

**STATE WATER RESOURCES CONTROL BOARD
UNDERGROUND STORAGE TANK REGULATIONS
AMMENDMENTS FOR IMPLEMENTION OF TRAINING REQUIREMENTS
PURSUANT TO SB 989 (stats. 1999, ch. 812) AND AB 1465 (stats. 2001, ch.154)**

July 30, 2003

NOTICE OF MODIFICATIONS TO TEXT OF PROPOSED REGULATIONS

DETAILED STATEMENT OF REASONS

The specific reason for each amended, added, or deleted regulation is summarized below.

Section 2611. Additional Definitions

The definition of “Best management practice” is amended with non-substantive editorial changes.

The definition of “cathodic protection tester” is amended to reference any individual rather than a person. This change was made because “person” as defined in section 2611 includes not only individuals, but also other entities such as corporations, firms, partnerships, and associations. Non-substantive editorial changes have also been made.

The definition of “corrosion specialist” is amended to reference any individual rather than a person. This change was made because “person” as defined in section 2611 includes not only individuals, but also other entities such as corporations, firms, partnerships, and associations. Non-substantive editorial changes have also been made.

The definition of “designated underground storage tank operator” is amended to clarify that a facility may have more than one individual holding the position. Non-substantive editorial changes have also been made.

The definition of “facility employee” is amended to clarify that a facility employee is not considered the “operator”, although the same individual may hold both positions. This clarification was needed to alleviate confusion between the duties and responsibilities of the operator and those of the facility employee.

The definition of “service technician” was amended to include the testing of monitoring equipment, since this testing is a task routinely conducted by service technicians. Non-substantive editorial changes have also been made.

Section 2631.1. Compatibility and Permeability Requirements for All New Underground Storage Tanks

The proposed text of section 2631.1(a) was amended to contain the exact compatibility language used in the Federal Regulations (40 CFR 280.32).

The proposed text of section 2631.1(b) was amended to reference the approvals that are required by existing sections 2631(b) and (d) rather than repeating the definition of those approvals. The text that was deleted from the previous proposal was intended to refer to sections 2631(b) and (d), but was determined to be unclear. The proposed text of section 2631.1(b) was further amended to allow an additional six months before the effective date of this requirement. The extension was needed because this regulation package will not be adopted by the date previously mentioned in this section, July 1, 2003.

The proposed text of section 2631.1(c) was deleted. The requirement that compatibility and permeability testing data be submitted to the local agency upon request has been moved to section 2631.1(b).

Section 2635. Installation and Testing Requirements for All New Underground Storage Tanks.

The proposed text of section 2635(d)(1) has been amended to reflect changes to the numbering of subsections of proposed section 2715.

Section 2636. Design, Construction, Installation, Testing, and Monitoring Requirements for Piping

The proposed text of section 2636(f)(2) has been amended to address concerns that, by virtue of design, automatic line leak detectors may not practicably be installed on many emergency generator systems.

The proposed text of section 2636(f)(3) has been amended to provide emergency generator fueling systems with alternatives to the automatic line leak detector requirement specified in section 2636(f)(2).

The proposed text of section 2636(f)(3) has been renumbered, and is now found in section 2636(f)(4).

The proposed text of section 2636(f)(4) has been renumbered, and is now found in section 2636(f)(5). Reference to subdivision (f)(3) has been changed to (f)(4) to reflect the change in numbering of those subsections.

The proposed text of section 2636(g)(1)(c) has been amended to reflect the changes to the numbering of the referenced section.

The proposed text of section 2636(g)(3) has been amended to reflect a recent change to the organizational structure of the State Water Resources Control Board. The Underground Storage

Tank Program was recently moved from the Division of Clean Water Programs to the Division of Water Quality.

Section 2637. Secondary Containment Testing

The proposed text of section 2637(c) has been amended with non-substantive editorial changes.

The proposed text of section 2637(d) has been amended to remove installers from the list of persons qualified to conduct secondary containment testing. Under current regulations, installers are allowed to conduct secondary containment testing. However, SWRCB staff have determined that installing underground storage tank components and conducting secondary containment testing are two distinctly different tasks. The installer exam that will be required by proposed section 2715(h)(2) is a national exam, and does not cover secondary containment testing. In contrast, the service technician exam that will be required by proposed section 2715(i)(4) is California-specific, and will cover secondary containment testing. Therefore, the proposed text of section 2637(d) was modified such that installers who wish to conduct secondary containment testing will be required to meet the qualifications of a service technician. This section has also been amended to reflect changes to the numbering of subsections of proposed section 2715.

Section 2638. Annual Certification of Monitoring Equipment

The proposed text of section 2638(b) has been amended to reflect changes to the numbering of subsections of proposed section 2715.

Section 2643. Non-Visual Monitoring/Quantitative Release Detection Methods

The proposed text of section 2643(f)(5) has been deleted. SWRCB staff have determined that the proposed text was unnecessary because local regulatory agencies already have the authority to require replacement of monitoring equipment that does not function properly. Additionally, leak detection equipment is already required to go through an extensive third-party evaluation process. This third-party evaluation is generally reviewed by the National Work Group on Leak Detection Evaluations, an independent, nationally recognized workgroup that reviews leak detection system evaluations to determine whether each evaluation was performed in accordance with an acceptable leak detection test method protocol. Any concerns with product compatibility could be incorporated into these reviews and noted in the list that is generated as a result of these reviews.

Section 2715. Certification, Licensing, and Training Requirements for Underground Storage Tank Owners, Operators, Installers, Service Technicians, and Inspectors

The proposed text of section 2715(a) has been amended to allow an additional six months for owners to specify designated UST operators for each facility. The additional six months are needed to allow designated UST operators throughout the state to successfully complete the

required examination from the International Code Council. Amendments to the proposed text also remove the penalty of perjury from the owner's signed statement, and limit the signed statement to applicable underground storage tank requirements. This was done in response to comments suggesting that the originally proposed language was unnecessarily stringent. The term "regulatory and statutory requirements" has been replaced with "applicable underground storage tank requirements" to address the fact that many jurisdictions have local ordinances that the facility must also comply with. Additionally, references to the designated UST operator have been made plural in order to clarify that a facility can have more than one designated UST operator. The text of this section has also been amended with non-substantive editorial changes.

The proposed text of section 2715(b) has been amended to allow an additional six months for designated UST operators to successfully complete the required examination from the International Code Council. Providing an additional six months will allow adequate time for designated UST operator candidates to study and prepare for the exam. Section 2715(b) was further amended to clarify that designated UST operators must pass the California version of the UST Operator exam offered by the International Code Council. The proposed text has also been amended to clarify that a designated UST operator must possess a current certificate from the International Code Council. The International Code Council certification for designated UST operators is considered current for two years, at which time the exam must be taken again. Finally, the monthly visual inspection requirement formerly found in proposed section 2715(b) has been moved, with amendments, to section 2715(c).

The previously proposed text of section 2715(c) has been moved, with minor amendments, to section 2715(f).

The newly proposed text of section 2715(c) now specifies the scope of the monthly visual inspection of the underground storage tank system, which must be conducted by the designated UST operator. The requirement for monthly visual inspections was previously contained in section 2715(b). Tasks to be performed in the monthly visual inspection have been specified in order to promote statewide consistency, and to address concerns that the inspections may be too detailed to be practicable or too cursory to be effective. The newly proposed text of sections 2715(c)(1) through (6), which are discussed in detail below, clarify for facility owners, designated UST operators, and regulators the minimum requirements that a monthly visual inspection must include. Each task specified addresses a problem or problems that have historically occurred at operating underground storage tank facilities.

The newly proposed text of 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 (i.e. raising the alarming leak detection sensor above the liquid level rather than having the liquid removed from the containment area and disposed of properly).

The newly proposed text of section 2715(c)(2) specifies monthly visual inspection of spill containers. Spill containers are opened during each product delivery to the underground storage tank, and commonly collect dirt, debris, surface water, and spills from delivery hoses. Dirt and

debris may impair the performance of the spill container, and standing water or product may hasten deterioration of the spill container. Therefore, it is important that spill containers be kept clean and dry.

The newly proposed text of section 2715(c)(3) specifies monthly visual inspection of under-dispenser containment. Under-dispenser containment commonly collects dirt, debris, surface water, and releases from piping within the dispenser. Dirt and debris may impair the performance of monitoring equipment within the under-dispenser containment, and standing water or product may hasten deterioration of the under-dispenser containment. Therefore, it is important that under-dispenser containment be kept clean and dry. During the monthly visual inspection, the designated UST operator must also determine whether the monitoring equipment within the under-dispenser containment is positioned such that it can detect a leak at the earliest possible opportunity¹. This requirement was added because raising monitoring equipment to silence alarms has historically been a problem.

The newly proposed text of section 2715(c)(4) specifies visual inspection of all containment sumps that have had an alarm or have been serviced in the previous month. Containment sumps commonly collect dirt, debris, surface water, and releases from product piping; all of which may adversely impact the performance of the containment sumps and associated monitoring equipment. Historically, monitoring equipment sensors located within containment sumps have been raised or disconnected in order to silence alarms. Therefore, visual inspection of containment sumps is an important element in assuring that the UST system is in compliance with applicable regulations and best management practices. SWRCB staff recommends that containment sumps be visually inspected monthly. However, we also recognize that containment sump lids are large and heavy, and that the need to lift the lids for access should be minimized. As a practical solution that still provides environmental protection, we have proposed that containment sumps be accessed for visual inspection only when an alarm or service has occurred in the past month.

The newly proposed text of section 2715(c)(5) specifies that the designated UST operator must check that all required maintenance and testing of the UST system has been completed. This monthly check will help assure that each facility keeps up with all required maintenance and testing.

The newly proposed text of section 2715(c)(6) specifies that the designated UST operator must assure that all facility employees (as defined in section 2611) are in compliance with the training requirements set forth in the proposed text of 2715(f). By checking training records monthly, the designated UST operator can assure that all facility employees, including newly hired employees, have received the necessary training.

The previously proposed text of section 2715(d) has been moved, with minor amendments, to section 2715(g).

The newly proposed text of section 2715(d) specifies that the designated UST operator must notify the owner or operator of any conditions at the facility that require follow-up action.

¹ The requirement that monitoring equipment must be able to detect a leak at the earliest possible opportunity is found in existing regulations, sections 2630(d) and 2641(a).

Examples of such conditions include water or product found in secondary containment areas, monitoring equipment that has been disconnected, and other changes at the facility that may impact the monitoring plan, response plan, or other permit conditions. This notification is necessary because the owner or operator is responsible for assuring that appropriate action is taken when a problem is identified, and that the facility is in compliance with applicable requirements.

The newly proposed text of section 2715(e) requires the owner or operator to maintain a copy of the monthly inspection records for the previous twelve months. This requirement provides a way for local agencies to verify that the monthly inspections are being conducted. The language used in this section is based on existing record-keeping requirements, which are currently found in section 2712(b).

The proposed text of section 2715(f) now contains the proposed text previously found in section 2715(c), with minor amendments. The previously proposed July 1, 2004 effective date for facility employee training has been amended to July 1, 2005. This date was chosen because it is six months after the effective date of the designated UST operator requirement, allowing a minimum of six months for designated UST operators to provide on-the-job training to facility employees. The proposed text of section 2715(f) was also amended to clarify that a facility may have more than one designated UST operator.

The proposed text of section 2715(f)(1)(B) [*formerly proposed in section 2715(c)(1)(B)*] has been amended to reference the facility's monitoring plan. This was done because SWRCB staff have determined that the monitoring plan, which is currently required by section 2632(d)(1), is an important document for all facility employees to be familiar with. The proposed text of this section has also been amended with non-substantive editorial changes.

The proposed text of section 2715(f)(1)(C) [*formerly proposed in section 2715(c)(1)(C)*] has been amended to reference the facility's response plan. This was done because SWRCB staff have determined that the response plan, which is currently required by section 2632(d)(2), is an important document for all facility employees to be familiar with.

The proposed text of section 2715(f)(1)(D) [*formerly proposed in section 2715(c)(1)(D)*] has been amended with non-substantive editorial changes.

The proposed text of section 2715(f)(2) [*formerly proposed in section 2715(c)(2)*] has been amended to clarify the type of training facility employees must have. This section has been further amended to address concerns about facility employee training requirements for facilities that are not routinely staffed. This requirement is not intended to mandate staffing of facilities that are not currently staffed on a regular basis. As an alternative, the proposed text allows the designated UST operator to implement a facility employee training program approved by the local agency.

The proposed text of section 2715(f)(3) [*formerly proposed in section 2715(c)(3)*] has been amended so that the facility employee training list includes the hiring date of facility employees hired after the effective date of the facility employee training requirement. This information is needed to verify that all facility employees have been trained within 30 days of the date of hire,

as required by proposed section 2715(f). The proposed text of section 2715(f)(3) was further amended to allow the facility employee training list to be kept off-site if approved by the local agency, and to clarify that a facility may have more than one designated UST operator.

The proposed text of section 2715(g) [*formerly proposed in section 2715(d)*] has been amended with non-substantive editorial changes.

The text formerly proposed in section 2715(g) has been incorporated into 2715(i)(1).

The proposed text of section 2715(h) [*formerly proposed in section 2715(e)*] has been amended with non-substantive editorial changes.

The proposed text of section 2715(h)(2) [*formerly proposed in section 2715(e)(2)*] has been amended to allow an additional six months for installers to successfully complete the required examination from the International Code Council. The additional six months will allow adequate time for installers to study and prepare for the exam. The proposed text has also been amended to clarify that installers must have a current certificate from the International Code Council. The International Code Council certification for installers is considered current for two years, at which time the exam must be taken again.

The proposed text of section 2715(i) [*formerly proposed in section 2715(f)*] has been amended with non-substantive editorial changes.

The proposed text of section 2715(i)(1) [*formerly proposed in section 2715(f)(1)*] has been amended to include individuals possessing a tanks tester's license issued by the State Water Resources Control Board among those qualified to perform the duties of a service technician. The text allowing licensed tank testers to conduct the work of a service technician was previously found in section 2715(g), but was added to this section for clarity. Note that in order to perform the duties of a service technician, SWRCB licensed tank testers must possess a current California UST Service Technician's certificate from the International Code Council. This was needed because the SWRCB tank tester's exam does not cover annual certification of monitoring equipment or periodic secondary containment testing, which are the primary tasks that would be conducted by a tank tester performing the duties of a service technician.

The proposed text of section 2715(i)(2)(A) [*formerly proposed in section 2715(f)(2)(A)*] has been amended to alleviate possible confusion caused by the use of the word "component". The proposed text now specifies that the training required by this subsection must come from the manufacturer of the secondary containment system being tested. The proposed text this section has also been amended to reflect a change in numbering of the referenced section.

The proposed text of section 2715(i)(2)(B) [*formerly proposed in section 2715(f)(2)(B)*] has been amended with non-substantive editorial changes.

The proposed text of section 2715(i)(2)(C) [*formerly proposed in section 2715(f)(2)(C)*] has been amended to specify the referenced subdivisions by number, rather than the more general language previously used.

The proposed text of section 2715(i)(4) [*formerly proposed in section 2715(f)(4)*] has been amended to allow an additional twelve months for service technicians to successfully complete the required examination from the International Code Council. The additional twelve months will ensure the exam is available, and will allow adequate time for service technicians to study and prepare for the exam. Section 2715(i)(4) was further amended to specify that service technicians must pass the California-specific version of the UST Service Technician exam offered by the International Code Council. While we expect that the ICC California UST Service Technician exam will be available in time for inspectors to meet the deadline for certification, the proposed text allows the deadline to be moved back as needed to accommodate delays in exam availability. The proposed text has also been amended to clarify that service technicians must have a current certificate from the International Code Council. The International Code Council certification for service technicians is considered current for two years, at which time the exam must be taken again.

The proposed text of section 2715(j), including subsections (j)(1) and (j)(2), contains an amended version of the requirements formerly proposed in section 2715(h). The requirements have been split into two subparagraphs for clarity.

The proposed text of section 2715(j)(1) specifies that the International Code Council (ICC) will provide certification for inspectors. The previous proposal called for certification from a designee of the Underground Storage Tank Program Manager. ICC has been chosen as the designee, so the text was amended to be more specific. The reasons for choosing ICC to provide exams has been discussed in detail in the statement of reasons for the previously proposed regulations. It is also consistent with the proposed certification requirements for other groups working with underground storage tank systems (installers, operators, and service technicians). Compared with the previously proposed text of section 2715(h), the proposed text of section 2715(j)(1) also allows an additional nine months for inspectors to obtain the required certification from the ICC. The additional nine months will allow ICC to develop an appropriate certification exam, and will also allow inspectors time to study and prepare for the exam. While we expect that the ICC California UST Inspector exam will be available in time for inspectors to meet the deadline for certification, the proposed text allows the deadline to be moved back as needed to accommodate delays in exam availability. The proposed text has also been amended with non-substantive editorial changes.

The proposed text of section 2715(j)(2) has been added to clarify that individuals conducting inspections must have a current inspector certificate, which must be renewed every 24 months. This had always been the intention of the inspector certification requirement found in the previously proposed text of section 2715(h). However, comments received by SWRCB staff indicated that this was not sufficiently clear. Therefore, the renewal requirement for inspector certification is now explicitly stated in its own section. The proposed text allows renewal by either re-taking the ICC exam or satisfying equivalent criteria approved by the SWRCB UST Program Manager. SWRCB UST Program staff plan to work with local agencies to determine what methods may be used to satisfy the “equivalent criteria” requirement while minimizing the demand placed on local agency budgets and staff time.