow groundwater near former UST release sites, it is difficult to predict whether this will always be the case, particularly in rural areas that are undergoing new development. Therefore, the policy is limited to areas with available public drinking water supplies.
- **Release must consist of "petroleum:"** This is defined as crude oil, or any fraction thereof, including motor fuels, jet fuels, distillate fuel oils, residual fuel oils, lubricants, petroleum solvents and used oils.
- **Release must be stopped:** Sites with ongoing leaks do not qualify.
- **Free product must be removed to the maximum extent practicable:** The free product must be removed in a manner that minimizes the spread into previously uncontaminated zones; abatement of free product migration must be used as a minimum objective for the design of any free product removal system; and flammable products must be stored for disposal in a safe and competent manner to prevent fires or explosions.
- **A conceptual site model must be prepared and validated:** This is not a new requirement and should be developed as part of the remediation process.
- **Secondary source removal must be addressed:** Sites are required to undergo secondary source (i.e., petroleum-impacted soil or groundwater located at or immediately beneath the point of release from the primary source) removal, which removes or destroys in place the most readily recoverable fraction of source-area mass.

- MTBE testing requirement: Soil, groundwater, or both, must be tested for MTBE if applicable.
- No nuisance can exist: Sites cannot be closed if they result in a nuisance as defined by Water Code section 13050.

In addition to these general criteria, the Low-Threat Closure Policy discusses the media-specific criteria (groundwater, vapor intrusion to indoor air and direct contact, and outdoor air exposure) that must be met to obtain closure:

- **Groundwater:** With respect to groundwater, the policy describes the criteria on which to base a determination that risks to existing and anticipated future beneficial uses of groundwater have been mitigated or are de minimus. The area of the plume that exceeds the water quality objective must be stable or decreasing.
- **Petroleum Vapor Intrusion to Indoor Air:** This criteria applies when existing buildings are occupied or may be reasonably expected to be occupied in the future, or when buildings for human occupancy are reasonably expected to be constructed in the near future. If the site is an active commercial petroleum fueling facility, the criteria does not apply.
- **Direct Contact and Outdoor Air Exposure:** This criteria describes conditions where there is direct contact with contaminated soil or inhalation of contaminants volatilized to outdoor air poses an insignificant threat to human health.

If the regulatory agency determines that a site meets both the general criteria and the media-specific criteria, they are supposed to notify the responsible parties that they are eligible for case closure. The regulatory agency must then give notice of case closure, make sure that all monitoring wells are destroyed and all waste has been removed. The regulatory agency can then issue a closure letter within 30 days unless it revises its determination based on comments received on the proposed closure.

Even sites that do not meet all of the criteria, may still be able to obtain closure. The policy instructs that regulatory agencies should issue a closure letter if the site is determined to be a low-threat based upon a site specific analysis. Also, while the policy addresses USTs, the policy states that if a non-UST site (e.g., an aboveground tank or pipelines) exhibits attributes similar to those addressed in the policy, the criteria for closure evaluation of these sites should be similar to those discussed in the policy.

Adoption of the Low-Threat Closure Policy should make it easier for many sites to obtain closure. As with any agency action, it is important to be aware of your rights. If you think that you have a site that may qualify, it is worth checking with your environmental consultant or environmental counsel. We will keep you posted as to whether the SWRCB adopts the policy.