

**Proposed Amendments  
to the  
California Code of Regulations  
Title 23. Waters  
Division 3. State Water Resources Control Board  
and Regional Water Quality Control Boards  
Chapter 16. Underground Tank Regulations**

**FINAL  
STATEMENT OF REASONS**

**June 2018  
State of California  
State Water Resources Control Board  
Division of Water Quality**

## **Chapter 16. Underground Storage Tank Regulations**

### **UPDATE OF INITIAL STATEMENT OF REASONS**

The information contained herein is updated as follows.

The Notice of Proposed Rulemaking for these regulations was published in the California Notice Register on November 17, 2017. In response to comments received during the initial 45-day comment period of November 17, 2017 to January 2, 2018 the State Water Resources Control Board (State Water Board) modified the proposed regulations. The modified text was made available for comment during the 15-day comment period from March 26 to April 11, 2018.

The specific purpose and necessity of the modifications to the text are provided herein. The State Water Board also proposed certain modifications to the proposed regulations that do not materially alter any requirement, right, responsibility, condition, prescription, or other regulatory element of any California Code of Regulations provision (i.e., changes without regulatory effect). These modifications without regulatory effect include changes made for purposes of revising syntax, spelling, grammar, or renumbering.

After reviewing the comments on the modified text, the State Water Board made modifications to the modified text that are non-substantial or solely grammatical in nature. The specific purpose and necessity of the modifications to the modified text are provided herein. The State Water Board also is correcting the specific purpose and necessity of the amendments to Appendix XIII previously provided in the Initial Statement of Reasons.

In the Initial Statement of Reasons the State Water Board stated that it relied on the Economic and Fiscal Impact Statement (Form 399) and an Economic Impact Analysis/Assessment prepared pursuant to Government Code section 11346.3. The Economic and Fiscal Impact Statement (Form 399) was provided to the public for review and inspection during the 45 day comment period and is part of the rulemaking record. The Economic Impact Analysis/Assessment prepared pursuant to Government Code section 11346.3 was included as part of the Initial Statement of Reasons.

The State Water Board also states in the Initial Statement of Reasons that State Water Board staff submitted a draft of the proposed regulations to the United State Environmental Protection Agency (U.S. EPA) Region 9 and requested a review from the U.S. EPA and U.S. EPA Region 9 to evaluate if the proposed language is at least as stringent as, or provides equivalency to, part 280 of 40 Code of Federal Regulations (Federal UST Regulations). The State Water Board made appropriate changes to these proposed regulations in response to the U.S. EPA's informal review's suggestions and comments before publicly noticing the proposed regulations.

### **ARTICLE 3. NEW UNDERGROUND STORAGE TANK DESIGN, CONSTRUCTION, AND MONITORING REQUIREMENTS**

#### **SECTION 2635. INSTALLATION AND TESTING REQUIREMENTS FOR ALL NEW UNDERGROUND STORAGE TANKS.**

##### Specific Purpose and Necessity of the Proposed Modification

**Section 2635(a)(2)(A) & (B)** – These proposed subparagraphs are modified by adding a requirement to test the cathodic protection system of the underground storage tank (UST) within six months of the completion of a repair to the cathodic protection system. This modification is necessary to ensure that the repair has restored the cathodic protection system to proper operating condition and to be at least as stringent as required by Federal UST Regulations, section 280.33(e).

#### **SECTION 2637. SECONDARY CONTAINMENT TESTING.**

##### Specific Purpose and Necessity of the Proposed Modification

1. **Section 2637(a)(1)(A)** – This proposed paragraph is modified to address the concerns raised by comments received. This proposed subparagraph is modified to reflect the original language of the existing requirement to test the “secondary containment system” for tightness upon installation, six months after installation, and every 36 months thereafter. As amended, this paragraph clarifies that all components of a secondary containment system are subject to testing periodically.
2. **Section 2637(a)(1)(B)(i)** – This proposed clause is modified to clarify that the requirement to test the secondary containment for tightness after a repair is specific to the secondary containment area in which the repaired secondary containment component is located. Secondary containment systems are made up of multiple secondary containment areas. It only is necessary to test the area in which the repaired secondary containment component is located to ensure that secondary containment system is liquid tight.

### **ARTICLE 4. EXISTING UNDERGROUND STORAGE TANK MONITORING REQUIREMENTS.**

#### **SECTION 2640.1 COMPATIBILITY REQUIREMENTS FOR ALL EXISTING UNDERGROUND STORAGE TANKS.**

##### Specific Purpose and Necessity of the Proposed Modification

**Section 2640.1** – This proposed section is modified by replacing the term “hazardous substance” with “motor vehicle fuel” to be consistent with existing California Code of Regulations, title 23, division 3, chapter 16 (California UST Regulations), section 2662(b). Existing section 2662(b) requires all USTs installed before January 1, 1984 containing hazardous substances other than motor vehicle fuel to be equipped with secondary containment meeting the requirements of article 3. Article 4, which includes this proposed section, applies to USTs installed before January 1, 1984. USTs installed before January 1, 1984 are not required

to have secondary containment. Existing section 2662(b) prohibits any USTs without secondary containment from storing a hazardous substance that is not a motor vehicle fuel.

This proposed section also is modified by removing the subdivision (a) marking because there are no other subdivisions in this proposed section.

## **ARTICLE 10. PERMIT APPLICATION, QUARTERLY REPORT AND TRADE SECRET REQUEST REQUIREMENTS**

### **SECTION 2715. CERTIFICATION, LICENSING, AND TRAINING REQUIREMENTS FOR UNDERGROUND STORAGE TANK OWNERS, OPERATORS, FACILITY EMPLOYEES, INSTALLERS, SERVICE TECHNICIANS, AND INSPECTORS.**

#### Specific Purpose and Necessity of the Proposed Modification

1. **Section 2715(c)(1)** – This proposed paragraph is amended to address suggestions proposed through the comments received. At the suggestion of a commenter, the State Water Board is requiring only the initial training of a facility employee to be through practical demonstration because retraining of facility employees through practical demonstration adds little benefit to employees that already have received the training and have on the job experience at the facility. The modifications also define both the scope of the practical demonstration required for the initial training and the minimum requirements for retraining for clarification purposes and to ensure that all facility employees are trained properly. The modification requiring that the training be site specific is necessary to ensure that the facility employee possesses the appropriate knowledge to address the issues that may rise at that specific facility. Training through a practical demonstration and the defined scope of the practical demonstration are consistent with the California UST Regulations and the preamble of the Federal UST Regulations. Requiring the training to be site specific is consistent with the Federal UST Regulations because the Federal UST Regulations permits an implementing agency to choose another training approach that ensures that the facility employee has adequate training.
2. **Section 2715(c)(4)** – This proposed paragraph is modified to address the concerns raised by comments received. Specifically, the commenter felt that it was not clear that retaining the “Facility Employee Training Certificates” on-site satisfies the requirement for the UST owner or operator to maintain on-site a list of trained facility employees. In response, this proposed paragraph is modified to specify that “Facility Employee Training Certificates” satisfies the requirement for the UST owner or operator to maintain on-site a list of trained facility employees.

### **SECTION 2716. DESIGNATED UST OPERATOR VISUAL INSPECTION.**

#### Specific Purpose and Necessity of the Proposed Modification

1. **Section 2716(b)(1)** – A commenter expressed concerns that the designated UST operator is not knowledgeable enough in servicing UST equipment to determine if the responses to compliance issues discovered during the previous inspection are appropriate. The State Water Board disagrees. Designated UST operators are responsible for being

knowledgeable of the regulations and best management practices, which are enough to determine if a response to a compliance issue brings the facility back into compliance. If the documented described action taken or action to be taken is not an appropriate response then the UST facility remain out of compliance. Compliance issues must be reported as part of the inspections results as required by proposed subdivision (c), paragraphs (5) and (6) of this section. The State Water Board has modified this proposed paragraph to clarify that the designated UST operator is required to review the previous inspection report to verify that the UST owner or operator has acknowledged all compliance issues by providing a description of the corrective action taken or to be taken. Each compliance issue for which there is no documented description of the corrective action taken or to be taken must be listed as a compliance issue on the current inspection report as required by proposed subdivision (c), paragraph (2) of this section. The UST owner or operator must acknowledge all compliance issues by providing a description of the corrective action taken or to be taken to comply with the Federal UST Regulations that require discovered compliance issues to be corrected in a timely manner. (Federal UST Regulations, § 280.36(b).)

2. **Section 2716(b)(3)** – This proposed paragraph is modified by moving the requirement to document the dates of all required testing and maintenance to the proposed paragraph (7) of subdivision (c) of this section, which specifies the information required to be documented as the inspection report.
3. **Section 2716(c)(5)** – This proposed subdivision is modified to address concerns raised by comments received. The commenter expressed concerns that the requirement that was moved to this proposed section had been modified. In response, the State Water Board restored the original language of the existing requirement requiring the designated UST operator to verify that each alarm condition was documented, in addition to documenting the action taken in response to the alarm. This modification is necessary for proper identification of the alarm condition so that appropriate corrective action may be taken in response to alarms. Alarms for which there is no documentation of the alarm condition or no response to the alarm must be listed as an issue that requires follow-up action.
4. **Section 2716(c)(7)** – The requirement in proposed paragraph (3) of subdivision (b) of this section is moved to this proposed paragraph. Moving this requirement to document the dates of all required testing and maintenance to this proposed subdivision is necessary to consolidate all the requirements specifying the information required to be documented as the designated UST operator inspection report in one subdivision.
5. **Section 2716(d)** – This proposed subdivision is modified to address concerns raised by comments received. The commenter stated that it is unnecessary to require the designated UST operator to both provide a copy of the inspection report to the UST owner and operator and to alert them of any compliance issues discovered. In response, the State Water Board has modified this proposed subdivision to clarify that by providing a copy of the “Designated Underground Storage Tank Operator Visual Inspection Report” the designated UST operator also is alerting the UST owner or operator of compliance issues discovered during the inspection.
6. **Section 2716(e)** – This proposed subdivision is modified to address concerns raised by comments received. The commenter correctly pointed out that not all actions to correct compliance issues can be completed within 48 hours of receiving a copy of the “Designated Underground Storage Tank Operator Visual Inspection Report.” In response, the State

Water Board has modified this proposed subdivision to clarify that the UST owner or operator must provide a description of action taken or a description of a plan of action in response to each compliance issue discovered during the designated UST operator visual inspection.

7. **Section 2716(f)** – This proposed subdivision is modified to clarify that the record retention requirement is dependent upon which report was required to be generated at the time the inspection was performed. The retention period for inspection reports generated from designated UST operator inspections performed before the effective date of these regulations is 12 months. Inspection results from designated UST operator inspections performed on and after the effective date of these regulations must be recorded on the “Designated Underground Storage Tank Operator Visual Inspection Report” and be retained for 36 months.

## **APPENDICES**

### **GENERAL MODIFICATIONS**

All the proposed forms are modified to address concerns raised by comments received and to make grammatical changes. Modifications that apply to all forms or to all of the testing and inspection forms are discussed in more detail in this section of the Final Statement of Reasons. All other modifications to individual forms are discussed in detail separately below.

To simplify the review of the modifications to the forms, the modified text showed the forms as struck from the appendix in their entirety and the reformatted versions of the forms were inserted into the appendix.

#### Specific Purpose and Necessity of the Proposed Modification

All the forms are modified by replacing ALL CAPS field titles with title case field titles, replacing ALL CAPS sentences with sentence case sentences, and removing confusing punctuation associated with the citing of sections of the forms within the forms to be grammatically correct and to be consistent with the other forms. Finally, footnotes defining acronyms used on the forms are added to the pages where the acronyms have been added for clarification purposes.

The testing and inspection forms are modified to address a commenter’s concern that the forms do not provide enough room to record the required testing and inspection information for a typical UST facility. The State Water Board has modified the testing and inspection forms by changing the formatting of the form to make room to record the required testing and inspection information for a typical UST facility.

### **APPENDIX VI. MONITORING SYSTEM CERTIFICATION FORM**

#### Specific Purpose and Necessity of the Proposed Modification

The “Monitoring System Certification Form” is modified to address concerns raised and suggestions proposed through the comments received.

Section II is modified to address a suggestion by a commenter to add a field for the UST service technician to provide the expiration dates of their applicable training and certifications to assist the UST regulator in verifying that the UST service technician possesses valid training and certifications at the time of testing. The State Water Board has modified the form by adding fields for the UST service technician to provide the expiration dates of the technician's applicable training and certifications.

Section VI is modified to address a commenter's concern that the amount of text on the page makes it difficult to read. The State Water Board has modified this section of the form by removing some of the field labels and replacing them with the field labels as originally proposed. Additionally, the ALL CAPS field labels are replaced with title case field labels.

## **APPENDIX VII. SECONDARY CONTAINMENT TESTING REPORT FORM**

### Specific Purpose and Necessity of the Proposed Modification

The "Secondary Containment Testing Report Form" is modified to address concerns raised by comments received and to make grammatical changes. Each modification is discussed in more detail below.

Sections V, VII, IX, XI, XIII, XV, XVII, XIX, and XXI are modified to address a suggestion by a commenter to add a field for the UST service technician to provide the expiration dates of their applicable training and certifications to assist the UST regulator in verifying that the UST service technician possesses valid training and certifications at the time of testing. The State Water Board has modified the form by adding fields for the UST service technician to provide the expiration dates of the technician's applicable training and certifications.

Section IV is modified by removing the term "true" from the phrase "true and accurate," from the certification statement, to be grammatically correct, while being consistent with the other forms, because the terms "true" and "accurate" are synonyms.

The form also is modified to address a commenter's concern that the form does not provide enough room to record the required testing information for facilities with more USTs than a typical UST facility. The State Water Board has modified the form by adding a footnote at the end of the form to clarify that it is acceptable to attach additional copies of the form if the facility has more UST equipment than a single form accommodates.

## **APPENDIX VIII. SPILL CONTAINER TESTING REPORT FORM**

### Specific Purpose and Necessity of the Proposed Modification

The "Spill Container Testing Report Form" is modified to address concerns raised by comments received and to make grammatical changes. Each modification is discussed in more detail below.

Section VI is modified by replacing the term "test" with the term "testing" in the title of this section of the form to be grammatically correct, while being consistent with the other forms.

Section VI also is modified by removing the term “true” from the phrase “true and accurate,” from the certification statement, to be grammatically correct, while being consistent with the other forms, because the terms “true” and “accurate” are synonyms.

The form also is modified to address a commenter’s concern that the form does not provide enough room to record the required testing information for facilities with more USTs than a typical UST facility. The State Water Board has modified the form by adding a footnote at the end of the form to clarify that it is acceptable to attach additional copies of the form if the facility has more UST equipment than a single form accommodates.

## **APPENDIX IX. OVERFILL PREVENTION EQUIPMENT INSPECTION REPORT FORM**

### Specific Purpose and Necessity of the Proposed Modification

The “Overfill Prevention Equipment Inspection Report Form” is modified to address concerns raised by comments received and to make grammatical changes. Each modification is discussed in more detail below.

The form is modified by renumbering all sections of the form beginning with roman numeral I and proceeding sequentially. The section numbering of the form was modified inadvertently when the form was reformatted as part of the modified proposed amendments. Renumbering all sections of the form beginning with roman numeral I and proceeded sequentially is necessary to be consistent with the other forms.

Section II is modified by restoring the originally proposed field requiring UST service technicians to provide the expiration date of their ICC certification. The field requiring UST service technicians to provide the expiration date of their ICC certification was replaced inadvertently with a field requiring UST service technicians to provide their contractor or tank tester license number modified when the proposed text was modified. A field requiring UST service technicians to provide their contractor or tank tester license number already exists in this section of the form. This modification is necessary to assist UST regulators verify that the UST service technician possesses a valid ICC certification training and certifications at the time of inspection.

Section III is modified by restoring the originally proposed field requiring the UST service technician to identify the method used to inspect the overfill prevention equipment. This field requiring the UST service technician to identify the method use to inspect the overfill prevention equipment was inadvertently replaced with a field requiring the UST service technician to identify the method used to test the overfill prevention equipment. Testing is not a requirement of the inspection of the overfill prevention equipment. This modification is necessary to assist the UST regulator verify that the UST service technician used an appropriate method of inspection.

Section III also is modified to address a commenter’s concern that requiring the UST service technician to provide the date that the UST was installed is not information required to determine if the overall prevention equipment is set at the correct level and that the overfill prevention equipment will activate when the stored substance reaches that level. The State Water Board has modified this section of the form by removing the field for the UST service technician to provide the date that the UST was installed. UST regulators can find the date of installation on the permit application for the facility.



Section VI is modified by removing the term “true” from the phrase “true and accurate,” from the certification statement, to be grammatically correct, while being consistent with the other forms, because the terms “true” and “accurate” are synonyms.

The form also is modified to address a commenter’s concern that the form does not provide enough room to record the required inspection information for facilities with more USTs than a typical UST facility. The State Water Board has modified the form by adding a footnote at the end of the form to clarify that it is acceptable to attach additional copies of the form if the facility has more UST equipment than a single form accommodates.

## **APPENDIX X. STATEMENT OF UNDERSTANDING AND COMPLIANCE FORM**

### Specific Purpose and Necessity of the Proposed Modification

The “Statement of Understanding and Compliance Form” is modified to address suggestions proposed through the comments received and to make grammatical changes. Each modification is discussed in more detail below.

Section II is modified to address a suggestion by a commenter to remove the requirement for the UST owners or operators to identify the type of owner or operator they are because this information is unnecessary to comply with the requirement that UST owners or operators submit a statement indicating that they understand the regulations and that their USTs are in compliance with the regulations. The State Water Board has modified the form to remove this requirement.

Section II also is modified by replacing the term “tank” with the term “underground storage tank” to be grammatically correct and consistent with the requirement in Health and Safety Code, division 20, chapter 6.7 (Health & Saf. Code), section 25284.1(a)(4)(A)(i) and proposed California UST Regulations, section 2715(a). The use of the term “underground storage tank” is consistent with the statutory and regulatory requirements that UST owners and operators provide a statement indicating that they understand the UST requirements and are in compliance with them.

## **APPENDIX XI. DESIGNATED UNDERGROUND STORAGE TANK OPERATOR IDENTIFICATION FORM**

### Specific Purpose and Necessity of the Proposed Modification

The “Designated Underground Storage Tank Operator Identification Form” is modified to make a grammatical change. Specifically, the “and” in the “and/or” clause in the instructions is removed to be grammatically correct. The form must be completed upon the addition or change of an individual performing either designated UST operator inspections or facility employee training.

## **APPENDIX XII. FACILITY EMPLOYEE TRAINING CERTIFICATE**

### Specific Purpose and Necessity of the Proposed Modification

The “Facility Employee Training Certificate” is modified to make a grammatical change. Specifically, section IV of this form is modified by removing the term “true” from the phrase “true and accurate,” from the certification statement, to be grammatically correct, while being consistent with the other forms, because the terms “true” and “accurate” are synonyms.

## **APPENDIX XIII. DESIGNATED UNDERGROUND STORAGE TANK OPERATOR VISUAL INSPECTION REPORT FORM**

### Correction to the Initial Statement of Reasons

The specific purpose and necessity in the Initial Statement of Reasons for Appendix XIII states in part:

This new form replaces a voluntary form created by the State Water Board for use by designated UST operators performing the visual inspections, to report results for all secondary containment components tested that is not in existing California UST Regulations....

### This statement is corrected as follows:

This new form replaces a voluntary form created by the State Water Board for use by designated UST operators performing the visual inspections, to report results ~~for all secondary containment components tested that is not in existing California UST Regulations~~ of designated UST operator visual inspections....

### Specific Purpose and Necessity of the Proposed Modification

The “Designated Underground Storage Tank Operator Visual Inspection Report Form” is modified to address concerns raised by comments received and to make grammatical changes. Each modification is discussed in more detail below.

Section II is modified by adding the pound symbol (#) to the field labeled “phone” to be grammatically correct, while being consistent with the other forms.

Section IV is modified by removing the term “true” from the phrase “true and accurate,” from the certification statement, to be grammatically correct, while being consistent with the other forms, because the terms “true” and “accurate” are synonyms.

Section V is modified to address a commenter’s concern that it is not clear how sections III and V of the form are to be used. In response, the State Water Board has added instructions for clarification purposes.

Section IX is modified to address a commenter’s concern that the prepopulated field labels for identifying tanks, under-dispenser containment (UDCs), and sumps that have been inspected do not accurately identify how tanks, UDCs, and sumps are identified at different facilities. In

response, the State Water Board has removed the proposed identification field labels for identifying the tanks, UDCs, and sumps inspected.

The form also is modified to address a commenter’s concern that the form does not provide enough room to record the required inspection information for facilities with more USTs than a typical UST facility. The State Water Board has modified the form by adding a footnote at the end of the form to clarify that it is acceptable to attach additional copies of the form if the facility has more UST equipment than a single form accommodates.

**SUMMARY AND RESPONSE TO COMMENTS RECEIVED DURING THE 45-DAY COMMENT PERIOD FROM NOVEMBER 17, 2017 TO JANUARY 2, 2018**

| <b>List of Comment Letters (Alphabetical Order)</b><br>Public Comments Regarding Federal Reconciliation Regulations<br>Comment Letters (#) |                      |
|--|----------------------|
| <b>Commenter(s)</b>  | <b>Submitted by:</b> |
| AT&T Services, Inc. (Commenter #4)   | Sean Sanders         |
| Belshire Environmental Services, Inc. (Commenter #8)   | Glen VanderVeen      |
| California Department of Corrections and Rehabilitation (Commenter #3)   | Gregor Larabee       |
| California Independent Oil Marketers Association (Late Commenter #11)  | Samuel Bayless       |
| Chevron Environmental Management Company (Late Commenter #12)  | Jane Anderson        |
| Del Real Testing (Commenter #5)  | Ricardo Martinez     |
| Kanchy Designated Operator Services (Commenter #2)   | Patrick Kanchy       |
| The Metropolitan Water District of Southern California (Commenter #6)  | Daniel Guillory      |
| Pacific Gas and Electric Company (Commenter #7)  | Lori Lucas-Nakagawa  |
| Santa Clara County Certified Unified Program Agency (Commenter #9)   | Greg Breshears       |
| Sonoma County Fire & Emergency Services (Commenter #1)   | Bob Borges           |
| Tait Environmental Services, Inc. (Commenter #10)  | Brian Harmon         |

| <b>List of Comment Letters (Numerical Order)</b><br>Public Comments Regarding Federal Reconciliation Regulations<br>Comment Letters (#) |                      |
|---|----------------------|
| <b>Commenter(s)</b>   | <b>Submitted by:</b> |
| Sonoma County Fire & Emergency Services (Commenter #1)  | Bob Borges           |
| Kanchy Designated Operator Services (Commenter #2)  | Patrick Kanchy       |
| California Department of Corrections and Rehabilitation (Commenter #3)  | Gregor Larabee       |
| AT&T Services, Inc. (Commenter #4)  | Sean Sanders         |
| Del Real Testing (Commenter #5)   | Ricardo Martinez     |
| The Metropolitan Water District of Southern California (Commenter #6)   | Daniel Guillory      |
| Pacific Gas and Electric Company (Commenter #7)   | Lori Lucas-Nakagawa  |
| Belshire Environmental Services, Inc. (Commenter #8)  | Glen VanderVeen      |
| Santa Clara County Certified Unified Program Agency (Commenter #9)  | Greg Breshears       |
| Tait Environmental Services, Inc. (Commenter #10)   | Brian Harmon         |
| California Independent Oil Marketers Association (Late Commenter #11)   | Samuel Bayless       |
| Chevron Environmental Management Company (Late Commenter #12)   | Jane Anderson        |

## **GENERAL COMMENTS**

**Comment Summary 1:** Commenter is concerned that the term automatic line leak detector is being used in multiple ways. (Commenter #7)

**Response:** The term automatic line leak detector only is used to mean any method of leak detection, as determined in regulations adopted by the board that alerts the owner or operator of a UST to the presence of a leak. “Automatic line leak detector” includes, but is not limited to, any device or mechanism that alerts the owner or operator of a UST to the presence of a leak by restricting or shutting off the flow of a hazardous substance through piping, or by triggering an audible or visual alarm, and that detects leaks of three gallons or more per hour at 10 pounds per square inch line pressure within one hour.” (Health & Saf. Code, § 25281(a); see also Existing California UST Regulations, § 2610(b).)

**Comment Summary 2:** Commenter suggests creating regulations specific to USTs installed after July 1, 2004. (Commenter #10)

**Response:** This suggestion is beyond the scope of this regulatory package.

**Comment Summary 3:** Commenter is concerned that requirements exceeding the federal standards and requirements for USTs will place undue burdens on the owners or operators. (Late Commenter #11)

**Response:** The State Water Board has modified the requirements of the Federal UST Regulations where appropriate. As is common practice in California and other states, the State Water Board only has proposed requirements more stringent than the Federal UST Regulations when they are consistent with California’s existing requirements and groundwater protection policies.

## **ADDITIONAL DEFINITIONS. (Section 2611)**

**Comment Summary 4:** Commenter suggests modifying the term “service technician” to include language specifying repairs to or replacement of UST monitoring equipment are activities a service technician may perform on a UST. (Commenter #5)

**Response:** The term “service technician” already specifies that a service technician is any individual who installs or services UST monitoring equipment. Installing and servicing UST monitoring equipment includes repairing or replacing UST monitoring equipment. (Proposed California UST Regulations, § 2611, def. of “service technician.”)

**Comment Summary 5:** Commenter recommends adding a definition for the term “automatic line leak detector.” (Commenter #7)

**Response:** See Comment Summary 1. The term automatic line leak detector is defined in Health & Saf. Code, section 25281(a) and incorporated by reference into the California UST Regulations. (Existing California UST Regulations, § 2610(b).)

**Comment Summary 6:** Commenter suggests modifying the term “month” by adding language to prohibit required testing and inspections from being conducted after the day in the month the previous test or inspection was required. (Late Commenter #12)

**Response:** The proposed amendments provide UST owners and operators the flexibility necessary should unforeseen circumstances arise that prevents the testing or inspection from being completed on or before the day in the month the testing or inspection is required. Proposed subdivision (e) of section 2620 is added to clarify the compliance deadlines for testing and inspection requirements throughout the California UST Regulations, which now are set forth in timeframes of months instead of years, and “month” is defined as a “calendar month.” This provides UST owners and operators the entire calendar month to comply with testing and inspection requirements instead of on or before the day in the month the previous test or inspection was required. (Proposed California UST Regulations, § 2611, def. of “month.”)

### **GENERAL INTENT, CONTENT, APPLICABILITY AND IMPLEMENTATION OF REGULATIONS. (Section 2620)**

**Comment Summary 7:** Commenter is concerned that the requirement to complete testing and inspections before or during the month the testing or inspection is required is in conflict with the requirement of proposed section 2716(a) which requires the UST owner or operator have a designated UST operator perform a visual inspection of the UST system at least once every 30 days. (Commenter #3)

**Response:** The requirement to complete testing and inspections before or during the month the testing or inspection is required and the requirement for the UST owner or operator to have a designated UST operator perform a visual inspection of their UST system at least once every 30 days are not in conflict with each other. The requirement to complete testing and inspections before or during the month that does not exceed the maximum number of months set forth in the regulations applies only to testing and inspections for which the regulations define the compliance period (the period by the end of which the testing or inspection must be completed) in units of months. The regulations define the compliance period for the designated UST operator visual inspection in units of days, not months. (Federal UST Regulations, § 280.36(a)(1)(i).)

### **DESIGN AND CONSTRUCTION REQUIREMENTS FOR NEW UNDERGROUND STORAGE TANKS. (Section 2631)**

**Comment Summary 8:** Commenter suggests demonstrating compatibility of the primary containment of USTs installed on or after January 1, 1984 with a specific substance to be stored through written approval from a state registered professional engineer as another option in lieu of demonstrating through an independent testing organization approval because the process of acquiring an independent testing organization approval may damage the UST. (Late Commenter #12)

**Response:** The State Water Board is not amending the California UST Regulations to address the existing methods of demonstrating compatibility of the primary containment of USTs installed on or after January 1, 1984 with specific substances to be stored at this time because the California UST Regulations are at least as stringent as the Federal UST Regulations regarding demonstrating compatibility of the primary containment of USTs installed on or after January 1, 1984 with the stored substance.

The State Water Board is unaware of any process of acquiring an independent testing organization approval that would damage the UST. Independent testing organization approval generally is acquired prior to the manufacturing of UST primary containment components.

**Comment Summary 9:** Commenter requests clarification of when a UST owner or operator must demonstrate compatibility of USTs with a substance. (Late Commenter #12)

**Response:** After the effective date of these amendments, UST owners or operators must demonstrate compatibility of a UST system with a specific substance at least 30 days before the storage of that specific substance. This includes both new UST installations and USTs changing the substance stored. Compatibility must be demonstrated in accordance with proposed section 2711(c).

### **INSTALLATION AND TESTING REQUIREMENTS FOR ALL NEW UNDERGROUND STORAGE TANKS. (Section 2635)**

**Comment Summary 10:** Commenter is concerned that subdivision (c) in this section is deleted or is moved, but is not annotated properly. (Commenter #3)

**Response:** Subdivision (c) is moved to proposed subdivision (e).

**Comment Summary 11:** Commenter asks if there will no longer be an introductory paragraph to subdivision (c) of this proposed section. (Commenter #3)

**Response:** The State Water Board has not removed any requirements from this proposed section. The amendments reorganize existing requirements for the purpose of clarity and add one new requirement. The two requirements located in proposed subdivision (b) have been separated into two proposed subdivisions, proposed subdivision (b) and proposed subdivision (c), for clarity. In addition, subdivision (c) is moved to proposed subdivision (e) and subdivision (d) is moved to proposed subdivision (f) to make room to add the new requirement in proposed subdivision (d).

**Comment Summary 12:** Commenter is concerned that proposed subdivision (d) of this section references a deleted subdivision. (Commenter #3)

**Response:** Proposed subdivision (d) of this section references proposed subdivision (c) of this section which requires USTs to meet overfill prevention requirements.

**Comment Summary 13:** Commenter requests clarification of acceptable methods for sampling and analyzing liquid found in secondary containment systems to determine the presence of any of the hazardous substance(s) stored in the primary containment system. (Commenter #3)

**Response:** The State Water Board is amending the requirement regarding drainage of liquid from within the secondary containment to reconcile the frequency at which liquid is removed and analyzed consistent with the Federal UST Regulations regarding detecting a release from the UST. Addressing acceptable methods for sampling and analyzing liquid found in secondary containment systems to determine the presence of any of the hazardous substance(s) is beyond the scope of this regulatory package.

## **SECONDARY CONTAINMENT TESTING. (Section 2637)**

**Comment Summary 14:** Commenter is concerned with allowing a UST system to be placed back in to service, for up to 30 days after a repair is completed, without demonstrating that the repair to the secondary containment was successful. (Commenter #1)

**Response:** Requiring secondary containment testing to be performed within 30 days following the date of completion of a repair to the secondary containment is necessary to be consistent with and not more stringent than Federal UST Regulations, section 280.33(d). UST systems are not “taken out of service” when a repair to the secondary containment is required, rather the UST owner and operator is in violation of complying with secondary containment requirements. UST owners and operators are liable for civil penalties of five hundred dollars (\$500) to five thousand dollars (\$5,000) for each UST for each day of violation from the time a violation is discovered, to the time the violation is corrected. Providing UST owners and operators 30 days after the completion of the repair to complete testing the secondary containment to demonstrate that the repair was successful does not relieve the UST owners and operators from civil penalty liability during those 30 days following the date of completion of a repair to the secondary containment. It is advantageous for UST owners and operators to complete the necessary repair to the secondary containment and demonstrate that the repair was successful as soon as possible to reduce their civil penalty liability. (Health & Saf. Code, § 25299.)

**Comment Summary 15:** Commenter is concerned with the lack of consistency between local agencies requiring a six month test after the replacement of secondary containment components and requests clarification of the term “installation” as related to a repair of a secondary containment component and the applicability of the requirement to perform a secondary containment test six months after installation by creating a definition for the term “installation” to differentiate from the definition of the term “repair.” (Commenter #4)

**Response:** The term “installation” and the term “repair” are used in the existing California UST Regulations. The term “repair” has been defined to be associated with an action to correct a UST component that has cause a release, but as amended in the proposed California UST Regulations also include actions to correct a UST component that is not operating properly. It is not necessary to define the term “installation” because it is a commonly understood term. While the installation of a secondary containment component may occur as part of a repair, the regulations indicate that the six-month secondary containment test must occur six months after installation of the secondary containment system and does not specify that the requirement applies to a single secondary containment component that may have been installed as a result of a repair.

Local agencies must enforce the requirements of Health & Saf. Code and California UST Regulations. Local agencies cannot enforce additional requirements, such as requiring UST owners or operators to perform a secondary containment test on a single secondary containment component six months after its installation, unless they have duly adopted the additional requirements as a local regulation, requirement, or standard of performance. (Health & Saf. Code, § 25299.2(a).)

**Comment Summary 16:** Commenter is concerned that industry does not know how to identify secondary containment components and requests a clarification on the definition of a secondary containment component. (Commenter #4)

**Response:** A secondary containment component is a component that is separate from the primary containment, is necessary to contain a release from the primary containment until detected and cleaned up, and can be periodically tested. UST service technicians performing secondary containment testing are required to possess the appropriate license and training or certifications covering basic knowledge of UST components, including identification of secondary containment components. (Health & Saf. Code, § 25281(q); Proposed California UST Regulations, §§ 2631(a), (d), & (g).)

**Comment Summary 17:** Commenter suggests that UST owners and operators should be responsible for the disposal of any hazardous waste generated during a secondary containment test instead of the UST service technician performing the test. (Commenter #5)

**Response:** This suggestion is beyond the scope of this regulatory package. The State Water Board is amending this proposed section to add the requirement to test secondary containment components within 30 days of the date of the completion of both a repair or discontinuing voluntary release detection monitoring through the use of vacuum, pressure, or hydrostatic fluid to be consistent with the Federal UST Regulations, section 280.33(d). It is not necessary for the State Water Board to create requirements for the disposal of any hazardous waste generated during a secondary containment test because disposal requirements for hazardous waste is under the purview of the Department of Toxic Substances Control.

**Comment Summary 17.1:** Commenter is concerned about the lack of consistency between local agencies related to the minimum amount of time prior to performing testing. (Commenter #4)

**Response:** UST Owners or operators must provide notice of testing at least 48 hours prior to conducting the test. Local agencies must enforce the requirements of Health & Saf. Code and California UST Regulations. Local agencies cannot enforce additional requirements, such as requiring UST owners or operators to provide a notice of testing more than 48 hours prior to conducting the test, unless they have duly adopted the additional requirements as a local regulation, requirement, or standard of performance. (Health & Saf. Code, § 25299.2(a).)

### **SPILL CONTAINER TESTING. (Section 2637.1)**

**Comment Summary 18:** Commenter is concerned with allowing a UST system to be placed back in to service, for up to 30 days after a repair to the spill container is completed, without demonstrating that the repair to the spill container corrects the violation. (Commenter #1)

**Response:** See Comment Summary 14. Requiring spill container testing to be performed within 30 days following the date of completion of a repair to the spill container is necessary to be consistent with and not more stringent than Federal UST Regulations, section 280.33(f). UST systems are not “taken out of service” when a repair to the spill container is required, rather the UST owners and operators are in violation of complying with spill container requirements. UST owners and operators are liable for civil penalties of five hundred dollars (\$500) to five thousand dollars (\$5,000) for each UST for each day of violation from the time a violation is discovered, to the time the violation is corrected. Providing UST owners and operators 30 days after the completion of the repair to demonstrate that the repair was successful does not relieve UST owners and operators from civil penalty liability during those 30 days following the date of completion of a repair to the spill container. It is advantageous for UST owners and operators to complete the necessary repair to the spill container and



demonstrate that the repair was successful as soon as possible to reduce their civil penalty liability. (Health & Saf. Code, § 25299.)

**Comment Summary 19:** Commenter is concerned about the lack of consistency between local agencies related to the minimum amount of time prior to performing testing the UST owner or operator must notify the local agency of the testing and suggests making the minimum timeframe statewide in which a UST owner or operator must notify the local agency of secondary containment testing prior to testing 48 hours. (Commenter #4)

**Response:** The proposed regulations require the UST owner or operator to provide a notice of testing to the local agency no less than 48 hours prior to performing testing.

Local agencies must enforce the requirements of Health & Saf. Code and California UST Regulations. Local agencies cannot enforce additional requirements, such as requiring UST owners or operators to provide a notice of testing more than 48 hours prior to conducting the test, unless they have duly adopted the additional requirements as a local regulation, requirement, or standard of performance. (Health & Saf. Code, § 25299.2(a).)

**Comment Summary 20:** Commenter is concerned that a method developed by an engineer may comply for one local agency but not another. (Late Commenter #11)

**Response:** A spill container test method developed by a state registered professional engineer is an acceptable method of testing only if there are no existing manufacturer guidelines or applicable industry code or engineering standards for testing and the engineered method demonstrates that the spill container is tight.

Local agencies must enforce the requirements of Health & Saf. Code and California UST Regulations. Local agencies cannot enforce additional requirements, such as prohibiting the use of a spill container test method developed by a state registered professional engineer, unless they have duly adopted the additional requirements as a local regulation, requirement, or standard of performance. (Health & Saf. Code, § 25299.2(a).)

**Comment Summary 21:** Commenter suggests that a single testing standard be required. (Late Commenter #11)

**Response:** Requiring the determination of the test method used to be dependent upon the specific spill container being tested instead of requiring a single testing standard is necessary to ensure that spill container testing is conducted properly such that the results of the testing are reliable and the testing does not damage the component being tested. This reliability and reduction of potential damage is obtained by testing the spill container in accordance with the guidelines of the spill container manufacturer or, if there are no manufacturer guidelines for spill container testing, in accordance with generally accepted industry practices. In some cases, neither of these standards are available or applicable, and thus a state registered professional engineer needs to specify the testing method. As proposed, this proposed subdivision is consistent with existing California UST Regulations regarding the servicing of USTs and Federal UST Regulations, section 280.35(a)(1)(ii). (Proposed California UST Regulations, § 2637(c).)

## **OVERFILL PREVENTION EQUIPMENT INSPECTION. (Section 2637.2)**

**Comment Summary 22:** Commenter suggests clarifying what overfill prevention equipment installed on a UST is required to be inspected and suggests adding language requiring only one overfill prevention device to be inspected. (Commenter #6)

**Response:** The State Water board does not agree that the additional language is necessary. Overfill prevention requirements may be met by using more than one device. All overfill prevention equipment listed in the facility's tank information, UST Monitoring Plan, and UST Monitoring Site Plan for the purpose of satisfying the overfill prevention equipment requirements of proposed section 2635(c) is subject to being inspected every 36 months and within 30 days of a repair to the equipment.

**Comment Summary 23:** Commenter is concerned that there are no manufacturer guidelines or industry codes or engineering standards to inspect valves that provide positive shut-off of flow to the tank. (Commenter #6)

**Response:** Multiple manufacturers of valves that provide positive shut-off of flow to the tank have guidelines for verifying whether the equipment is installed and functioning properly. Some of these guidelines are located within the manufacturers installation instructions rather than being a standalone set of guidelines. If there are no manufacturer guidelines, Petroleum Equipment Institute's Recommended Practices for the Testing and Verification of Spill, Overfill, Leak Detection, and secondary Containment Equipment at UST Facilities (PEI/RP1200-17) or another industry code or engineering standard that includes a method for inspecting valves that provide positive shut-off of flow to the tank may be used.

**Comment Summary 24:** Commenter is concerned that this requirement could potentially force UST owners or operators to remove and replace valves that provide positive shut-off of flow to the tank with testable valves that provide positive shut-off of flow to the tank. (Commenter #6)

**Response:** There is no requirement to test valves that provide positive shut-off of flow to the tank. The requirement is to perform an inspection that verifies the overfill prevention equipment is set at the appropriate level and that the equipment will activate when the stored substance reaches that level. Whether a test is necessary to demonstrate either requirement is dependent upon the manufacturer guidelines, industry code or engineering standard, or the method developed by a state registered professional engineer.

**Comment Summary 25:** Commenter is concerned that a method developed by an engineer may comply for one local agency but not for another. (Late Commenter #11)

**Response:** An overfill prevention equipment inspection method developed by a state registered professional engineer complies with the regulations as long as there are no existing manufacturer guidelines or applicable industry codes or engineering standards and the method demonstrates that the overfill prevention equipment is set at the appropriate level and that the equipment will activate when the stored substance reaches that level. Local agencies must enforce the requirements of Health & Saf. Code and California UST Regulations. Local agencies cannot prohibit the use of an overfill prevention equipment inspection method developed by a state registered professional engineer, unless they have duly adopted the additional requirements as a local regulation, requirement, or standard of performance. (Health & Saf. Code, § 25299.2(a).)

**Comment Summary 26:** Commenter suggests that a single inspection standard be required. (Late Commenter #11)

**Response:** Selecting the inspection method according to the specific UST component being inspected instead of requiring a single inspection standard is necessary to ensure that overfill prevention equipment inspections are conducted properly such that the results of the inspection are reliable and the inspection does not damage the component being inspected. This inspection reliability and the reduction of potential damage is obtained by inspecting the overfill prevention equipment in accordance with the guidelines of the equipment manufacturer or, if there are no manufacturer guidelines for the overfill prevention equipment, in accordance with generally accepted industry practices. If neither of these standards are available or applicable, a state registered professional engineer needs to specify the inspection method. As proposed, this proposed subdivision is consistent with existing California UST Regulations regarding the servicing of USTs and Federal UST Regulations, section 280.35(a)(1)(ii). (Proposed California UST Regulations, § 2637(c).)

#### **CERTIFICATION OF MONITORING EQUIPMENT. (Section 2638)**

**Comment Summary 27:** Commenter suggests creating a requirement to remove any tags and stickers identifying who certified, repaired, or replaced the monitoring equipment component and when, so only the current certification, repair, or monitoring equipment component replacement tag or sticker are present on the monitoring equipment components. (Commenter #10)

**Response:** Creating a requirement to remove any old tags and stickers identifying who previously certified, repaired, or replaced the monitoring equipment component and when that occurred is unnecessary. Such a requirement would not reduce the risk of a release to the environment or provide any other regulatory benefit. UST owners and operators may, but are not required to, remove tags and stickers from the monitoring equipment from previous certification events.

#### **NON-VISUAL MONITORING/QUANTITATIVE RELEASE DETECTION METHODS. (Section 2643)**

**Comment Summary 28:** Commenter is concerned about overfilling day tanks connected to emergency generator tanks systems as a result of complying with the monthly suction piping monitoring requirements located in Appendix II. (Commenter #10)

**Response:** The State Water Board is not amending the requirement regarding how to monitor piping that operates at less than atmospheric pressure because the regulations for monitor piping that operates at less than atmospheric pressure, including emergency generator tank systems, are at least as stringent as the Federal UST Regulations and is beyond the scope of this regulatory package.

#### **NON-VISUAL MONITORING/QUALITATIVE RELEASE DETECTION METHODS. (Section 2644)**

**Comment Summary 29:** Commenter is concerned that existing section 2641 is not present in the text of the proposed regulations even though it is referenced in proposed subdivision (a) of this section. (Commenter #3)

**Response:** Only those portions of the California UST regulations that are amended are included in the proposed amendments released for public comment. The State Water Board is not proposing to amend existing section 2641.

### **GENERAL APPLICABILITY OF ARTICLE. (Section 2660)**

**Comment Summary 30:** Commenter suggests modifying the applicability of proposed section 2661 as stated in proposed section 2660(b) to include UST components that have ceased to function properly and cause the UST system to be out of compliance with the UST regulations. (Commenter #10)

**Response:** It is not necessary to modify the applicability of proposed section 2661 to include UST components that have ceased to function properly and cause the UST system to be out of compliance with the regulations because proposed section 2661 only includes repair requirements that are specific to repairing UST components that have caused an unauthorized release as defined in sections 25294 and 25295 of Health & Saf. Code.

### **REQUIREMENTS FOR REPAIRING UNDERGROUND STORAGE TANK. (Section 2661)**

**Comment Summary 31:** Commenter is concerned that existing section 2643.1 is not present in the text of the proposed regulations even though it is referenced in proposed subdivision (f) of this section. (Commenter #3)

**Response:** Only those portions of the California UST Regulations that are amended are included in the proposed amendments released for public comment. The State Water Board is not proposing to amend existing section 2643.1.

**Comment Summary 32:** Commenter suggests adding a requirement that the repair of secondary containment systems, spill containment, and overfill prevention equipment be performed by a UST service technician in accordance with manufacturer specifications. (Commenter #10)

**Response:** This suggestion is beyond the scope of this regulatory package.

**Comment Summary 33:** Commenter suggests adding the requirement for secondary containment components to be tested after the completion of a repair. (Commenter #10)

**Response:** The requirement to test secondary containment components after the completion of a repair is located in proposed section 2637(a)(1) where the frequency of secondary containment testing is specified. It would be redundant to include this requirement in this proposed section as well.

### **PERMIT APPLICATION, QUARTERLY REPORT AND TRADE SECRET REQUEST REQUIREMENTS. (Article 10)**

**Comment Summary 34:** Commenter is concerned that the title of article 10 includes the terms quarterly report and trade secret request even though the text of article 10 in the proposed

regulations did not contain any requirements for quarterly reports or trade secret requests. (Commenter #3)

**Response:** Only those portions of the California UST Regulations that will be amended were included in the proposed amendments released for public comment. The State Water Board is not proposing to amend existing sections in article 10 that contain the requirements for quarterly reports or trade secret requests.

### **INFORMATION AND APPLICATION FOR PERMIT TO OPERATE AN UNDERGROUND STORAGE TANK. (Section 2711)**

**Comment Summary 35:** Commenter is concerned that the process for notifying the local agency 30 days before the change of a stored substance is not well defined. (Late Commenter #11)

**Response:** As set forth in proposed subdivision (c) of this section, the UST owner or operator must submit a written notification to the local agency 30 days prior to a change in the substance stored. The notification must identify the substance to be stored and specify the date the storage of the substance will begin. Along with the notification, required documentation demonstrating the compatibility of the UST system with the substance to be stored must be submitted to the local agency. The notification and documentation can be made by hand-delivery, mail, or facsimile, or other electronic methods unless directed by the local agency receiving the notification. This process is at least as stringent as the Federal UST Regulations and is consistent with other requirements regarding submitting to the local agency in the existing California UST Regulations.

### **PERMIT CONDITIONS. (Section 2712)**

**Comment Summary 36:** Commenter requests clarification of which inspection results must be maintained for 36 months. (Commenter #8)

**Response:** All records of inspections related to monitoring and maintenance, including, but not limited to, overfill prevention equipment inspections and designated UST operator visual inspections, that are not otherwise specified to be retained for longer, must be retained for 36 months. Records of inspections for cathodic protection systems and linings have longer specified retention requirements as specified in proposed paragraphs (3) and (6) of subdivision (b) of this section.

### **CERTIFICATION, LICENSING, AND TRAINING REQUIREMENTS FOR UNDERGROUND STORAGE TANK OWNERS, OPERATORS, FACILITY EMPLOYEES, INSTALLERS, SERVICE TECHNICIANS, AND INSPECTORS. (Section 2715)**

**Comment Summary 37:** Commenter is concerned that the International Code Council designated UST operator exam includes being tested on items that are not included in the duties and responsibilities of designated UST operator stated in proposed sections 2715 and 2716 of the California UST Regulations. (Commenter #2)

**Response:** The knowledge required to pass the International Code Council designated UST operator exam goes beyond how to execute those duties and responsibilities of designated UST

operator set forth in proposed sections 2715 and 2716 of the California UST Regulations. Designated UST operators are expected to be knowledgeable in the information included in all the references for the exam. The International Code Council designated UST operator exam may include any items included in the California UST Regulations; Health & Saf. Code; EPA 510-K-95-004 Dollars and Sense, July 1995; Operating and Maintaining UST Systems, August 2000 (EPA 510-B-00-008); PEI/RP500 (2011) Inspection and Maintenance of Motor Fuel Dispensing Equipment; and PEI/RP900 (2008) Inspection and Maintenance of UST Systems.

**Comment Summary 38:** Commenter suggests requiring training of facility employees through a practical demonstration only during initial training. (Commenter #6)

**Response:** The State Water Board agrees and is amending this proposed section as suggested by the commenter.

**Comment Summary 39:** Commenter is concerned that the process of generating individual certificates is burdensome. (Commenter #7)

**Response:** Multiple individuals may be listed on the “Facility Employee Training Certificate” as having received training from a designated UST operator during a single training session.

**Comment Summary 40:** Commenter is concerned with being required to retain both the “Facility Employee Training Certificates” and a list of facility employees who have been trained. (Commenter #7)

**Response:** The State Water Board agrees and is amending the regulations to clarify that the collection of “Facility Employee Training Certificates” satisfies the requirement to keep a list of facility employees who have been trained.

**Comment Summary 41:** Commenter requests clarification of which individuals present on-site must be trained as a facility employee. (Commenter #8)

**Response:** All individuals who are employed on-site at a UST facility and who may be called upon to respond to spills, overfills, or other problems associated with the operation of the UST system are facility employees. At least one facility employee must be present during operating hours and shall have current training. If the facility is not routinely staffed, the designated UST operator shall implement a facility employee training program approved by the local agency.

**Comment Summary 42:** Commenter is concerned that the phrase “practical demonstration” is not clear regarding designated UST operators providing training to facility employees. (Commenter #8)

**Response:** The State Water Board agrees and is amending the regulations to define the scope of the practical demonstration, consistent with the California UST Regulations and the preamble of the Federal UST Regulations.

**Comment Summary 43:** Commenter is concerned that requiring facility employees to be trained through practical demonstration would be burdensome for all involved. (Late Commenter #11)

**Response:** The State Water Board agrees and is amending this requirement by requiring training of facility employees through a practical demonstration only during initial training.

### **DESIGNATED UST OPERATOR VISUAL INSPECTIONS. (Section 2716)**

**Comment Summary 44:** Commenter is concerned that the designated UST operator will be held responsible both for violations a UST owner or operator receives related to the discovery of obstructions in fill pipes or fill caps that do not securely fit on the fill pipe and violations a UST owner or operator receives related to the discovery of incorrect phase I enhanced vapor recovery equipment installed on the UST. (Commenter #2)

**Response:** It is the responsibility of the designated UST operator to inspect the fill cap to ensure the fill cap is securely on the fill pipe and document any associated issues on the "Designated Underground Storage Tank Operator Visual Inspection Report Form." It is the UST owner's or operator's responsibility to take any action necessary to address any issues discovered by the designated UST operator regarding the fill cap not fitting securely on the fill pipe. Enhanced vapor recovery requirements fall under the purview of the California Air Resources Board and the applicable Air Quality Management District (AQMD). UST requirements and air quality requirements are independent of each other. The State Water Board cannot comment on air quality requirements or violations.

**Comment Summary 45:** Commenter is concerned that as a result of requiring designated UST operators to inspect fill pipes for obstructions and fill caps to ensure they securely fit the fill pipe, AQMD will require facilities to cease to operate due to the fill cap not securely fitting the fill pipe or for obstructions located in the fill pipe and may require designated UST operators to complete an AQMD approved general training program. (Commenter #2)

**Response:** See Comment Summary 44. UST requirements and air quality requirements are independent of each other. The State Water Board cannot comment on air quality requirements or violations.

**Comment Summary 46: Comment Summary 46:** Commenter is concerned that the requirement that the designated UST operator inspect the fill cap to ensure it securely fits the fill pipe at least once every 30 days is redundant since the fill cap must be inspected daily as part of the daily maintenance inspection of enhanced vapor recovery equipment to meet air quality requirements. (Commenter #2)

**Response:** Requiring the designated UST operator to inspect of the fill cap at least once every 30 days to ensure it securely fits the fill pipe is necessary to be consistent with the Federal UST Regulations. UST requirements and air quality requirements are independent of each other. The State Water Board cannot comment on air quality requirements or violations.

**Comment Summary 47:** Commenter is concerned that designated UST operators are not equipped to correct issues discovered while inspecting the fill caps and fill pipes during designated UST operator visual inspections. (Commenter #2)

**Response:** See Comment Summary 44. The designated UST operator is not responsible for correcting issues discovered during the visual inspection.

**Comment Summary 47.1:** Commenter is concerned a separate area inspection list and follow up section would be required for the Designated Underground Storage Tank Operator Visual Inspection Report and suggests adding an inspection list to the Report. (Commenter #3)

**Response:** The State Water Board disagrees. The Designated Underground Storage Tank Operator Visual Inspection Report includes those areas required to be inspected in accordance with section 2716 (section IX on Report form). Additionally the Designated Underground Storage Tank Operator Visual Inspection Report includes a section for required follow up actions (section III and V on Report form).

**Comment Summary 48:** Commenters are concerned that the requirement for the UST owner or operator to have the UST system inspected by a designated UST operator at least once every 30 days will remove flexibility for setting schedules, generate costs associated with tracking when inspections need to be conducted, require the UST system to be inspected more than once during some calendar months, and result in an increase in the number of inspections per site over the course of a year. Commenters suggest keeping the monthly inspection frequency, but adding a provision for maximum and minimum number of days between inspections. (Commenters #3, #8, & #10)

**Response:** The Federal UST Regulations require a facility inspection to be performed at least once every 30 days. Conducting inspections on an increased frequency for scheduling reasons, meets the requirement. The U.S. EPA has determined that these inspections are needed at least once every 30 days for release detection to ensure the equipment is operating, check release detection records, and determine whether the tank or piping is leaking, even though this may result in a facility being inspected twice in some months. In addition, 30-day inspections of spill prevention equipment will ensure these devices contain small drips and spills that occur when the delivery hose is disconnected from the fill pipe. The State Water Board and the U.S. EPA disagree with the suggested 45-day maximum between inspections because it is not as stringent as every 30 days.

Since 30 days is the average length of a month, U.S. EPA's intent with requiring 30 days is to ensure owners and operators conduct walkthrough inspections on or about the same time each month. A 30-day inspection frequency provides owners and operators with clarity about the inspection time frame by specifying the maximum number of days between walkthrough inspections. The U.S. EPA determined that it was appropriate to require a consistent 30-day frequency, rather than permit monthly inspections in part because owners and operators could misinterpret monthly and go 60 or more days without conducting a walkthrough inspection. A longer time period between inspections could delay identifying important issues, potentially resulting in environmental harm. The increased costs associated with tracking inspection frequency is minimal, if any.

**Comment Summary 49:** Commenter suggests providing five business days instead of 48 hours for the designated UST operator to provide a signed copy of the "Designated Underground Storage Tank Operator Visual Inspection Report" to the UST owner or operator because the 48-hour timeframe is not a Federal UST requirement and this requirement may not provide sufficient time to prepare the report, review it for accuracy, and provide it to the UST owner or operator, particularly if the inspection is on a Friday afternoon or the facility is in a remote area. (Commenter #6)

**Response:** While requiring the designated UST operator to provide a signed copy of the "Designated Underground Storage Tank Operator Visual Inspection Report" to the UST owner



or operator within 48 hours of the inspection being performed is not explicitly required in the Federal UST Regulations, the Federal UST Regulations do require compliance issues to be corrected as soon as practicable after discovery. Providing five business days instead of 48 hours for the designated UST operator to provide a signed copy of the “Designated Underground Storage Tank Operator Visual Inspection Report” to the UST owner or operator would not allow compliance issues to be corrected as soon as practicable after discovery.

The designated UST operator conducting the inspection has sufficient UST knowledge to know whether the “Designated Underground Storage Tank Operator Visual Inspection Report” is prepared, reviewed for accuracy, and provided to the UST owner or operator within 48 hours. This requirement does not require the business to be open in order for a signed copy to be provided to the UST owner or operator. The report may be provided to the UST owner or operator by hand-delivery, mail, or facsimile or other electronic methods.

**Comment Summary 50:** Commenter suggests clarifying the method for notification (i.e., detailed email or telephone message) by the designated UST operator to the UST owner or operator of any compliance issues discovered during the visual inspection because without clarification some designated UST operators may rely solely on the visual inspection form to satisfy the requirement to “alert” the owner/operator. (Commenter #6)

**Response:** The State Water Board is modifying this requirement to clarify that providing a copy of the “Designated Underground Storage Tank Operator Visual Inspection Report” satisfies the requirement to alert the UST owner or operator of compliance issues discovered during the inspection.

**Comment Summary 51:** Commenters suggested providing five or seven business days instead of 48 hours for the UST owner or operator to provide a description of each corrective action taken on the “Designated Underground Storage Tank Operator Visual Inspection Report” because the 48-hour timeframe is not a Federal UST requirement and to allow the UST owner or operator more time to review, analyze, and determine and/or document the appropriate corrective action in response to the inspection report. (Commenters #6 & #7)

**Response:** See Comment Summary 49. The State Water Board does not agree with the commenter. USTs with compliance issues are out of compliance with UST requirements and are required to come back in to compliance immediately even if those issues occur outside of regular business hours. The Federal UST Regulations require UST owners and operators to address compliance issues as soon as practicable after discovery. Five or seven business days after an issue is discovered is not as soon as practicable after discovery.

The State Water Board has modified this requirement to clarify that the description provided by the UST owner or operator may either be actions taken or to be taken to correct the compliance issues discovered during the designated UST operator inspection. The requirement provides sufficient time for a UST owner or operator to review the inspection results and provide a description of actions to be taken including consulting with a qualified individual to determine the appropriate corrective action.

**Comment Summary 52:** Commenter is concerned about the requirement for a specific form to report the results of the designated UST operator inspection because a specific form is not required by the Federal UST Regulations and the form does not allow UST owners and operators to take advantage of the efficiencies offered by modern communication and data management tools. (Commenter #8)

**Response:** As stated in the Initial Statement of Reasons, requiring a specific form to report the results of the designated UST operator inspection is necessary to assist in collecting information necessary for U.S. EPA reporting and is consistent with the reporting and recordkeeping requirements of the Federal UST Regulations, section 280.34. Completed forms may be completed, transmitted, and maintained either in hard copy or electronically. The use of this form does not prohibit the designated UST operator or UST owners and operators from taking advantage of the efficiencies offered by modern communication and data management tools. Data management tools may be used to populate the “Designated Underground Storage Tank Operator Visual Inspection Report.”

The proposed form assists both the UST regulated community and UPAs to ensure that all required information is maintained and submitted in a consistent fashion and to ensure compliance with proposed California UST Regulations. Lastly, the new form reduces the amount of time both the UST regulated community and local agencies invests in the review of submitted reports by streamlining the information collected and presenting the results in a simple fashion to determine if further action is required at UST facilities.

**Comment Summary 53:** Commenter is concerned about the requirement for the UST owner or operator to sign the copy of the “Designated Underground Storage Tank Operator Visual Inspection Report” because a signature is not required by the Federal UST Regulations. (Commenter #8)

**Response:** See Comment Summaries 49 and 51. Requiring UST owners or operators to sign the copy of the inspection report provided demonstrates that they acknowledge any compliance issues that are discovered during the designated UST operator inspection. This requirement is necessary to be at least as stringent as Federal UST Regulations, sections 280.36(a)(1)(i)(A) & (ii)(A), which require issues to be addressed in a timely matter after discovery. UST owners and operators have the authority and responsibility to address issues that cause the UST system to be out of compliance with UST requirements.

**Comment Summary 54:** Commenter is concerned about requiring the UST owner or operator to provide a summary of actions taken or to be taken in response to compliance issues identified by the designated UST operator because it is not required by the Federal UST Regulations and many UST owners and operators are not physically on-site to complete the form. (Commenter #8)

**Response:** Federal UST Regulations, section 280.36(b) explicitly requires that the record of the inspection include a description of actions taken to correct issues. Forms may be completed, transmitted, and maintained either in hard copy or electronically.

**Comment Summary 55:** Commenter is concerned about the costs associated with meeting the new designated UST operator inspection record requirements. (Commenter #8)

**Response:** The State Water Board has considered the costs associated with the proposed designated UST operator inspection record requirements and determined them to be minimal since there already is an existing designated UST operator inspection record requirement. Most of the information collected by the proposed form is information that already is required to be collected under the existing California UST Regulations. The only additional information required to be recorded on the proposed form is for the purpose of meeting the additional proposed requirements required by the Federal UST Regulations. The required forms are

provided in an electronic format on the State Water Board's website and copies of the inspection results may be provided to UST owners and operators at a minimal cost by leaving it at the facility inspected or by providing it electronically to the UST owner or operator. UST owners or operators may provide a description of actions taken, or to be taken, to address any compliance issues and sign the form on the hard copy or electronically. Finally, a copy of the completed form may be maintained for the required records retention period in hard copy or electronically at a minimal cost.

**Comment Summary 56:** Commenter is concerned that the phrase "each alarm condition" is not clear regarding the requirement that the designated UST operator note whether each alarm has been responded to appropriately. (Commenter #8)

**Response:** Proposed section 2715(c)(1) specifies monthly review of the facility's alarm history or log. By reviewing the alarm history or log, the designated UST operator can determine whether each alarm was responded to correctly, and if the current condition of the facility complies with applicable regulations and best-management practices. This requirement is included because, historically, some alarms were either ignored or responded to incorrectly (e.g., raising the alarming leak detection sensor above the liquid level rather than having the liquid removed from the containment area and disposed of properly).

**Comment Summary 57:** Commenter is concerned that the phrase "any hazardous substance, water, or debris" is not clear regarding the requirements for designated UST operators inspecting spill containers, UDCs and containment sumps. (Commenter #8)

**Response:** The State Water Board does not agree. The phrase "hazardous substance, water, or debris" is clear. Dirt and debris may impair the performance of monitoring equipment within the UDC, and standing water or product may hasten deterioration of the UDC. Therefore, it is important that UDCs be kept clean and dry.

**Comment Summary 58:** Commenter is concerned that the phrase "earliest possible opportunity" is not clear regarding designated UST operators verifying the correct placement of leak detection equipment. (Commenter #8)

**Response:** As stated in the State Water Board's March 1, 2013 letter to the Unified Program Agencies titled "Acceptable Positions of Test Boots and/or Reducer Fittings in Under Dispenser Containment to Satisfy "Earliest Possible Opportunity," the phrase "earliest possible opportunity" which is not defined in statute or regulation, may be consider synonymous with the phrases "earliest practical opportunity" or "first opportunity." Leak detection equipment must be placed in a location where the equipment would detect a leak as soon as possible. For example, placing leak detection equipment at the lowest point in an area that is as close as possible to the penetration of the secondary containment of piping entering the area or if there are multiple components located within an area that are potential sources for a leak, the lowest point where all leaks from potential source components would accumulated.

**Comment Summary 59:** Commenter is concerned that the phrase "inspect for damage" is not clear regarding designated UST operators inspecting spill containers, under-dispenser containment, and containment sumps. (Commenter #8)

**Response:** Spill containers, under-dispenser containment, and containment sumps may become damaged due to vehicle traffic, ground movement or freeze and thaw cycles, inadequate installation practices, and normal wear and tear. When inspecting for damage the

designated UST operator must note any visible issues that would cause or lead to the UST system to be out of compliance such as holes, cracks, and bulging.

**Comment Summary 60:** Commenter suggests adding a provision for providing the same information in an equivalent format so that multiple pages and information can be efficiently provided. (Commenter #8)

**Response:** The State Water Board disagrees. Requiring specific forms to be used instead of allowing information to be provided in an equivalent format, is necessary to reduce the amount of time both the UST regulated community and local agency invests in the review of submitted reports by streamlining the information collected and presenting the results in a simple, consistent fashion to determine if further action is required at UST facilities. Submitting results in an equivalent format would reduce the efficiency of review because while the information provided may be the same, the order of the information and appearance would not be consistent requiring the individual reviewing the results to search for the information necessary to verify that the results are acceptable. Additionally, submitting results in an equivalent format may result in the omission of required information.

**Comment Summary 61:** Commenter request clarification on how to determine if compliance issues and alarms have been “appropriately” responded to and documented. (Commenter #8)

**Response:** Compliance issues and alarms have been “appropriately” responded to when either the action taken or to be taken brings the UST system back into compliance with the UST requirements. Compliance issues are “appropriately” documented by being noted on the “Designated UST Operator Visual Inspection Report” and alarms are “appropriately” documented through the alarm history of the leak detection system or by the UST owner or operator keeping an alarm log.

**Comment Summary 62:** Commenter suggests not requiring the designated UST operator to list each alarm if the alarm is in the monitoring panel’s memory. (Commenter #8)

**Response:** The State Water Board disagrees. Requiring the designated UST operator to provide a list of any and all alarms since the previous visual inspection for which there is no documentation of the alarm condition and action taken in response on the inspection report form ensures that the UST owner or operator has been made aware of all alarms that require follow-up action without having to check multiple places or ask for assistance to understand if the alarms require follow-up action.

**Comment Summary 63:** Commenter suggests using the phrase “water in quantities sufficient to trigger an alarm, debris in quantities that would interfere with the monitoring system, or visible evidence of a hazardous substance” regarding the designated UST operator inspecting spill containers, UDCs, and containment sumps. (Commenter #8)

**Response:** The State Water Board disagrees. Requiring the designated UST operator to report the discovery of any liquid or debris in spill containers, UDCs, and containment sumps is necessary since spill containers, UDCs, and containment sumps are not designed to store liquid or debris, but rather contain liquid and debris until discovered and cleaned up. The UST owner or operator must clean up any liquid or debris in spill containers, UDCs, and containment sumps as soon as possible.

**Comment Summary 64:** Commenter suggests using the phrase visual damage that would interfere with the leak detection or containment equipment regarding the designated UST operator visually inspecting spill containers, UDCs, and containment sumps. (Commenter #8)

**Response:** The State Water Board disagrees. It is unnecessary to specify that the designated UST operator is to report only visual damage because the inspection performed by the designated UST operator is a visual inspection.

**Comment Summary 65:** Commenter is concerned that the term “securely” is not clearly defined regarding the designate UST operator verifying that the fill cap is securely on the fill pipe. (Commenter #8)

**Response:** The State Water Board disagrees. “Securely” is a commonly understood term. A fill cap is securely on the fill pipe if the fill cap is on the fill pipe and the latching mechanism is engaged.

**Comment Summary 66:** Commenter requests clarification on whether a record of a dispatched UST service technician is appropriate documentation of action taken regarding the designated UST operator verifying that all compliance issues discovered during the last designated UST operator inspection have been addressed. (Commenter #8)

**Response:** Yes, this would be appropriate documentation. It should be noted, however, that if the designated UST operator discovers that the UST service technician did not correct the issue, then the designated UST operator must list the issue as a compliance issue that requires follow-up action on their inspection report.

**Comment Summary 67:** Commenter suggests tracking when required testing is next due to be performed, rather than when it was last done. (Commenter #9)

**Response:** The State Water Board disagrees. This requirement is not being amended. Requiring the designated UST operator to provide dates that testing and maintenance occurred is consistent with the existing requirement of California UST Regulations, proposed section 2716(c)(7). It is the UST owners and operators and local agency’s responsibility to determine when maintenance, testing, and inspection is required.

#### **GENERAL FORM COMMENTS. (APPENDIX VI through Appendix XII)**

**Comment Summary 68:** Commenter suggests labeling the sections in the forms with something other than roman numerals to avoid confusion between the roman numerals referencing the appendix a form is located within and the roman numerals of a section in a specific form. (Commenter #9)

**Response:** The State Water Board disagrees. It is unlikely that a section number within a form would be mistaken for an appendix number.

**Comment Summary 69:** Commenter suggests changing the field titled “CERS ID #” in the “Facility Information” sections of the forms to “CERS ID.” (Commenter #9)

**Response:** The State Water Board agrees and is amending the forms as proposed by the commenter.

**Comment Summary 70:** Commenter suggests changing the field titled “Business Name” in the “Facility Information” sections of the forms to “Facility Name.” (Commenter #9)

**Response:** The term “Business Name” is consistent with the term used by the California Environmental Reporting System to collect the same information identifying the name of facility where the USTs are located.

**Comment Summary 71:** Commenter suggests changing the field titled “Business Site Address” in the “Facility Information” sections of the forms to “Site Address.” (Commenter #9)

**Response:** The term “Business Site Address” is consistent with the term used by the California Environmental Reporting System to collect the same information identifying the location of the UST.

**Comment Summary 72:** Commenter suggests eliminating the field titled “ZIP CODE” in the “Facility Information” sections of the forms. (Commenter #9)

**Response:** The State Water Board disagrees. A zip code is necessary to capture a complete physical address.

**Comment Summary 73:** Commenter suggests not using all caps for field titles. (Commenter #9)

**Response:** The State Water Board agrees and is amending the forms as proposed by the commenter.

**Comment Summary 74:** Commenter suggests eliminating the ruler lines in the “Comment” sections of the forms. (Commenter #9)

**Response:** The State Water Board disagrees. Ruler lines help with the recording of information in an organized fashion.

**Comment Summary 75:** Commenter suggests eliminating the instructions of the “Comment” sections of the forms. (Commenter #9)

**Response:** The State Water Board disagrees. Instructions are necessary to help with the collection of information in a uniform and standardized manner.

**Comment Summary 76:** Commenter suggests not using full citations when citing regulations on the form. (Commenter #9)

**Response:** The State Water Board disagrees. Full citations are necessary to be able to references accurately reference the applicable statutory and regulatory requirements.

**Comment Summary 77:** Commenter suggests that certification statements attest to the accuracy and completeness of the information submitted. (Commenter #9)

**Response:** The State Water Board agrees and is amending the forms so that the certification statements attest to the accuracy of the forms. Adding the term “complete” is not necessary because an individual cannot attest to the accuracy of the results on the form unless the form is complete.

**Comment Summary 78:** Commenter suggests titling the signature fields consistent with all other forms a UST service technician is required to sign. (Commenter #9)

**Response:** The State Water Board agrees and is amending the forms as proposed by the commenter.

## **MONITORING SYSTEM CERTIFICATION FORM. (APPENDIX VI)**

### **GENERAL COMMENTS**

**Comment Summary 79:** Commenter is concerned that the “Monitoring System Certification Form” does not address hydrostatic monitoring equipment. (Commenter #10)

**Response:** The State Water Board agrees and is amending the form to clarify where hydrostatic monitoring equipment must be addressed.

### **SECTION I.**

**Comment Summary 80:** Commenter suggests eliminating the field titled “Building #” field. (Commenter #9)

**Response:** The State Water Board disagrees. The field titled “Building #” is helpful for large facilities that have USTs located in and near multiple buildings, such as universities and military sites.

### **SECTION II.**

**Comment Summary 81:** Commenter suggests requiring the UST service technician to provide the expiration date of the training and certifications listed. (Commenter #9)

**Response:** The State Water Board agrees and is amending this section of the form as suggested by the commenter.

### **SECTION III.**

**Comment Summary 82:** Commenters identified the misspelling of the word “report” on page 1. (Commenters #3 & #9)

**Response:** The State Water Board is amending this section of the form to correct the spelling error identified by the commenter.

### **SECTION V.**

**Comment Summary 83:** Commenter suggests changing the section of the form titled “Certification by Service Technician Conducting This Test” to “Certification by Service Technician Performing or Overseeing Testing.” (Commenter #9)

**Response:** The State Water Board disagrees. The title “Certification by Service Technician Conducting This Test” is appropriate because the term conducting could include both performing and overseeing the testing.

## SECTION VI.

**Comment Summary 84:** Commenter suggests changing the field titled “Make/Model of Monitoring System” to two separate fields to collect the make of the monitoring system and the model of the monitoring system. (Commenter #9)

**Response:** The State Water Board agrees and is amending the form as suggested by the commenter.

**Comment Summary 85:** Commenter is concerned that the items listed under “Monitoring Method” are not monitoring methods. (Commenter #9)

**Response:** The State Water Board agrees and is amending the field titled “Monitoring Method” to “Monitoring Device Used” to clarify that devices used to monitor the UST for leaks must be identified in this section of the form.

**Comment Summary 86:** One commenter suggests changing the field titled “Device Model #” to “Sensor Model #.” Another commenter suggests changing the field titled “Device Model #” to “Device Model # / Sensor Label” to identify the UST components monitored by the sensor. (Commenters #9 & #10)

**Response:** The State Water Board disagrees. The term “Device Model #” is a more accurate term than “Sensor Model #” to identify the model number of the equipment used to monitor UST system components because not all equipment used to monitor UST systems components are sensors. The term “Device” includes pieces of equipment such as sensors. The term “Device” also includes other items that are not sensors, such as automatic line leak detector and mechanical shut-off devices are used for monitoring UST system components.

**Comment Summary 87:** Commenter is concerned that the form requires testing monitoring equipment that is not required on certain components on certain UST systems such as vent, vapor, or fill piping. (Commenter #9)

**Response:** The information required to be collected is for monitoring equipment required by statute and regulation. If statute or regulation does not require a UST component to be monitored then that portion of the form for that specific component is not to be completed.

**Comment Summary 88:** Commenter is concerned that there is no field to identify the model number of hydrostatic sensors. (Commenter #9)

**Response:** The State Water Board agrees and is amending this section of the form to provide a field to identify the device model number for hydrostatic monitoring sensors.

## SECTION VIII.

**Comment Summary 89:** Commenter suggests changing the verb “is” to “are.” (Commenter #9)

**Response:** The State Water Board agrees and is amending this section of the form as suggested by the commenter.



## SECTION XI.

**Comment Summary 90:** Commenter suggests eliminating the check boxes for the UST service technician to identify which leak rates the line leak detector was tested for being able to detect. (Commenter #9)

**Response:** The check boxes are necessary to indicate the leak rates the automatic line leak detector was tested for. Automatic line leak detectors that are used to perform the 3 gallons per hour at 10 pounds per square inch leak rate line test and the annual 0.1 gallon per hour leak rate line test, or monthly 0.2 gallon per hour leak rate line test must be tested as part of a complete monitoring system certification.

## SECTION XVI.

**Comment Summary 91:** Commenter suggests changing the instructions instructing the UST service technician to identify the location of sensors monitoring piping to identifying the locations of sensors monitoring secondary containment of regulated piping. (Commenter #9)

**Response:** The State Water Board disagrees. Instructing the UST service technician to identify the location of sensors monitoring piping is appropriate because the monitoring equipment is monitoring for releases from the piping. Instructing the UST service technician to identify the locations of the monitoring equipment monitoring the secondary containment may be confused with the equipment used to monitoring the integrity of the secondary containment of USTs installed on and after July 1, 2004.

## SECONDARY CONTAINMENT TESTING REPORT FORM. (APPENDIX VII)

### GENERAL COMMENTS

**Comment Summary 92:** Commenter suggests providing a location on the form for the UST service technician to identify the number of attached procedures in addition to the number of pages in order to ensure these attachments are clearly organized. (Commenter #3)

**Response:** The State Water Board disagrees. The total number of attached procedures can be determined by reviewing each section of the form. The total number of pages attached can be determined by adding up the number of pages attached identified in each section of the form to verify that all documentation intended to be submitted was received.

**Comment Summary 93:** Commenters suggest correcting the misspelling of words on this form. (Commenters #3 & #9)

**Response:** The State Water Board agrees and is amending this form to correct the spelling error as identified by the commenters.

**Comment Summary 94:** Commenter is concerned that the "Secondary Containment Testing Report Form" does not include a section in the form to report the fate of the test fluids used to perform secondary containment testing. (Commenter #5)

**Response:** See Comment Summary 17. The form does not include a section to report the fate of the test fluids used to perform the secondary containment test because there are no UST

requirements regarding recording the fate of the test fluids used to perform secondary containment testing.

**Comment Summary 95:** Commenter suggests being consistent with the use of the word “testing” throughout the document. (Commenter #9)

**Response:** The State Water Board agrees and is amending the form as suggested by the commenter.

**Comment Summary 96:** Commenter suggest eliminating the use of the word “information” in the section titles of the forms. (Commenter #9)

**Response:** Using the word “Information” in the title of each section in the forms that is provided to record information about the testing of a secondary containment is appropriate.

### **SECTION III.**

**Comment Summary 97:** Commenter suggests adding another column for testing results for another UST system. (Commenter #9)

**Response:** The State Water Board agrees and is amending this section of the form as suggested by the commenter.

**Comment Summary 98:** Commenter suggests being consistent with the use of the phrases “test result” and “test results.” (Commenter #9)

**Response:** The State Water Board agrees and is amending this section of the form as suggested by the commenter.

**Comment Summary 99:** Commenter suggests removing the prepopulated field labels for identifying UDCs. (Commenter #9)

**Response:** The prepopulated field titles are necessary to correlate information provided in the later sections of the form back to the test results provide in section III of this form.

### **SECTION IV.**

**Comment Summary 100:** Commenter suggests changing the section titled “Certification by Service Technician Conducting This Test” to “Certification by Service Technician Performing or Overseeing Testing.” (Commenter #9)

**Response:** The title “Certification by Service Technician Conducting This Test” is appropriate because the term conducting could include both performing and overseeing the testing.

### **SECTION VII.**

**Comment Summary 101:** Commenter suggests changing the section titled “Product/Fill Piping Secondary Containment Information” to “Product/Remote Fill Piping Secondary Containment Testing” to indicate that testing information for remote fill piping must be provided in this section. (Commenter #9)

**Response:** The State Water Board agrees and is amending the form by creating a separate section in the form for the UST service technician to provide information on the secondary containment of remote fill piping.

## **SECTIONS IX., XI., XV., & XVII.**

**Comment Summary 102:** Commenter is concerned the form will lead UST owners and operators to test UST components that do not require testing. (Commenter #9)

**Response:** All secondary containment listed in the facility's tank information, UST Monitoring Plan, and UST Monitoring Site Plan for the purpose of satisfying the secondary containment requirements of the California UST Regulations is subject to being tested every 36 months. UST service technicians performing secondary containment testing are required to possess licensing, training, and certifications that require a basic knowledge of UST requirements including, but not limited to, how to identify secondary containment components that require testing. The information to be collected is required for monitoring equipment required by statute and regulation.

## **SECTION XVII.**

**Comment Summary 103:** Commenter suggests reporting testing information for transition sumps used for piping other than vent piping or vapor recovery with the product/fill piping sump testing information. (Commenter #9)

**Response:** The State Water Board disagrees. The format of the form is dependent upon being able to correlate the information reported throughout the form back to the results summary page to determine if follow-up action is required and verify the validity of the results.

Turbine/product piping sumps are generally associated with an individual tank identified by a capital letter on the results table in section III of the form. Vent sumps and transition sumps are generally not associated with an individual tank and have their own separate identifier of lower-case letters. To assist the local agency in reviewing the results and testing information and to conserve the length of the form, vent sump and transition sump testing information is collected in the same section of the form because they share the same type of identifier in the results table of section III of the form.

## **SECTION XIX.**

**Comment Summary 104:** Commenter suggests eliminating the prepopulated field labels for identifying UDCs. (Commenter #9)

**Response:** The State Water Board disagrees. The format of the form is dependent upon being able to correlate the information reported throughout the form back to the results summary page to determine if follow-up action is required and verify the validity of the results. The prepopulated field labels for identifying UDCs are necessary to be able to correlate the information reported in this section of the form back to the results table in section III of the form.

**Comment Summary 105:** Commenter suggests a provision for the UST service technician to submit testing procedures to the local agency prior to the testing for approval and to satisfy the requirement to attach a copy of the testing procedure used to the "Secondary Containment Testing Report Form." (Commenter #10)

**Response:** The State Water Board does not agree with the commenter's suggestion. The local agency does not have the authority to approve a testing method. The testing method use must be performed in accordance with California UST Regulation, proposed section 2637, subdivision (c). Submitting testing procedures at the time of submitting results ensures the local agency has all documentation necessary to verify compliance with UST testing requirements.

## **SPILL CONTAINER TESTING REPORT FORM. (APPENDIX VIII)**

### **GENERAL COMMENTS**

**Comment Summary 106:** Commenter suggests being consistent with the use of the terms "spill containment" and "spill container" throughout the document. (Commenter #9)

**Response:** The State Water Board agrees and is amending this form as suggested by the commenter.

### **SECTION II.**

**Comment Summary 107:** Commenter suggests that the UST service technician provide expiration dates of their training and certifications. (Commenter #9)

**Response:** The State Water Board disagrees. UST service technicians can provide proof of their training and certifications when the local agency is on-site witnessing the testing or inspection. The proof of training and certifications must indicate either an expiration date or a training date with a note indicating how long the training or certification is valid. It is the UST owner's or operator's responsibility to verify that the service provided will comply with the regulations.

### **SECTION III.**

**Comment Summary 108:** Commenter suggests adding the ability to record the results of four tanks system instead of only three tank systems. (Commenter #9)

**Response:** The State Water Board agrees and is amending this form as suggested by the commenter.

**Comment Summary 109:** Commenter identified an extra parenthesis in the field to record the method to keep the spill container empty in column A. (Commenter #9)

**Response:** The State Water Board agrees and is amending this form as suggested by the commenter.

### **SECTION VI.**

**Comment Summary 110:** Commenter suggests changing the section of the form titled "Certification by Service Technician Conducting This Test" to "Certification by Service Technician Performing or Overseeing Testing." (Commenter #9)

**Response:** Titling this section of the form as “Certification by Service Technician Conducting This Test” is appropriate because the term conducting could include both performing and overseeing the testing.

## **OVERFILL PREVENTION EQUIPMENT INSPECTION REPORT FORM. (APPENDIX IX)**

### **SECTION II.**

**Comment Summary 111:** Commenter suggests requiring the UST service technician to provide the expiration dates of the training and certifications listed. (Commenter #9)

**Response:** See Comment Summary 107.

### **SECTION III.**

**Comment Summary 112:** Commenter suggests eliminating the field to provide the date the UST was installed. (Commenter #9)

**Response:** The State Water Board agrees and is amending this section of the form as suggested by the commenter. The local agency is provided this information on the permit application for the facility.

**Comment Summary 113:** Commenter suggests adding the ability to record the results of four tanks system instead of only three tank systems. (Commenter #9)

**Response:** The State Water Board agrees and is amending this form as suggested by the commenter.

**Comment Summary 114:** Commenter suggests providing only one field to provide the manufacturer of the overfill prevention equipment instead of multiple fields. (Commenter #9)

**Response:** The State Water Board disagrees. It is necessary to have more than one field to provide the name of the manufacturer of the overfill prevention equipment because USTs may be equipped with equipment from multiple manufacturers in order to comply with the overfill prevention requirements.

**Comment Summary 115:** Commenter suggests adding a field to collect model numbers of overfill prevention equipment. (Commenter #9)

**Response:** The State Water Board disagrees. There is no requirement that explicitly depends on the model number of the overfill prevention equipment to be provided to determine if the UST is in compliance with the California UST requirements.

**Comment Summary 116:** Commenter suggests changing the field title “Overfill Prevention Equipment Manufacturer” to “Overfill Prevention Equipment Manufacturer Name.” (Commenter #9)

**Response:** The State Water Board disagrees. Modifying the form as suggested by the commenter would make this form inconsistent with the other forms that require the manufacturer of equipment to be identified.

**Comment Summary 117:** Commenter suggests rewording the question “Are flow restrictors in vent piping installed?” to “Are flow restrictors installed in vent piping?” (Commenter #9)

**Response:** The State Water Board agrees and is amending this section of the form as suggested by the commenter.

**Comment Summary 118:** Commenter suggests rewording the question “Are flow restrictors in vent piping installed?” to “Are flow restrictors installed in vent piping that could interfere with the operation of the primary overflow prevention device?” (Commenter #10)

**Response:** It is necessary to inspect for the presence of flow restrictors in vent piping to determine if the overflow prevention equipment will activate when the stored substance reaches the appropriate level. Asking the question as suggested by the commenter is not sufficient to determine if the UST is equipped with flow restrictors in vent piping. If the commenter’s suggested question is answered “no,” it could mean either that there are flow restrictors installed in vent piping that do not interfere with the primary overflow prevention method or that there are no flow restrictors installed in vent piping.

## **SECTION VI.**

**Comment Summary 119:** Commenter suggests changing the section of the form titled “Certification by Service Technician Conducting This Inspection” to “Certification by Service Technician Performing or Overseeing Inspection.” (Commenter #9)

**Response:** The title of this section of the form is appropriate because the term “conducting” could include both performing and overseeing the inspection.

## **STATEMENT OF UNDERSTANDING AND COMPLIANCE FORM. (APPENDIX X)**

### **SECTION I.**

**Comment Summary 120:** Commenter suggests formatting this section of the form the same as the other sections of the forms that collect facility information. (Commenter #9)

**Response:** The State Water Board agrees and is amending this section of the form as suggested by the commenter.

### **SECTION II.**

**Comment Summary 121:** Commenter suggest changing the section of the form titled “Owner/Operator Information” to “Underground Storage Tank Owner/Operator Information.” (Commenter #9)

**Response:** The State Water Board disagrees. It is unnecessary to modify this field title because UST owners and operators are the only individuals required to complete this form.

**Comment Summary 122:** Commenter suggests changing the field in the form titled “Relationship to Tank” to “Relationship to Tank(s).” (Commenter #9)

**Response:** The State Water Board agrees and is amending this section of the form as suggested by the commenter.

**Comment Summary 123:** Commenter suggests adding a field to the form to collect the state as part of the tank owner's or operator's mailing address. (Commenter #9)

**Response:** The State Water Board agrees and is amending this section of the form as suggested by the commenter.

**Comment Summary 124:** Commenter suggests eliminating the field titled "Owner/Operator Type." (Commenter #9)

**Response:** The State Water Board agrees and is amending this section of the form as suggested by the commenter.

### **SECTION III.**

**Comment Summary 125:** Commenter suggests adding a field to collect the printed name of the individual signing the form. (Commenter #9)

**Response:** The individual signing the form is the UST owner or operator listed in section II of this form.

## **DESIGNATED UNDERGROUND STORAGE TANK OPERATOR IDENTIFICATION FORM. (APPENDIX XI)**

### **SECTION II.**

**Comment Summary 126:** Commenter suggests changing the section of the form titled "Designated Underground Storage Tank Operator(s) Information" to "Designated Underground Storage Tank Operator Information." (Commenter #9)

**Response:** The State Water Board agrees and is amending this section of the form as suggested by the commenter.

**Comment Summary 127:** Commenter suggests changing the field titled "Designated Underground Storage Tank Operator Address" to "Mailing Address." (Commenter #9)

**Response:** The State Water Board agrees and is amending this section of the form as suggested by the commenter.

## **FACILITY EMPLOYEE TRAINING CERTIFICATE. (APPENDIX XII)**

### **SECTION III.**

**Comment Summary 128:** Commenter suggests modifying the instructions to allow for the list of trained facility employees to either be listed on the form or listed on an appended list or both. (Commenter #9)

**Response:** The State Water Board agrees and is amending this section of the form as suggested by the commenter.

## **DESIGNATED UNDERGROUND STORAGE TANK OPERATOR VISUAL INSPECTION REPORT. (Appendix XIII)**

### **GENERAL COMMENTS**

**Comment Summary 129:** Commenter suggests changing all fields titled “Sump Location” to “Sump ID.” (Commenter #9)

**Response:** The State Water Board agrees and is amending this section of the form as suggested by the commenter.

**Comment Summary 130:** Commenter suggests eliminating the prepopulated field labels for identifying different UST components. (Commenter #9)

**Response:** The State Water Board agrees and is amending this section of the form as suggested by the commenter.

### **SECTION III.**

**Comment Summary 131:** Commenters are concerned that the “Designated UST Operator Visual Inspection Report” form does not provide enough room for the designated UST operator to list compliance issues discovered during the designated UST operator visual inspection. (Commenters #2 & #8)

**Response:** The State Water Board is amending the form to include a statement indicating that additional pages may be attached as needed.

**Comment Summary 132:** Commenter suggest changing the section of the form titled “Compliance issues” to “Required Follow-Up Action.” (Commenter #9)

**Response:** This section of the form is titled “Compliance Issues” to indicate that the issues list in this section of the form should only be issues that causes a UST to be out of compliance with California UST Regulations. Changing the title to “Required Follow-Up Action” could lead a designated UST operator to list issues discovered during an inspection that may require follow up but does not affect the compliance status of a UST.

**Comment Summary 133:** Commenters suggests using more direct language for the instructions for this section of the form. (Commenter #9)

**Response:** The State Water Board agrees and is amending this section of the form to indicate when this section of the form must be used.

**Comment Summary 134:** Commenter suggests removing the numbering from the lines in this section of the form. (Commenter #9)

**Response:** The numbered lines in this section of the form correspond to the numbered lines in section V of this form and are needed to assist designated UST owners, UST operators, and local agencies in determining if all compliance issues discovered have been addressed.



## **SECTION IV.**

**Comment Summary 135:** Commenter suggest changing the section of the form titled “Designated Underground Storage Tank Operator Certification” to “Certification by Designated UST Operator Who Conducted Inspection.” (Commenter #9)

**Response:** The State Water Board agrees that this section of the form should be titled the same as the sections in the forms that require an individual to certify the results recorded. The title of this section of the form is amended to be consistent the other proposed forms.

## **SECTION V.**

**Comment Summary 136:** Commenter is concerned that the “Designated UST Operator Visual Inspection Report” form does not provide enough room for the UST owner or operator to list in detail the actions taken to correct compliance issues discovered during the designated UST operator visual inspection. (Commenter #2)

**Response:** The form is modified to include a statement indicating that additional pages may be attached as needed.

**Comment Summary 137:** Commenter suggests removing the numbering from the lines in this section of the form. (Commenter #9)

**Response:** The numbered lines in this section of the form correspond to the numbered lines in section III of this form and are needed to assist designated UST owners, UST operators and local agencies in determining if all compliance issues discovered have been addressed.

## **SECTION VI.**

**Comment Summary 138:** Commenter suggests changing the section of the form titled “Owner/Operator Acknowledgement of Compliance Issues” to “Owner/Operator Certification.” (Commenter #9)

**Response:** The purpose of requiring UST owners or operators to provide a signature on the form is not for certification purposes, but rather to verify that the UST owner or operator acknowledges issues discovered by the designated UST operator during the visual inspection that require follow-up action on their behalf.

## **SECTION IX.**

**Comment Summary 139:** Commenter is concerned that the space provided on the form to record the results of the visual inspection of the UST system is not enough space for facilities with more than four UST systems. (Commenter #8)

**Response:** If the form will not accommodate all the results of the visual inspection, additional copies of the form maybe used and attached to the original form.

**Comment Summary 140:** Commenter suggests eliminating the prepopulated field labels for UDCs. (Commenter #9)

**Response:** The State Water Board agrees and is amending this section of the form as suggested by the commenter.

**Comment Summary 141:** Commenter suggests changing the field titled “Under-Dispenser ID #” to “Dispenser ID.” (Commenter #9)

**Response:** The title, “Under-Dispenser ID #,” is appropriate because the designated UST operator visual inspection requires inspecting UDCs and not the dispensers.

**SECTION X.**

**Comment Summary 142:** Commenter suggests changing the field titled “Date Last Performed” to “Date Due.” (Commenter #9)

**Response:** See Comment Summary 67. The State Water Board disagrees. Providing the date of the last time maintenance, testing, or inspections were conducted is consistent with the existing requirement of California UST Regulations, section 2716(c)(7).

**SUMMARY AND RESPONSES TO COMMENTS RECEIVED DURING THE 15-DAY COMMENT PERIOD FROM MARCH 26 TO APRIL 11, 2018**

| <b>List of Comment Letters (Alphabetical Order)</b><br>Public Comments Regarding Federal Reconciliation Regulations<br>Comment Letters (#) |                      |
|--|----------------------|
| <b>Commenter(s)</b>  | <b>Submitted by:</b> |
| 7G Environmental Compliance Management (Late Commenter #5)   | Jason Wiles          |
| Belshire Environmental Services, Inc. (Commenter #3)   | Glen VanderVeen      |
| Fastech (Commenter #2)   | Glen Ragle           |
| Tanknology (Commenter #4)  | Brian Derge          |
| Varec (Commenter #1)   | John Vawser          |

| <b>List of Comment Letters (Numerical Order)</b><br><b>Public Comments Regarding Federal Reconciliation Regulations</b><br>Comment Letters (#) |                      |
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| <b>Commenter(s)</b>  | <b>Submitted by:</b> |
| Varec (Commenter #1)   | John Vawser          |
| Fastech (Commenter #2)   | Glen Ragle           |
| Belshire Environmental Services, Inc. (Commenter #3)   | Glen VanderVeen      |
| Tanknology (Commenter #4)  | Brian Derge          |
| 7G Environmental Compliance Management (Late Commenter #5)   | Jason Wiles          |

### **OVERFILL PREVENTION EQUIPMENT INSPECTION. (Section 2637.2)**

**Comment Summary 1:** Commenter requests clarification on when to verify the operation of overfill prevention equipment. (Commenter #2)

**Response:** See Comment Summary 22 in the SUMMARY AND RESPONSE TO COMMENTS RECEIVED DURING THE 45-DAY COMMENT PERIOD FROM NOVEMBER 17, 2017 TO JANUARY 2, 2018, above. Overfill prevention equipment must be inspected once by October 13, 2018 and at least once every 36 months thereafter, and within 30 days of a repair to the equipment.

### **CERTIFICATION, LICENSING, AND TRAINING REQUIREMENTS FOR UNDERGROUND STORAGE TANK OWNERS, OPERATORS, FACILITY EMPLOYEES, INSTALLERS, SERVICE TECHNICIANS, AND INSPECTORS. (Section 2715)**

**Comment Summary 2:** Commenter suggests that the requirement for facility employee training specify that the training after initial training is the training required at least once every 12 months. (Commenter #3)

**Response:** Proposed section 2715(c) clearly provides that the designated UST operator is required to perform training of facility employees at least once every 12 months, including within 12 months after the initial training of a facility employee.

**Comment Summary 3:** Commenter is concerned that the requirement to maintain a list of trained facility employees and the requirement to record the training of facility employees using the "Facility Employee Training Certificate" are redundant requirements. (Commenter #3)

**Response:** See Comment Summary 40 in the SUMMARY AND RESPONSE TO COMMENTS RECEIVED DURING THE 45-DAY COMMENT PERIOD FROM NOVEMBER 17, 2017 TO JANUARY 2, 2018, above. A separate list may be necessary. Not all employees will be listed on a certificate until after receiving training after the effective date of the regulations.

### **DESIGNATED UST OPERATOR VISUAL INSPECTIONS. (Section 2716)**

**Comment Summary 4:** Commenters are concerned that requiring designated UST operator inspections at least once every 30 days will require the facility to be inspect more than once a month and create more than 12 inspections per year. (Commenters #1 & #5)

**Response:** See Comment Summary 48 in the SUMMARY AND RESPONSE TO COMMENTS RECEIVED DURING THE 45-DAY COMMENT PERIOD FROM NOVEMBER 17, 2017 TO JANUARY 2, 2018, above.

**Comment Summary 5:** Commenter is concerned that requiring designated UST operator inspections at least once every 30 days is practically and financially burdensome. Commenter suggests making a reasonable interpretation of the Federal UST Regulations by taking into account the practical challenges of performing designated UST operator inspections strictly every 30 days or less by providing limited flexibility for legitimate exceptions, such as the absence of the designated UST operator, the facility's business hours, weekends and holidays, and weather or other unpredictable and unmanageable events, without sacrificing

environmental protection, or changing the frequency at which the inspection occurs from “at least once every 30 days” to “monthly, but not to exceed 35 days.” (Late Commenter #5)

**Response:** See Comment Summaries 48 and 55 in the SUMMARY AND RESPONSE TO COMMENTS RECEIVED DURING THE 45-DAY COMMENT PERIOD FROM NOVEMBER 17, 2017 TO JANUARY 2, 2018, above. A designated UST operator inspection may occur outside of regular business hours. UST owners and operators are expected to plan for predictable and/or foreseeable events, included, but not limited to, weather and designated UST operator absences, and schedule the designated UST operator inspection accordingly.

### **GENERAL FORM COMMENTS. (APPENDIX VI through Appendix XII)**

**Comment Summary 6:** Commenter requests clarification on whether the forms will be provided electronically and in a fillable format. (Commenter #2)

**Response:** The State Water Board in the past has made required forms available on its UST Program website and has supplied the forms in Microsoft Word and PDF fillable formats. State Water Board staff plans to do the same with the proposed forms that are part of this rulemaking.

**Comment Summary 7:** Commenter suggests populating the report form by creating drop down menus to select from. (Commenter #4)

**Response:** The forms are not electronic forms. Drop down menus cannot be included in the form, which is in hard copy format. Individuals with a need to use the required forms may recreate these form in any electronic format they desire provided the form contains all the information and is identical to the forms published in the regulation. As stated in the Initial Statement of Reasons, the State Water Board has created the required forms to assist both the UST regulated community and local agencies ensure that all required information is maintained and submitted in a consistent fashion and to ensure compliance with proposed California UST Regulations. In addition, these proposed forms assist in collecting information necessary for U.S. EPA reporting and are consistent with the reporting and recordkeeping requirements of the Federal UST Regulations, section 280.34. Lastly, the new forms for reporting the results of required testing and inspections reduce the amount of time both the UST regulated community and local agencies invests in the review of submitted reports by streamlining the information collected and presenting the results in a simple fashion to determine if further action is required at UST facilities.

### **TESTING AND INSPECTION REPORT FORMS (APPENDICES VI, VII, VIII, IX)**

**Comment Summary 8:** Commenter requests clarification regarding the requirement for the UST service technician to indicate the number of pages attached to the report form documenting the procedure used. (Commenter #2)

**Response:** This requirement is necessary so that UST owners, UST operators, and local agencies can determine whether their copy of the report is complete.

**Comment Summary 9:** Commenter is requesting clarification regarding the requirement that the UST service technician provide a copy of all documentation used to determine the results of a test or inspection. (Commenter #2)

**Response:** The requirement to provide a copy of all documentation used to determine the results of a test or inspection is necessary to assist the local agency in verifying the testing is performed properly and the results are accurate and complete. Testing or inspection methods for UST components vary according to the type of component and the type of test or inspection performed requiring different data to be collected to determine the results of the test or inspection. Providing flexibility in the documentation submitted to determine the results of the test or inspection is appropriate and reduces the collection of unnecessary data not needed to make a determination of the accuracy and reliability of the results.

**Comment Summary 10:** Commenters are concerned that requiring a copy of the testing or inspection procedures to be attached to the testing and inspection report form will unnecessarily and substantially increase the amount of documentation required to be submitted to the local agency and retained on-site and suggests changing the requirement from “submit to the local agency” to “retain on-site” a copy of the testing and inspection procedures used. (Commenters #2 & #4)

**Response:** Local agencies need to be able to reference the procedure used to verify the results received, because currently they are not necessarily familiar with, nor do they have access to, all the various applicable manufacturer guidelines, industry codes or engineering standards, or methods developed by a California registered professional engineer. Providing copies of the testing or inspection procedures allows local agencies to become familiar with and have access to the various manufacturer guidelines, industry codes or engineering standards, or methods developed by a California registered professional engineer in use. The State Water Board will consider revising this requirement, if at some point in the future, the applicable procedures are able to be provided to local agencies in an easily accessible location.

While the proposed forms and documentation required to be attached for recording the results of testing and inspections may increase the amount of paperwork required to be retained on-site, the records can be retained in an electronic format accessible on-site to conserve space.

**Comment Summary 11:** Commenter is concerned that by not requiring specific testing and inspection data to be recorded on the form that it will lead to inconsistencies of data submitted from one UST service technician to another. (Commenter #4)

**Response:** See Comment Summary 9. The State Water Board does not feel that this will lead to data inconsistencies. The data submitted will be tailored to the type of component and the type of test or inspection performed.

**Comment Summary 12:** Commenter is concerned that attaching training and certifications regard testing and inspection to the test and inspection reports is a redundant requirement since the UST regulators check for training and certifications regarding testing and inspections at the time testing and inspections are performed. (Commenter #4)

**Response:** See Comment Summary 107 in the SUMMARY AND RESPONSE TO COMMENTS RECEIVED DURING THE 45-DAY COMMENT PERIOD FROM NOVEMBER 17, 2017 TO JANUARY 2, 2018, above. There is no requirement to attach proof of training and certification to the testing and inspection report forms.

## **MONITORING SYSTEM CERTIFICATION FORM. (APPENDIX VI)**

### **GENERAL COMMENT**

**Comment Summary 13:** Commenter requests clarification on the requirements for testing shear valves as part of the monitoring system certification. (Commenter #2)

**Response:** Testing shear valves is not part of the monitoring system certification and is not required unless a shear valve is a component of the monitoring system. UDCs monitored through mechanical means that trigger the closure of the shear valve when a leak is detected is required to be tested as part of the monitoring system certification.

### **SECTION V.**

**Comment Summary 14:** Commenter is concerned about UST service technicians being required to sign a statement attesting to the accuracy of the testing results that include the layout of underground piping when UST service technicians do not have access to as built plans that show piping layouts. (Commenter #2)

**Response:** A site plan that shows all the required information may be included, rather than a sketch by the UST service technician plotting the general layout of tanks and piping. A general layout is not required to be to scale, but should identify individual piping runs and tanks in the most likely area they are located.

### **SECTION VI.**

**Comment Summary 15:** Commenter is concerned that there is no place to indicate the type of in-tank gauging leak detection method used on double-walled USTs. (Commenter #2)

**Response:** In-tank gauging leak detection methods may not be used on double-walled USTs to meet leak detection monitoring requirements because in-tank gauging leak detection methods do not detect a leak at “the earliest possible opportunity” as required by California UST Regulations, sections 2630(d) and 2641(a), when there is an interstitial space that could be continuously monitored. Double-walled USTs must be monitored through the use of continuous interstitial monitoring to comply with California UST Regulations, sections 2630(d) and 2641(a).

**Comment Summary 16:** Commenter suggests that information on the devices that monitor through the use of vacuum, pressure, or hydrostatic fluid should only be located in section XIV of this form. (Commenter #4)

**Response:** Section VI of this form is for identifying the inventory of the equipment certified during the monitoring system certification. Requiring the UST service technician performing the certification to identify the presence and type of equipment, in this section including vacuum, pressure, or hydrostatic fluid monitoring equipment, is necessary to assist the local agency in verifying that all portions of the UST are monitored.

**Comment Summary 17:** Commenter suggests adding fields for the UST service technician to provide a pass or fail result for each monitoring device listed in the inventory list. (Commenter #4)

**Response:** The State Water Board disagrees. Section VI of this form is for identifying the inventory of the equipment certified during the monitoring system certification and does not provide enough room to document the results of the certification. The results of the certification for each type of monitoring equipment (monitoring system and programming, in-tank gauging, line leak detector, and vacuum/pressure/hydrostatic monitoring equipment) is recorded in the respective equipment-specific sections of the form. The form also includes room in other sections of the form to record any comments related to the certification of that type of equipment.

**Comment Summary 18:** Commenter is concerned that this section of the form does not provide a location to identify monitoring devices for brine filled sumps. (Commenter #4)

**Response:** Section VI of this form is for identifying the inventory of all the equipment certified during the monitoring system certification including equipment used to monitor brine filled sumps. Brine filled sump monitoring equipment should be identified in the field titled "VPH Sensor (Sump)" for the respective type of sump.

**Comment Summary 19:** Commenter is concerned about associating vent piping and vapor recovery piping monitoring with an individual tank. (Commenter #4)

**Response:** See Comment Summary 103 in the SUMMARY AND RESPONSE TO COMMENTS RECEIVED DURING THE 45-DAY COMMENT PERIOD FROM NOVEMBER 17, 2017 TO JANUARY 2, 2018, above.

**Comment Summary 20:** Commenter requests clarification on the difference between identifying devices monitoring vent and vapor recovery piping and identifying devices monitoring vent/transition sumps. (Commenter #4)

**Response:** Devices monitoring vent and vapor recovery piping are devices that would detect a release from the primary piping into the interstitial space that is sloped to a containment area or sump generally located on the top of the buried tank. Devices monitoring vent/transition sumps are devices that would detect a release from primary piping located within or sloped to the vent/transition sump. For USTs required to be monitored through the use of vacuum, pressure, or hydrostatic fluid, each containment area or sump that a leak would be contained by is required to be monitored to ensure the integrity of that area.

## **SECTION VIII.**

**Comment Summary 21:** The commenter is concerned that UST service technicians will not be able to verify if residual build up has accumulated on the floats of sensors such that it prevents the float from moving freely due to sensor design. (Commenter #2)

**Response:** UST service technicians are responsible for being knowledgeable by way of training and certification from the manufacturer of the monitoring equipment to determine if the monitoring equipment is operating properly, including verifying that the floats are free of residual build up.

## **SECTION X.**

**Comment Summary 22:** Commenter requests clarification of when the UST service technician must verify that the wiring for in-tank gauging probes properly enters and terminates. (Commenter #2)

**Response:** See Comment Summary 22 in the SUMMARY AND RESPONSE TO COMMENTS RECEIVED DURING THE 45-DAY COMMENT PERIOD FROM NOVEMBER 17, 2017 TO JANUARY 2, 2018, above. A UST service technician only is required to verify that the wiring for in-tank gauging probes properly enters and terminates as part of the monitoring system certification when the probe is used for leak detection (e.g., statistical inventory reconciliation, continuous in-tank leak detection, automatic tank gauging). Probes only used for inventory or to satisfy overfill prevention requirements are not required to be tested as part of the monitoring system certification. Probes used to satisfy overfill prevention requirements must be inspected once by October 13, 2018 and at least once every 36 months thereafter and within 30 days after the completion of a repair to the equipment.

## **SECTION XIV.**

**Comment Summary 23:** Commenter suggests creating a separate form for recording the result of the monitoring system certification for USTs monitored through the use of vacuum, pressure, or hydrostatic fluid. (Commenter #4)

**Response:** It is inappropriate and unnecessary to create a separate form to document the monitoring system certification of a UST required to be monitored through the use of vacuum, pressure, or hydrostatic fluid, because all USTs are required to document the monitoring system certification. This section of the form is dedicated to providing the results of vacuum, pressure, or hydrostatic fluid monitoring equipment certification.

## **SECTION XVI.**

**Comment Summary 24:** Commenter is concerned that a UST service technician would not be able to provide an accurate location of the general layout of the piping at a facility. (Commenter #2)

**Response:** See Comment Summary 14. This is an existing requirement.

## **SECONDARY CONTAINMENT TESTING REPORT FORM. (APPENDIX VII)**

### **SECTION III.**

**Comment Summary 25:** Commenters are concerned that the vent / transition sump is being associated with an individual tank and request clarification on how shared UST components including, but not limited to, transaction sumps vent sumps, vent piping, vapor recovery piping, and UDCs, should be recorded on the report form. (Commenter #2)

**Response:** See Comment Summary 103 in the SUMMARY AND RESPONSE TO COMMENTS RECEIVED DURING THE 45-DAY COMMENT PERIOD FROM NOVEMBER 17, 2017 TO JANUARY 2, 2018, above.



**Comment Summary 26:** Commenter requests clarification on how the communication between the secondary containment and the leak detection equipment for piping can be verified. (Commenter #2)

**Response:** Determining if communication exists between the secondary containment of piping and leak detection equipment is accomplished in a variety of ways. One way is through visual inspection to ensure that there are no physical impediments to a leak reaching the leak detection equipment, such as a testing boot left on without an opening in a downward position or leak detection equipment being placed in an area not immediately accessible to a leak. For parts of the system for which communication cannot be verified visually, communication may be verified by introducing pressure and verifying a pressure change at all end(s) of a piping run opposite the end of the piping run from where the pressure is introduced. The manufacturer of the secondary containment should be consulted to determine the most appropriate method for determining communication to prevent the equipment from being damaged and so that the results of the determination are reliable.

**Comment Summary 27:** Commenter is concerned with requiring the UST service technician to provide testing result for remote fill piping because remote fill piping is not present on most UST. (Commenter #4)

**Response:** UST service technicians should leave any portions of the form that is not applicable to the facility being tested blank or mark that portion of the form as “not applicable.”

## **SECTION V.**

**Comment Summary 28:** Commenter is concerned with the requirement for the UST service technician to possess manufacturer training or certification for the testing of the secondary containment when the manufacturer is no longer in business. (Commenter #4)

**Response:** Training or certification for the testing of the secondary containment also may be acquired through the developer of the testing equipment or test method being used in accordance with section 2637(c) in lieu of the manufacturer of the secondary containment being tested. In the event that no training or certification exists from a manufacturer of the secondary containment being tested or the developer of the testing equipment or test method used, comparable training and certification approved by the local agency may be used. (Proposed California UST Regulations, § 2715(f)(2)(E).)

**Comment Summary 29:** Commenter requests clarification on when the industry code or engineering standard would apply for secondary containment testing. (Commenter #4)

**Response:** The California UST Regulations clearly state that industry code or engineering standard for secondary containment testing may be used only if there are no manufacturer’s guidelines or standards.

**Comment Summary 30:** Commenter requests clarification regarding the use of training or certification issued by an industry code or engineering standard. (Commenter #4)

**Response:** The use of an industry code or engineering standard for secondary containment testing does not relieve the UST service technician from possessing the appropriate training and certifications for that method. In the event that no training or certification exists from the manufacturer of the secondary containment component being tested or through the developer of

the testing equipment or test method being used in accordance with section 2637(c), the local agency may approve comparable alternate training or certification. Training and certification from a manufacturer of a comparable secondary containment component whose guidelines are comparable to the industry code or engineering standard may be used if approved by the local agency.

### **SPILL CONTAINER TESTING REPORT FORM. (APPENDIX VIII)**

#### **SECTION III.**

**Comment Summary 31:** Commenter is concerned that requiring UST service technicians to verify that the spill container has at least a minimum of five-gallon capacity is unnecessary at the time of tightness testing and is more appropriate to verify at the time of installation because the container will not change volume after installation. In addition, the commenter is concerned that the method used to demonstrate that the spill container has at least a minimum of five-gallon capacity will discourage the use of vacuum testing to demonstrate that the spill container is tight. (Commenter #4)

**Response:** While the State Water Board agrees that verifying through a demonstration that the spill container has a minimum of five-gallon capacity is necessary at the time of installation, the capacity of a spill container can change due to modifications, repairs, or settling after installation. The form requires the UST service technician to determine if the spill container has at least a minimum of five-gallon capacity. There is no specific requirement to test the spill container for volumetric capacity.

The type of testing performed to determine if the spill container is liquid tight is independent of determining that the spill container has at least a minimum of five-gallon capacity. It is up to the individual performing the testing to decide on how to determine that the spill container has at least a minimum of five-gallon capacity. This could be accomplished through a demonstration or through documentation of a previous demonstration verifying that the specific spill container has a minimum of five-gallon capacity provided no conditions have changed since the demonstration.

### **OVERFILL PREVENTION EQUIPMENT INSPECTION REPORT FORM. (APPENDIX IX)**

#### **SECTION IX.**

**Comment Summary 32:** Commenter requests clarification on when the overfill inspection requires the inspection of flow restrictors installed on vent piping. (Commenter #2)

**Response:** See Comment Summaries 22 and 118 in the SUMMARY AND RESPONSE TO COMMENTS RECEIVED DURING THE 45-DAY COMMENT PERIOD FROM NOVEMBER 17, 2017 TO JANUARY 2, 2018, above.

**Comment Summary 33:** Commenter is requesting clarification regarding when the level that overfill prevention equipment is set to active and the percent capacity of the tank at which the overfill prevention equipment is set to activate is required to be determined. (Commenter #2)

**Response:** See Comment Summary 1. The level that overfill prevention equipment is set to active and the percent capacity of the tank at which the overfill prevention equipment is set to activate is required to be determined each time the overfill prevention equipment inspection is required.

### **DESIGNATED UNDERGROUND STORAGE TANK OPERATOR VISUAL INSPECTION REPORT. (Appendix XIII)**

#### **SECTION III.**

**Comment Summary 34:** Commenter is concerned that enough room has not been provided to list compliance issues discovered during a designated UST operator inspection and suggests that this section of the form be on its own page. (Commenter #3)

**Response:** See Comment Summary 131 in the SUMMARY AND RESPONSE TO COMMENTS RECEIVED DURING THE 45-DAY COMMENT PERIOD FROM NOVEMBER 17, 2017 TO JANUARY 2, 2018, above.

#### **SECTION V.**

**Comment Summary 35:** Commenter is concerned that enough room has not been provided for UST owners or operators to list actions taken or to be taken in response to compliance issues discovered during a designated UST operator inspection. (Commenter #3)

**Response:** See Comment Summary 136 in the SUMMARY AND RESPONSE TO COMMENTS RECEIVED DURING THE 45-DAY COMMENT PERIOD FROM NOVEMBER 17, 2017 TO JANUARY 2, 2018, above.

**Comment Summary 36:** Commenter suggests eliminating the requirement for the UST owner or operator to record follow-up actions because this requirement is not specified in the Federal UST Regulations. (Commenter #3)

**Response:** Section 280.36(b) of the Federal UST Regulations explicitly requires follow-up action to be documented as part of the walkthrough inspection record. The UST owner or operator is responsible for maintaining compliance of the UST system.

#### **SECTION VI.**

**Comment Summary 37:** Commenter suggests eliminating the requirement for the owner and operator to sign the form because this requirement is not specified in the Federal UST Regulations. (Commenter #3)

**Response:** See Comment Summaries 43 and 138 in the SUMMARY AND RESPONSE TO COMMENTS RECEIVED DURING THE 45-DAY COMMENT PERIOD FROM NOVEMBER 17, 2017 TO JANUARY 2, 2018, above.

#### **SECTION VIII.**

**Comment Summary 38:** Commenter suggests eliminating the requirement that a designated UST operator inspect a containment sump that has had an alarm since the previous designated UST operator inspection if a UST service technician did not respond to the alarm, because

some alarms can be resolved without a response by a UST service technician (such as removal of liquid from a containment sump that has caused a sensor to alarm). (Commenter #3)

**Response:** It is necessary that the designated UST operator inspect a containment sump that has had an alarm since the previous designated UST operator inspection if a UST service technician did not respond to the alarm, because alarms indicate that there is action needed to be taken. While some alarms can be resolved without a response by a UST service technician, the alarm condition must be documented to ensure alarms are not being ignored or the leak detection equipment has not malfunctioned and is no longer in alarm without action taken.

## **SECTION IX.**

**Comment Summary 39:** Commenter is concerned the designated UST operator does not have enough room on the form to list the results of visually inspecting all areas required to be checked at a facility and suggests providing an entire page to record the results or adding a note to allow additional pages to be attached to a report. (Commenter #3)

**Response:** See Comment Summary 139 in the SUMMARY AND RESPONSE TO COMMENTS RECEIVED DURING THE 45-DAY COMMENT PERIOD FROM NOVEMBER 17, 2017 TO JANUARY 2, 2018, above.

## **LOCAL MANDATE**

The State Water Board has determined that the proposed action will not impose a mandate on local agencies or school districts, or a mandate which requires reimbursement pursuant to part 7 (commencing with section 17500) of the Government Code, division 2. Additionally, the State Water Board has determined that the proposed action will not result in costs or savings to any state agency or any local agency or school district that is required to be reimbursed under part 7 (commencing with section 17500) of division 4 of the Government Code, other nondiscretionary costs or savings imposed on local agencies, or costs or savings in federal funding to the State.

## **ALTERNATIVES DETERMINATION**

The State Water Board has determined that no reasonable alternative considered by the agency or that has otherwise been identified and brought to the attention of the agency would be: 1) more effective in carrying out the purpose of the regulations; 2) more effective and less burdensome to affected private persons, industry, local governments, and state agencies; 3) more cost effective to affected private persons, industry, local governments, and state agencies; 4) equally effective in implementing the statutory policy or other provision of law; 5) more effective at avoiding direct regulation by the federal government of businesses already subject to California UST Regulations; or 6) more consistent with California's existing requirements and groundwater protection policies. The amendments to the regulations are necessary for consistency with Federal UST Regulations and for clarification purposes. The amendments do not duplicate or conflict with any federal law or federal regulation.