

**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**

**August 2025
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 22, 2024. In response to comments received during the initial 45-day comment period of November 22, 2024 to January 17, 2025, and the public hearing on January 13, 2025, the State Water Resources Control Board (State Water Board) modified the proposed regulations. The modified text, which is provided in Attachments A and B to this document, was made available for comment during the 15-day comment period from May 2, 2025 to May 19, 2025. Attachment A is the existing regulations, which are being repealed and replaced with the proposed regulations in Attachment B.

After publicly noticing 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. As explained further below, the State Water Board also is correcting the specific purpose and necessity of the amendments to the appendices.

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(b). The Economic and Fiscal Impact Statement (Form 399) that was provided to the public for review and inspection during the 45-day comment period has been amended to consistent with the modifications to the text. The modifications to the text did not impact the Economic Impact Analysis/Assessment that was prepared pursuant to Government Code section 11346.3. The revised Economic and Fiscal Impact Statement (Form 399) and the Economic Impact Analysis/Assessment prepared pursuant to Government Code section 11346.3(b) are part of the rulemaking record.

The specific purpose and necessity of the modifications to the text of specific sections 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, readability, renumbering, correcting authorities or references cited, and the format of references and citations consistent throughout the regulations, including references to the individual articles in the regulations.

Pursuant to Chapter 89, Statutes of 2025 (Assembly Bill No. 1459) amends Health and Safety Code section 25281 effective January 1, 2026, to exempt tanks holding dielectric

fluid from the definition of an “underground storage tank.” The proposed regulations do not require any changes to implement this amendment.

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) as 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 and equally effective in implementing the statutory policy or other provisions of law. The amendments to the regulations are necessary to make the regulations: 1) consistent with current technology and operational practices, including deleting deadlines that have passed; and 2) consistent with amendments to the Health and Safety Code enacted by Chapter 536, Statutes of 2012, Chapter 547, Statutes of 2014, chapter 721, Statutes of 2018, and Chapter 207, Statutes of 2023. The amendments do not duplicate or conflict with any federal law or federal regulation.

Global Modifications to the Proposed Text

The modifications to the proposed text included certain global changes throughout the proposed regulations as explained below.

Specific Purpose and Necessity of the Proposed Action

The State Water Board has reviewed each use of the terms “tank,” “underground storage tank,” and “underground storage tank system” to ensure that the right term is used consistent with the requirement and made corrections as necessary.

As originally drafted, the proposed regulations used both the term “spill container” and the term “spill containment” to mean the same thing, which could create confusion. As modified, the term “spill container” has been replaced with the term “spill containment” for consistency and clarification purposes.

As originally drafted, the proposed regulations also used the terms “monitoring system” and “release detection system” interchangeably. As modified, the term “monitoring system” has been replaced with the defined term “release detection system” for consistency and clarification purposes.

The State Water Board also has modified the use of the terms “release detection equipment,” “release detection method,” and “monitoring system” in the regulations for consistency and clarification purposes. As modified, “release detection method” and “release detection equipment” refer to any methods, devices, components, or sensors used to detect a release of a hazardous substance from an underground storage tank (UST) and the term “monitoring system” refers to the combined release detection equipment, including interstitial sensors and the monitoring panel.

The term “primary containment system” has been replaced with the term “primary containment” and the term “secondary containment system” has been replaced with the term “secondary containment” for clarification and consistency purposes. The addition of the word “system” in both instances was unnecessary.

Article 1. Definition of Terms, Exclusions, and Recordkeeping

Section 2611. Additional Definitions

Specific Purpose and Necessity of the Proposed Action

1. **Abandoned underground storage tank** – The definition of the term “abandoned underground storage tank” has been modified in response to a comment that the definition is unclear. As modified, the definition specifies that an abandoned UST is a UST that has not had a functional release detection system for more than 365 consecutive days. This modification establishes a clear standard for determining when a UST is abandoned.
2. **ASTM A53** – The definition of the term “ASTM A53” has been modified to update the reference to the American Society for Testing and Materials (ASTM) A53 standard for black steel to incorporate by reference the newest A53 standard that was published after the proposed definition had been drafted.
3. **Buried** – The definition of the term “buried” has been modified in response to a comment regarding the application of the definition to emergency tank systems. As modified, the definition provides that the term “buried” does not include emergency tank system piping in a conduit through building walls or ceilings where both sides of the penetration can be visually observed. This exemption from the definition of “buried” for emergency tank system pipes that are in walls or ceilings that have visual penetrations at either end is necessary to account for the reduced risk posed by this piping and the technical limitations, as well as potential conflict with other regulatory requirements.
4. **Clean compactable backfill** – The definition of the term “clean compactable backfill” has been modified in response to a comment regarding the requirement for the fill material to be certified by the supplier as clean and compactable. The requirement for a certification from the supplier has been deleted as unnecessary. Industry typically does not require lab results to consider fill material as “clean compactable backfill.”
5. **Connected piping** – The definition of the term “connected piping” has been modified in response to comments regarding the application of the definition to specific scenarios. The modification to the definition clarifies that “connected piping” includes all piping allocated to a UST pursuant to section 2612(l). Pursuant to section 2612(l), petroleum supply or return piping extending beyond the USTs tank

top fitting that is connected to a tank in an underground area is exempt from regulation as a UST.

6. **Emergency tank system** –The definition of the term “emergency tank system” has been modified to reference Health and Safety Code section 25281.5(c), rather than references included in Health and Safety Code section 252815(c) verbatim. This modification is necessary because it would be redundant, unwieldy and require the State Water Board to amend its regulation any time the referenced codes were amended.
7. **Groundwater** – The definition of the term “groundwater” has been modified in response to multiple comments about the definition of the term “groundwater” being overbroad. As modified, the definition does not include water in UST sumps.
8. **Significant violation** – In response to comments that the definition of the term “significant violation” was too broad and could include any violation, the definition has been modified to clarify that only those violations specified in the (a), (b), or (c) of the definition are significant violations.
9. **Under-dispenser containment** – In response to a comment that the definition of the term “under-dispenser containment” was too narrow to apply to marinas, the definition has been modified by changing replacing the term “groundwater” with the term “waters of the State.” As modified, the proposed definition of “under-dispenser containment” includes both typical under-dispenser containments used at service stations and floating under-dispenser containments used at marinas.
10. **Vapor condensate trap** – The definition of the term “vapor condensate trap” has been deleted from the regulations because, as identified by a commenter, this term is not used in the regulations.
11. **Violation classification** – In response to comments that the definition of the term “class I violation,” within the term “violation classification” was too broad, the definition for “class I violation” has been modified to clarify that only significant violations are “class I violations.”

Section 2612. Exclusions and Exemptions from this Chapter

Specific Purpose and Necessity of the Proposed Action

1. **Section 2612(b)** – In response to a comment, section 2612(b) has been modified to delete the phrase “conditions of” to improve readability.
2. **Section 2612(i)** – In response to a comment, section 2612(i) has been modified to include “or other portable container” after “drum” for clarification purposes.

3. **Section 2612(l)** – In response to a comment, section 2612(l) has been modified to clarify that the exemption includes piping that extends beyond the UST's tank top that is dedicated solely to connecting the UST to one or more tanks in an underground area.
4. **Section 2612(n)** – Section 2612(n) has been deleted and section 2612 has been renumbered accordingly. This provision has been moved and combined into section 2640(b)(10) for organizational purposes. In response to comments, this provision also has been amended to clarify that this is a secondary containment exemption for piping constructed with the specific conditions.
5. **Section 2612(o)** – Section 2612(p) has been moved to section 2612(o). This section also has been modified to specify that the inspections required for to qualify for this exemption must be of the “hazardous substance primary containment” piping. Only piping that is not secondarily contained may qualify for this exemption because it is not possible to visually inspect the primary of secondarily contained piping.
6. **Section 2612(s)** – In response to a comment, section 2612(s) has been added to provide an exemption from the regulations for USTs that are part of an emergency generator system at nuclear power facilities licensed by the Nuclear Regulatory Commission pursuant to appendix A of section 50 of the Code of Federal Regulations. This exemption is consistent with the partial exclusion of these tanks from federal regulation as USTs under section 280.10(c)(3) of title 40 of the Code of Federal Regulations and the exemption of these tanks from regulation as USTs in other states. California currently has one nuclear power facility with an emergency tank system that would meet this exemption. Based on multiple staff site visits, the State Water Board has determined that exempting this single emergency tank system will not adversely impact the waters of the State.
7. **Section 2612(t)** – In response to two comments, section 2612(t) has been added to provide a catch-all provision to include any tank or structure not listed in section 2612 that that is excluded from the definition of an “underground storage tank” in Health and Safety Code section 25281 or exempt from the requirements of the regulations pursuant to the Health and Safety Code. This provision is consistent with section 2621(a)(16) in the existing regulations. As a result of the inclusion of this provision, the proposed regulations do not require any changes to implement Chapter 89, Statutes of 2025 (Assembly Bill No. 1459) which amends Health and Safety Code section 25281 effective January 1, 2026, to exempt tanks holding dielectric fluid from the definition of an “underground storage tank.” This provision also ensures that the regulations will not need to be amended in the event of any future amendments to the Health and Safety Code, which excludes or exempts additional tanks or structures from regulation as a UST.

Section 2613. Recordkeeping

Specific Purpose and Necessity of the Proposed Action

1. **Section 2613(a)(3)** – In response to a comment, the term “underground storage tank monitoring plan” has been replaced with the term “UST Monitoring Plan” for consistency with section 2610(d) and to be consistent with the data entry element in the California Environmental Reporting System (CERS).
2. **Section 2613(a)(8)** – This section has been modified by removing the word “Form” from the term “Designated UST Operator Identification Form” consistent with the deletion of this form from the regulations. After a system-wide update to CERS, this information will be converted to data fields to enter into CERS for streamlining purposes and improved tracking of designated UST operators.

Section 2614. Test Notification

Specific Purpose and Necessity of the Proposed Action

The provision requiring 72 hours notice to the UPA before a test has been moved from proposed section 2660(a) to this new section in article 1. As a result of this move, the provision is not subject to the limitations on additional design and construction standards under section 2621. UPAs may adopt local ordinances or codes requiring additional notice.

Article 2. Site-Specific Variance Procedures and Additional Construction Standards

Section 2621. Procedures for Requesting Additional Construction Standards

Specific Purpose and Necessity of the Proposed Action

Section 2621(a)(4) has been deleted because, after further review, the State Water Board has determined that it is not appropriate to charge a fee for the UPA to apply for additional design and construction standards under this provision. This determination is consistent with Health and Safety Code section 25299.4(a).

Article 3. Certification, Licensing, and Training Requirements

Section 2630. Underground Storage Tank Owner and Operator Certification Requirements

Specific Purpose and Necessity of the Proposed Action

Section 2630(b) has been modified to delete the reference to the “Designated UST Operator Identification Form” and to require the information that was on that form to be submitted in CERS. This is consistent with the deletion of this form from the regulations. After a system-wide update to CERS, this information will be converted to data fields to enter into CERS for streamlining purposes and improved tracking of designated UST operators.

Section 2631. Designated Underground Storage Tank Operator Certification, Facility Training, and Inspection Requirements

Specific Purpose and Necessity of the Proposed Action

1. **Section 2631(c)** – Section 2631(c) has been modified to replace the term “monitoring plan(s)” with the defined term “UST Monitoring Plan(s)” for consistency.
2. **Section 2631(d)** – Section 2631(d)(1) has been deleted, because it is redundant of proposed section 2643(d), which has been moved to section 2643(e).

Section 2634. Inspector Certification and Training Requirements

Specific Purpose and Necessity of the Proposed Action

In response to comments, section 2634(a)(1) has been modified to read as “...the individual must possess...” instead of “...the inspector must possess...” for clarification purposes. Section 2634(a)(3) also has been modified to include those independent compliance inspectors who are working on behalf of an UPA. This addition is consistent with the addition of independent compliance inspectors to the regulations. This time is necessary to ensure UPAs can hire and train staff as needed to have enough inspectors to perform the UPA’s duties.

Article 4. Design, Construction, and Operation Requirements for Underground Storage Tank Systems

Section 2640. Design and Construction Standards for All Underground Storage Tank Systems

Specific Purpose and Necessity of the Proposed Action

1. **Section 2640(b)(1)** – Section 2640(b)(1) has been modified to add a reference to section 2652 to include the monitoring requirements for secondarily contained pipe, in addition to the monitoring requirements for tanks.
2. **Section 2640(b)(4)** – Section 2640(b)(4) has been modified to delete the term “underground storage tank” in front of “secondary containment,” because it is not necessary and potentially confusing. This requirement applies to all secondary containment.
3. **Section 2640(b)(8)** – Section 2640(b)(8) has been modified to expand the provision allowing tanks to be single-walled up to 12 inches from the top center line to all tanks, regardless of the hazardous substance stored. This requirement is consistent with existing regulations and is protective of public health, safety, and the environment by preventing a release of a hazardous substance to the environment through tank top fittings.
4. **Section 2640(b)(10)** – Proposed sections 2612(n) and 2641(a) have been deleted and these provisions have been moved and combined into section 2640(b)(10) for organizational purposes. In response to comments, the provision previously located in proposed section 2612(n) also has been amended to clarify that this is a secondary containment exemption for piping constructed with the specific conditions. In addition, section 2640(b)(10) has been modified to specifically exempt fuel delivery piping that is exempted pursuant to proposed sections 2612(n) and 2612(o) for clarification purposes. Subparagraphs (A)-(C) of section 2640(b)(10) also have been modified to clarify that they only apply to Type 1 USTs. Type 2 and Type 3 tanks require interstitial monitoring on the piping construction methods described in this section based on feedback received from a commenter.
5. **Section 2640(f)(2)** – In response to a comment, section 2640(f)(2) has been modified to address vent or tank riser piping, rather than just tank riser piping, consistent with section 2640(b)(10).
6. **Section 2640(g)** – Section 2640(g) has been modified to provide that all tank entries must be made through a manway. In addition, in response to comments, the requirement that manways be installed in accordance with the manufacturer’s guidelines, industry code or engineering standard has been modified to make this requirement applicable only to manways installed on or after the effective date of the proposed regulations. As modified, section 2640(g) is necessary to ensure that the integrity of the secondary containment is maintained properly, allowing for adequate

monitoring of the interstitial space and reducing the risk of a release of a hazardous substance.

Section 2641. Additional Design and Construction Standards for Type 2 and Type 3 Underground Storage Tanks

Specific Purpose and Necessity of the Proposed Action

Proposed section 2641(a) has been deleted and this provision has been moved and combined into section 2640(b)(10), because the referenced exemption for buried vent, vapor recovery and fill pipes in section 2640(b) does not apply to Type 2 or 3 USTs, which are the subject of this section. Section 2641 has been renumbered accordingly. Proposed section 2641(b), which has been moved to section 2641(a) also has been amended for clarification purposes.

Section 2642. Installation and Repair Requirements

Specific Purpose and Necessity of the Proposed Action

1. **Section 2642(c)** – Section 2642(c) has been modified to add a reference to section 2633 to the reference to section 2632 to be consistent with the requirements applicable to UST system installations in sections 2632 and 2633.
2. **Section 2642(d)** – A commenter stated that the changes from existing section 2636(c)(2) to proposed 2642(d) will result in both the primary and secondary being made of schedule (pipe wall thickness) 40 instead of schedule 40 for the primary and schedule 10 for the secondary, and that this will create construction problems. In response, section 2642(d) has been modified to require the primary to be a minimum schedule 40 and the secondary to be a minimum schedule 10, which is protective of public health, safety, and the environment.
3. **Section 2642(e)** – In response to comments, section 2642(e)(2) has been modified to extend the deadline by which all USTs must be anchored from July 1, 2026 to January 1, 2027. This provides additional time for owners or operators to comply with the requirement and reduces the cost of complying with the regulations. The Economic and Fiscal Impact Statement (Form 399) has been amended accordingly. In addition, in response to a comment, this section has been modified to clarify that the anchoring requirement is for the purpose of preventing flotation.
4. **Section 2642(g)** – Section 2642(g) has been modified to provide the owner or operator 30 days from the inspection to make the required certification. The State Water Board has determined that this is sufficient time for the owner or operator to make the required certification. In addition, this deadline is consistent with other requirements in the regulations.

5. **Section 2642(l)** – Proposed section 2642(l) has been deleted and section 2642 has been renumbered accordingly. Proposed section 2642(l) has been deleted because it contained duplicative aspects of the requirements in proposed 2642(m). Proposed section 2642(m) has been moved to section 2642(l) and has been modified to be broad enough to cover has been deleted, because it is unnecessary. It is commonly understood that all structural determinations must be performed by a special inspector in accordance with the definition in Health and Safety Code, section 25281(s).

Section 2643. Operating Requirements for Underground Storage Tanks

Specific Purpose and Necessity of the Proposed Action

The State Water Board has deleted proposed section 2643(c) and replaced it with new subdivisions (c) and (d) of section 2643. As amended, the owner or operator must respond to a minor violation in accordance with Health and Safety Code section 25404.1.2. For all other violations, the owner or operator must respond in accordance with Health and Safety Code section 25288. The UPA must impose the time limits and provisions set in Health and Safety Code sections 25288 and 25404.1.2 and owners and operators are required to comply with these requirements.

Article 5. Monitoring Requirements for Underground Storage Tanks

Section 2650. Monitoring and Response Plan Requirements for Underground Storage Tanks

Specific Purpose and Necessity of the Proposed Action

The information required on the monitoring site plan pursuant to section 2650(c)(1) has been modified in response to comments concerned with the level of detail. Specifically, section 2650(c)(1) has been modified to delete the requirement to include “dispensers, spills containers, and additional components” on the monitoring site plan to additional components are removed because this information is not necessary to include on the Monitoring Site Plan and limit the effectiveness of the plan. The phrase “to the extent known” also has been moved to clarify that piping only must be shown to the extent known and to clarify that containment sumps are included within the term “piping.” Owners or operators are not required to incur any additional expense to try to determine the exact layout of the piping for an old UST system, but when new USTs are installed, owners or operators need to get this documentation from the installer and maintain that documentation. As modified, this requirement does not result in any increase in costs from the existing requirements.

Section 2651. Monitoring Requirements for Underground Storage Tanks

Specific Purpose and Necessity of the Proposed Action

1. **Section 2651(b)** – In response to a comment, section 2651(b)(1) has been modified to replace “approval” of the UPA with “notification” of the UPA, because it is not necessary or reasonable to require approval from the UPA prior to disabling the release detection equipment for periods of less than 24 hours. Section 2651(b)(2)-(3) set forth the requirements for disabling release detection equipment for more than 24 hours.
2. **Section 2651(b)(2)-(3)** – In response to comments regarding that the 12-hour and 72-hour deadlines in section 2651(b)(2)-(3) are too short, section 2651(b)(2)-(3) has been modified to extend the deadlines from 12-hours to 24-hours and 72 hours to 30 days respectively. Section 2651(b)(2)(3) also has been modified to clarify when these requirements apply. As modified, section 2651(b)(2)-(3) allows the use of an alternative monitoring program if interstitial monitoring release detection equipment will be non-functional for more than 24 hours, but requires the UST to be temporarily closed if the release detection system is non-functional for more than 30 days. The State Water Board has determined that these deadlines are sufficient for owners or operators to complete regular repairs, while being sufficiently protective of public health, safety, and the environment.
3. **Section 2651(e)** – Section 2651(e) has been modified for clarification purposes.

Section 2652. Additional Monitoring Requirements for Piping

Specific Purpose and Necessity of the Proposed Action

1. **Section 2652(a)** – Section 2652(a) has been modified to clarify that piping only must be monitored for a release of a hazardous substance from the piping, not from the tank. Monitoring requirements for the tank are separate.
2. **Section 2652(a)(1)(B)** – Section 2652(a)(1)(B) has been modified to clarify that the requirement to replace non-functioning mechanical release detection equipment used to continuously monitor under-dispenser containment includes impact shear valves. This requirement does not include impact shear valves that are not used for release detection. The State Water Board has determined that this requirement is necessary due to the frequency of failures of mechanical release detection components.
3. **Section 2652(a)(2)** – After publicly noticing the modified text, section 2652(a)(2) has been modified section 2652(a)(2) by adding a comma between “buried” and “pressurized piping” for grammatical reasons.
4. **Section 2652(a)(2)(C)** – In response to a comment, section 2652(a)(2)(C) has been added to allow emergency tank systems to use a continuous vacuum, pressure, or

hydrostatic interstitial monitoring system that activates an audible and visual alarm in lieu of shutting off or restricting flow through the piping when a release of a hazardous substance is detected or the monitoring system malfunctions to satisfy the line leak detector requirement in section 2652(a)(2)(B). This provision is necessary due to the emergency nature of these systems and is consistent with existing regulations.

5. **Section 2652(a)(3)-(4)** – Section 2652(a)(3)-(4) has been modified to replace the term “monitoring” with the more specific term “tightness testing” to clarify the type of monitoring that must be completed annually.
6. **Section 2652(b)** – Section 2652(b) has been modified to refer to all piping connected to Type 3 USTs instead of only buried piping. Unburied product piping connected to Type 3 USTs are not exempt from the vacuum, pressure or hydrostatic pressure monitoring requirements of subdivisions (d) and (e) of Health and Safety Code, section 25290.1.
7. **Section 2652(c)** – Section 2652(c) has been modified to delete the word “periodic” in front of “testing,” because section 2663(a) is not limited to periodic testing and it is necessary that piping be configured to facilitate all testing required pursuant to section 2663(a).

Article 6. Testing Requirements for Underground Storage Tanks

Section 2660. Testing Requirements for Underground Storage Tanks

Specific Purpose and Necessity of the Proposed Action

1. **Section 2660(a)** – The provision requiring 72 hours notice to the UPA before a test has been moved from proposed section 2660(a) to section 2613 in article 1. As a result of this move, the provision is not subject to the limitations on additional design and construction standards under section 2621. UPAs may adopt local ordinances or codes requiring additional notice.
2. **Section 2660(d)** – In response to comments, the last sentence in section 2660(d) has been deleted, because it is redundant of section 2660(c).

Section 2662. Requirements for Integrity Testing

Specific Purpose and Necessity of the Proposed Action

As originally proposed, section 2662(b) would have had the unintended consequence of requiring integrity tests to be performed following any installation, replacement, or repair of the UST's primary containment, regardless of how minor or where located.

Consistent with the State Water Board's original intent, section 2662(b) has been modified to only require an integrity test to be performed after work on components

requiring excavation to access. Integrity tests are necessary in these instances because access is buried following completion of the installation, replacement, or repair, decreasing the likelihood of discovering a release of a hazardous substance from the component. In addition, in response to comments, this section also has been modified to replace the reference to UST systems installed on or before July 1, 2003 with the defined terms “Type 1 underground storage tanks” and “Type 2 underground storage tanks” for consistency purposes.

Section 2663. Requirements for Release Detection Equipment Testing

Specific Purpose and Necessity of the Proposed Action

1. **Section 2663(a)** – Section 2663(a) has been modified to add “at least once” in front of “every 12 months” for clarification purposes.
2. **Section 2663(c)** – Section 2663(c) has been modified to clarify that this provision only applies to release detection equipment and to add a reference to section 2652(a)(1)(B) for clarification purposes.

Section 2666. Requirements for Secondary Containment Testing

Specific Purpose and Necessity of the Proposed Action

Section 2666(b) has been modified to add “at least once” in front of “every 36 months” for clarification purposes.

Article 7. Unauthorized Release Reporting and Initial Response Requirements

Section 2671. Reporting, Investigation, and Initial response Requirements for Unauthorized Releases

Specific Purpose and Necessity of the Proposed Action

1. **Section 2671(a)(4)** – Section 2671(a)(4) has been modified to delete the word “recalibrated” because it is unnecessary. Recalibration is included within the definition of the term “repair.”
2. **Section 2671(c)(2)** – In response to a comment, section 2671(c)(2) has been modified to replace the term “Facility ID Number” with the term “CERS ID Number” for consistency with CERS.

Article 8. Underground Storage Tank Closure Requirements

Section 2680. Temporary Closure Requirements

Specific Purpose and Necessity of the Proposed Action

Section 2680(j) has been modified to reference all applicable data elements in CERS instead of specifying each required data element in CERS for flexibility, ensuring that the regulations will not need to be amended if CERS changes the names of these fields in the future. Also, in response to a comment on section 2681(n), the requirement to update this information in CERS has been extended from 72 hours to 30 days for consistency with the requirements in section 2613(b) and a reference to section 2613(b) has been added for specificity and clarity.

Section 2681. Permanent Closure Requirements

Specific Purpose and Necessity of the Proposed Action

1. **Section 2681(g)(1)** – Section 2681(g)(1) has been modified to specify that all soil and groundwater samples must be analyzed as required by the Cleanup Oversight Agency for all hazardous substance previously stored in the USTs consistent with existing practice. This section also has been modified to more clearly specify where each sample must be taken and how many samples must be taken consistent with best practices to better ensure that the sampling completed identifies any releases of a hazardous substance from the UST system.
2. **Section 2681(i)(4)** – Section 2681(i)(4) has been modified to clarify that this documentation requirement only applies to those wastes “generated as a result of closure activities,” not any other wastes that may be associated with other work going on at the site.
3. **Section 2681(k)** – Section 2681(k) has been modified so that the UPA is not required to issue a UST Closure Letter until the owner or operator has complied with both subdivisions (j) and (k) of section 2681. This ensures that the UPA has received all the documentation required to confirm that UST system has been permanently closed in accordance with section 2681 and ensures proper tracking of permanent closures.
4. **Section 2681(n)** – Section 2681(n) has been modified to reference all applicable data elements in CERS instead of specifying each required data element in CERS for flexibility, ensuring that the regulations will not need to be amended if CERS changes the names of these fields in the future. In response to a comment, the requirement to update this information in CERS also has been extended from 72 hours to 30 days for consistency with the requirements in section 2613(b) and a reference to section 2613(b) has been added for specificity and clarity.

Section 2682. Abandoned Underground Storage Tanks

Specific Purpose and Necessity of the Proposed Action

Section 2682(b) has been modified to correct the reference and to add a reference to the UPA's Inspection and Enforcement Plan for clarification purposes.

Section 2683. Underground Storage Tank Reuse and Reinstallation Requirements

Specific Purpose and Necessity of the Proposed Action

1. **Section 2683(a) and (b)** – Proposed section 2683(a) and proposed section 2683(b) have been combined into section 2683(a) and section 2683 has been renumbered accordingly. As modified, section 2683(a) applies both to tanks intended to be reused to store non-hazardous substances and for tanks that will be moved to a different location and reused for any purpose. All USTs in both these scenarios need to be permanently closed before the reuse to ensure public health, safety, and the environment and the UPA needs the listed information to be sure that the closure is properly completed and that UST is properly disposed of if it is not reused appropriately. Consistent with the combining of these two subdivisions, the UPA approval requirement in proposed section 2683(b) has been moved to section 2683(a)(4). In addition, section 2683(a)(1) has been modified to include the name of the new operator, because the new owner may not also be the new operator and the UPA needs the name of both the new owner and the new operator.
2. **Section 2683(c)** – Section 2683(c) has been moved to section 2683(b). This section also has been modified to specify that tanks reused to store hazardous substances and relocated, must meet the requirements of Health and Safety Code section 25290.1 and the construction, monitoring, and testing requirements of the proposed regulations prior reuse. This provision is necessary to ensure that any tanks reused to store hazardous substances are held to the same standards as new tanks installed under the proposed regulations.
3. **Section 2683(d)** – Section 2683(d) has been moved to section 2691(f) for organizational purposes.

Section 2684. Cleanup Oversight Agency Notification and Review

Specific Purpose and Necessity of the Proposed Action

1. **Section 2684(a)** – Section 2684(a) has been modified to provide the UPA 30 days from receipt of the required information and documentation to submit the information

and documentation to the Cleanup Oversight Agency. The State Water Board has determined that this is sufficient time for the UPA to submit the information and documentation to the Cleanup Oversight Agency. In addition, this deadline is consistent with other requirements in the regulations.

2. **Section 2684(c)** – After publicly noticing the modified text, section 2684(c) has been modified to delete the “or” between “compliance with” and “section 2681 and section 25298....”

Article 9. Permit Application, Unified Program Agency Requirements, Trade Secrets, and Red Tag Requirements

Section 2690. Operating Permit Applications for Underground Storage Tanks

Specific Purpose and Necessity of the Proposed Action

In response to a comment, section 2690(a)(2) has been modified to add a requirement to provide the California Department of Tax and Fee Administration number, if any, as part of the required facility information for the operating permit application. This information assists in tracking USTs and ensuring that owners or operators of USTs storing petroleum comply with the requirement to pay the petroleum UST storage fee.

Section 2691. Operating Permit

Specific Purpose and Necessity of the Proposed Action

Section 2683(d) has been moved to section 2691(f) for organizational purposes.

Section 2692. Unified Program Agency Reporting Requirements

Specific Purpose and Necessity of the Proposed Action

Section 2692(b)(2) has been modified to reorganize the list of required report items for improved readability.

Section 2694. Enforcement, Violation Classification, and Red Tag Applications

Specific Purpose and Necessity of the Proposed Action

1. **Section 2694** – In response to a comment, section 2694 has been modified to specify the UPA or the State Water Board and to clarify the authorities and responsibilities of both the UPA and the State Water Board.

2. **Section 2694(a)** – Section 2694(a) has been amended to delete the word “Program” from the term “Inspection and Enforcement Program Plan” for consistency with section 15200 of title 27 of the California Code of Regulations.
3. **Section 2694(c)** – In response to a comment regarding the use of the undefined term “underground storage tank inspectors,” section 2694(c) has been modified to clarify that the requirements of this section apply to any violation cited by the UPA or the Board.
4. **Section 2694(h)** – In response to comments regarding the timing of the documentation of the level of stored hazardous substance under section 2694(h), this section has been modified to require the UPA or the Board to document the level of stored hazardous substance in the tank “immediately before” affixing a red tag and emptying of a tank that has been ordered to be emptied. In addition, section 2694(h)(3) has been deleted because it is not necessary. Responsibility for documentation of the level of stored hazardous substance upon removal of a red tag is addressed under section 2695(d)
5. **Section 2694(i)** – Section 2694(i) has been modified to clarify that the notification to the owner and operator must be in writing to ensure that the owner and operator are notified and to ensure proper tracking.
6. **Section 2694(j)** – Section 2694(j) has been modified to replace the word “direction” with the word “authorization” for consistency purposes.
7. **Section 2694(l)** – Section 2694(l) has been modified to add a reference to section 2695(c) for clarification purposes.
8. **Section 2694(m)** – Section 2694(m) has been added in response to comments that there is no provision in section 2694 for temporary removal of red tags for repairs. This provision is necessary to allow for the temporary removal of red tags for repairs that may resolve the compliance issue or for emptying the tank in accordance with section 2694(f). The provision also requires the UPA or the State Water Board to reaffix red tags after the tanks are emptied or if the tank remains in significant violation after the repairs are completed. This ensures that the red tag will be reaffixed after the emptying of the tank or the repair to the tank, unless the tank no longer is in significant violation.

Section 2695. Removal of Red Tags

Specific Purpose and Necessity of the Proposed Action

1. **Section 2695** – In response to a comment, section 2695 has been modified to specify the UPA or the State Water Board and to clarify the authorities and responsibilities of both the UPA and the State Water Board.

2. **Section 2695(d)** – The term “product” in section 2695(d) has been replaced with the more accurate, defined term “hazardous substance.”
3. **Section 2695(f)** – Section 2695(f) has been modified to add a requirement that the owner or operator provide the documentation of level of stored hazardous substance taken in accordance with subdivision (d) of section 2695 when returning the red tag to the agency that affixed the red tag. This provision is necessary to ensure that the agency that affixed the red tag receives this documentation, which allows the agency to ensure compliance with the prohibition of depositing or withdrawing the stored hazardous substance from a UST with a red tag affixed.

Section 2696. Content of Red Tags

Specific Purpose and Necessity of the Proposed Action

Consistent with similar modifications to sections 2694 and 2695, section 2696(a)(4) has been modified to specify the UPA or the State Water Board and to clarify the authorities and responsibilities of both the UPA and the State Water Board.

Appendices

As reflected in the Initial Statement of Reasons, the State Water Board had intended to delete appendix 2, Designated UST Operator Identification Form, from an earlier draft of the regulations and renumber the appendices accordingly. Due to an error, however, appendix 2, Designated UST Operator Identification Form, was included in the proposed regulations. As a result, the numbers of appendices 2 through 8.3 in the proposed regulations did not match the numbering of those appendices in the Initial Statement of Reasons. Appendix 2, Designated UST Operator Identification Form, now has been deleted and appendix 2 has been reserved for future use. To avoid the need for unnecessary changes, appendices 3 through 8.3 have not been renumbered.

The State Water Board has modified the appendices to correct minor formatting issues, including fixing the alignment of text fields, resizing check boxes for consistency, and resizing sections for consistency and to prevent sections from breaking across pages where possible.

Appendix 2. Reserved

Specific Purpose and Necessity of the Proposed Action

This form has been deleted because it is not necessary. Part of the modernization efforts of the proposed regulations is updating CERS to better streamline information required for UST facilities. After a system-wide update to CERS, this information will be converted to data fields in CERS for streamlining purposes and improved tracking of

designated UST operators. Appendix 2 has been reserved for future use, avoiding the need for unnecessary renumbering of the remaining appendices and updating of cross-references throughout the regulations.

Appendix 4. Designated UST Operator Visual Inspection Report Form

Specific Purpose and Necessity of the Proposed Action

1. **Page 1 footer** – The footer on page 1 of appendix 4 has been modified to insert the definitions for “NA” and “UDC,” in response to a comment that these acronyms were not defined.
2. **Section 7** – Section 7 of appendix 4 has been modified to remove duplicate text identified by multiple commenters. The text in section 7 also has been modified to replace the term “follow up action” with “compliance issues” for consistency purposes.

Appendix 5. Release Detection Equipment Testing Report Form

Specific Purpose and Necessity of the Proposed Action

1. **Section 5** – This section has been modified by replacing the term “control panel” with the term “monitoring system” to better describe the components being tested. A duplicate text field in the “Software Version Installed” cell has been deleted because it is unnecessary. Additionally, the requirement for secondary containment to be free of damage, debris, or liquid has been modified for consistency purposes.
2. **Section 6** – This section has been modified to include a “Not Applicable” field for testing continuity testing, because this requirement only applies to UST systems using vacuum, pressure, or hydrostatic monitoring.

Appendix 5.1. Release Detection Equipment Testing Report Form Sensor Test Results Continuation Page

Specific Purpose and Necessity of the Proposed Action

Section 6 of appendix 5.1 has been modified to include a “Not Applicable” field for testing continuity testing, because this requirement only applies to UST systems using vacuum, pressure, or hydrostatic monitoring.

Appendix 7. Overfill Prevention Equipment Testing Report Form

Specific Purpose and Necessity of the Proposed Action

In response to comments, the heading of appendix 7 has been corrected to be “Overfill Prevention Equipment Testing Report Form” instead of “Spill Container Testing Report Form.”

Appendix 7.1. Overfill Prevention Equipment Testing Report Form Continuation Page

Specific Purpose and Necessity of the Proposed Action

The footnote on appendix 7.1 has been modified to include a requirement to describe any repairs and all tests marked as fail in section 8 of appendix 7 to be consistent with the requirements of appendix 7.

Appendix 8. Secondary Containment Testing Report Form

Specific Purpose and Necessity of the Proposed Action

Section 7 of appendix 8 has been modified to uncheck a checkbox that multiple commenters identified had been inadvertently checked.