

**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**

**INITIAL
STATEMENT OF REASONS**

**November 2017
State Water Resources Control Board
Division of Water Quality**

Chapter 16. Underground Storage Tank Regulations

Effective October 13, 2015, the United States Environmental Protection Agency (U.S. EPA) amended part 280 of 40 Code of Federal Regulations (Federal UST Regulations) for underground storage tank (UST) systems. Some of the new requirements in the Federal UST Regulations became effective immediately on October 13, 2015. Other requirements have staggered implementation dates out to October 13, 2018.

UST owners and operators in States without an approved UST Program are required to comply with Federal UST Regulations immediately. Some of the new requirements in the Federal UST Regulations are more stringent than, or are inconsistent with, chapter 16 of division 3 of title 23 of the California Code of Regulations (California UST Regulations). Consequently, California UST owners and operators now have two sets of requirements to meet: 1) the existing California UST program implemented and enforced by the State Water Resources Control Board (State Water Board) and the Unified Program Agencies (UPAs) (who implement the existing California UST program on the State Water Board's behalf); and 2) the U.S. EPA inspection and enforcement of the Federal UST Regulations that are more stringent than, or are inconsistent with, the California UST Regulations. The State Water Board proposes to amend the California UST Regulations to make them at least as stringent as the Federal UST Regulations.

Because California does not have an approved State UST Program, UST owners and operators are required to comply with Federal UST Regulations, in addition to Health and Safety Code, division 20, chapter 6.7, section 25280 et seq. (Health and Safety Code) and the California UST Regulations. Neither the State Water Board nor the UPAs have inspection and enforcement authority for these Federal UST Regulations. This inspection and enforcement split in the program is highly undesirable. Without the regulatory changes, California UST owners and operators will continue to have two sets of UST requirements to meet. In addition, a California UST program that is not at least as stringent as the Federal UST program by October 13, 2018, when the Federal UST Regulations are fully implemented, may ultimately affect the State Water Board's continued funding from U.S. EPA.

Consistent with the effective dates of the provisions in the Federal UST Regulations, the proposed amendments to the California UST Regulations regarding, but not limited to, construction, upgrade, monitoring, inspecting, testing, training, and recordkeeping for UST systems are intended to be met as soon as the proposed regulation becomes effective, with other implementation dates staggered out to October 13, 2018. As is common practice in California and other states, the State Water Board has modified the requirements of the Federal UST Regulations where appropriate to be consistent with California's existing requirements and with groundwater protection policies. The State Water Board also proposes to clarify certain requirements under existing California UST Regulations to be consistent with the Federal UST Regulations.

The new Federal UST Regulations include, but are not limited to: 1) facility walkthrough inspections; 2) overfill prevention equipment inspections; 3) testing and inspecting equipment after a repair; 4) requirements for demonstrating compatibility; and 5) training of employees prior to the first work day. The new Federal UST Regulations also include requirements for previously deferred UST systems. California currently regulates these UST systems; however, some of the existing options for monitoring will no longer be permissible because these options are not allowed under the Federal UST Regulations. As amended, the California UST Regulations will be at least as stringent as the Federal UST Regulations and will better protect

public health, safety, and the environment by reducing the risk of releases of hazardous substances to the environment. Additionally, California UST owners and operators will no longer have two sets of UST requirements to meet and future funding from the U.S. EPA will not be in jeopardy as a result of regulatory deficiencies.

The State Water Board also proposes certain amendments to the 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 amendments without regulatory effect include changes made for purposes of revising structure, syntax, cross-references, spelling, grammar, punctuation, or renumbering or relocating regulatory provisions. In addition, the State Water Board is proposing the following minor edits for consistency, clarification, and updating purposes: 1) the term “overfill prevention system” is replaced with “overfill prevention equipment” throughout the chapter for clarification purposes; 2) timeframes specified in years have been replaced with timeframes specified in months throughout the chapter for greater specificity; 3) the term “calendar days” is replaced with “days;” 4) citation format is standardized, including replacing the term “subsection” with “subdivision;” 5) numbers less than 10 and units of measurement have been spelled out, numbers 10 and greater spelled out have been replaced with the numeric equivalent; 6) the terms “above” and “below” have been added in reference to the location of other requirements within the same section; and 7) the term “underground storage tank” is spelled out rather than using the acronym “UST.” To the extent that many of these amendments without regulatory effect are non-substantive and their purpose is self-evident or merely editorial, they are not discussed further herein.

The State Water Board believes the proposed amendments to the regulations are necessary for consistency with Federal UST Regulations and for clarification purposes. The proposed amendments do not duplicate or conflict with any federal law or federal regulation. The specific purpose and the basis for the State Water Board’s determination of the necessity of each amendment are explained herein.

The State Water Board relied on an Economic and Fiscal Impact Statement and an Economic Impact Analysis/Assessment prepared pursuant to Government Code section 11346.3, subdivision (b) to amend these regulations. State Water Board staff hosted a focus workgroup in Sacramento on January 24, 2017 consisting of State Water Board staff, UST regulators, and select representatives from the UST regulated community. In addition, the State Water Board staff held two informal public workshops, one on March 13, 2017 in Sacramento and the other on March 28, 2017 in Los Angeles, consisting of UST owners and operators, UST regulators, contractors, component manufacturers, and other representatives from the UST regulated community to review and comment on a draft of the proposed regulations. State Water Board staff submitted a draft of the proposed regulations to 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, the Federal UST Regulations. Finally, State Water Board staff conducted a trial with UST inspection and testing companies of the proposed forms documenting required UST inspections and testing. State Water Board staff considered and, as appropriate, incorporated into the proposed regulations the comments received from the workgroup, workshops, UST inspection and testing companies, U.S. EPA, and U.S. EPA Region 9. State Water Board staff did not rely upon any other technical, theoretical, or empirical studies, reports, or documents to amend these regulations.

Consideration of Alternatives

The State Water Board believes that no reasonable alternative to these proposed regulations would be: 1) more effective in carrying out the purpose for which the proposed regulations are proposed; 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 State Water Board has considered the two alternatives discussed below. Interested persons may present statements or arguments with respect to alternatives to the proposed regulation during the written comment period or at a hearing, if a hearing is requested, on this matter.

Alternative 1

The State Water Board has considered not making California UST Regulations as stringent as the Federal UST Regulations. This alternative would be in direct conflict with Health and Safety Code section 25280.5(b) which requires the State Water Board to create regulations to avoid direct regulation by the federal government of persons already subject to California UST Regulations. Creating California UST Regulations that are not as stringent as the Federal UST Regulations is not acceptable because California UST owners and operators would continue to have two sets of UST requirements to meet: 1) the California UST program implemented and enforced by the State Water Board and the UPAs; and 2) the U.S. EPA inspection and enforcement of those Federal UST Regulations that are more stringent than, or are inconsistent with, the California UST Regulations. This inspection and enforcement split in the program is highly undesirable for regulators and would be confusing to the regulated community. Not having California UST Regulations at least as stringent as the Federal UST Regulations could cause the UST Program to lose continued annual grant funding from U.S. EPA.

Alternative 2

The State Water Board also considered adopting California UST Regulations exactly identical to the Federal UST Regulations. This alternative is not acceptable because this alternative would not be: 1) more effective in carrying out the purpose for which the proposed regulations are proposed; 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.

ECONOMIC IMPACT ANALYSIS/ ASSESSMENT

CHAPTER 16. UNDERGROUND STORAGE TANK REGULATIONS

The State Water Board has prepared this Economic Impact Analysis/Assessment in accordance with Government Code section 11346.3, subdivision (b).

The State Water Board has determined that the total statewide dollar costs that businesses and individuals may incur to comply with this regulation over its 20-year lifetime to be \$60,924,150. Approximately 80 percent of the affected businesses are small businesses. The typical business will incur approximately \$4,000 to \$7,600 over the lifetime of the proposed regulations. This cost includes annual ongoing costs of \$200 to meet new periodic inspection and reporting requirements and up to \$3,600 in capital costs that will be incurred by almost 40 percent of businesses in order to meet the overfill prevention equipment upgrade requirement. In addition to these costs, approximately 700 small businesses, or almost eight percent of small businesses, with single-walled piping will be subject to an additional \$270,000 capital costs for meeting piping upgrade requirements and \$2,500 in associated annual ongoing costs for periodic testing in the event that their piping requires repair before permanent closure of the UST. A small business that is subject to the overfill prevention equipment upgrade requirement, piping upgrade requirements, and associated annual ongoing costs for periodic testing and inspection will incur approximately \$327,600 over the lifetime of the proposed regulations.

The State Water Board is proposing certain amendments to existing reporting requirements and imposing new reporting requirements to make specific the method of reporting specified information and documents. The proposed regulations requires that the specified information be provided on the new forms contained in the proposed regulation and are consistent with common practice and existing reporting requirements. Because the proposed regulations only implement requirements of common practice and existing methods of reporting, they will not have a significant, statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states. Nor will the proposed regulatory action adversely affect small businesses in California. The State Water Board estimates that on average UST owners and operators will incur \$50 annually per facility to comply with the reporting requirements.

Creation or Elimination of Jobs within the State of California

The State Water Board estimates that statewide approximately 50 jobs will be created within businesses offering UST inspection and contracting services as a result of the extra workload created by the proposed regulations. The State Water Board also estimates that the closure of up to 19 businesses due to the impact of these proposed regulations will result in the elimination of approximately 76 jobs at businesses.

Creation of New Businesses or the Elimination of Existing Businesses within the State of California

The State Water Board has determined that the proposed regulatory action will not have an effect on the creation of new businesses within the State of California, because the added testing, inspection, and upgrade requirements for existing equipment do not create a significant enough workload to support the creation of new businesses. The State Water Board also has determined that the proposed regulatory action will result in up to 19 small businesses permanently closing not just their USTs, but their whole business due to their reliance on their USTs to generate revenue, if they are unable or unwilling to replace the closed USTs with new USTs that meet all of the regulatory requirements. It should be noted, however, that some of these businesses may be eligible for a grant and/or a low-interest loan from the State Water Board's Replacing, Removing, or Upgrading Underground Storage Tanks (RUST) grant and loan program to assist with the required costs.

Benefits of the Regulation to the Health and Welfare of California Residents, Worker Safety, and the State's Environment

The purpose of the UST Program is to protect public health and safety and the environment from releases of petroleum and other hazardous substances from tanks. The proposed regulations will improve the health and welfare of California residents, worker safety, and the state's environment because these proposed regulations regarding the construction, monitoring, and testing of UST systems are intended to reduce the risk of groundwater contamination resulting from UST releases.

SPECIFIC PURPOSE AND NECESSITY OF EACH PROPOSED AMENDMENT

ARTICLE 1. DEFINITION OF TERMS

SECTION 2611. ADDITIONAL DEFINITIONS.

Specific Purpose and Necessity of the Proposed Action

1. **“Designated underground storage tank operator” or “designated UST operator”** – Modifying the definition of designated UST operator by removing the word “monthly,” in respect to conducting visual inspections of the UST systems, is necessary to be consistent with Federal UST Regulations, section 280.36(a)(1)(i), which requires UST systems to be inspected every 30 days rather than monthly. Consistent with this change, proposed California UST Regulations, section 2716(a) requires the designated UST operator to perform a visual inspection at least once every 30 days. In addition, modifying this definition by requiring the UST owner or operator, instead of the UST owner, to designate individuals to perform the responsibilities of a designated UST operator is necessary to be consistent with proposed California UST Regulations, sections 2620(b) and 2715(a) because the UST owner or operator are responsible for identifying the designated UST operator.
2. **“Month”** – Adding the definition for the term “month” to mean “a calendar month” is necessary to clarify the meaning of the term. As proposed, the California UST Regulations no longer uses timeframes of years for compliance timeframes. Compliance timeframes throughout the proposed regulations are in either days or months. As defined, the use of “12 months” instead of “annual,” “36 months” instead of three years, etc., provides a clear timeframe by which compliance must be achieved. In addition, this amendment prevents the compliance deadlines from constantly moving forward in time. Finally, the use of calendar month should assist both the UST regulated community and UPAs with tracking compliance deadlines.
3. **“Repair”** – Modifying the definition of “repair” to include restoring underground tank system components, which have failed to function properly and cause the UST to be out of compliance with this chapter, to proper operating condition is necessary to be consistent with Federal UST Regulations, section 280.12. This amendment means that section 2661 of the California UST Regulations now will apply to UST system components that are not functioning properly and cause the UST to be out of compliance with this chapter in addition to UST system components that have caused a release. The applicable repair requirement must be met if a UST system component is not functioning properly. The proposed definition differs from the Federal UST Regulations in that the term: 1) “product” is replaced with “hazardous substance;” and “spill prevention equipment” is replaced with “spill container.” These changes in terminology are necessary for consistency purposes.

ARTICLE 2. GENERAL PROVISIONS

SECTION 2620. GENERAL INTENT, APPLICABILITY AND IMPLEMENTATION OF REGULATIONS.

Specific Purpose and Necessity of the Proposed Action

Subdivision (e) – Adding this new subdivision requires UST owners and operators to complete testing and inspections by the end of the calendar month in which the activity is required. This provision is necessary 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.” Specifying testing and inspection compliance deadlines in terms of “12 months” instead of “annual,” “36 months” instead of three years, etc., provides a clear timeframe by which compliance must be achieved.

By providing UST owners or operators the entire calendar month to comply with testing and inspection requirements provides the flexibility necessary to complete the testing or inspection should unforeseen circumstances arise that prevents the testing or inspection from being completed on or before the date the testing or inspection is required. In addition, providing the entire calendar month to complete the required testing or inspection prevents the compliance deadline date from constantly moving forward in time. For example, if a regulation requires a test at least once every 12 months and the test is completed on June 1st, then the next test must be completed by June 30th of the following year.

By providing UST owners or operators the ability to complete testing and inspections before the month in which the activity is required provides the UST owner or operator the ability to adjust the month in which the activity is required to a month of their choice without the testing and inspections exceeding the maximum period between testing and inspections set forth in these regulations. For example, if a test is required at least once every 12 months and the test is completed during June, then testing may be completed during May of the following year to adjust the month in which the testing is required to the month of May. However, if the testing is completed late, during July of the following year, then the next test must still be completed in June of the following year.

This change is necessary to assist both the UST regulated community and UPAs with tracking compliance deadlines and assists the UST regulated community stay in operational compliance.

SECTION 2621. EXEMPTIONS TO THE REGULATIONS.

Specific Purpose and Necessity of the Proposed Action

Subdivision (a)(8) – Amending the exemption for “wastewater treatment tank” to limit the exemption to those systems regulated under section 402 or 307(b) of the Clean Water Act is necessary to be consistent with Federal UST Regulations, section 280.10(a)(2).

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

SECTION 2631. DESIGN AND CONSTRUCTION REQUIREMENTS FOR NEW UNDERGROUND STORAGE TANKS.

Specific Purpose and Necessity of the Proposed Action

1. **Subdivision (b)** – Modifying this subdivision is necessary for clarification purposes.
2. **Subdivision (l)** – Adding this new subdivision requires UST owners or operators to demonstrate compatibility of UST components used to construct the UST system, which may come into contact with the hazardous substance to be stored and are not subject to subdivisions (b) or (d) of this section, with the hazardous substance to be stored by submitting one of the listed forms of documentation 30 days before storing the hazardous substance. This requirement is necessary to be at least as stringent as Federal UST Regulations, section 280.32(b). The language of this subdivision is different from the Federal UST Regulations due to the need to be consistent with existing California UST Regulations. This difference is minor and the resulting language is consistent with the intent of the Federal UST Regulations.

Requiring the UST owner or operator to submit compatibility documentation to the UPA 30 days before initially storing or changing the stored hazardous substance is necessary to be consistent with Federal UST Regulations, section 280.32(b) which requires demonstrating compatibility of the UST system with the substance to be stored to the implementing agency 30 days before switching.

The Federal UST Regulations require UST owners and operators to demonstrate compatibility of their UST system prior to switching to substances with a concentration greater than 10 percent ethanol or 20 percent biodiesel. To be consistent with proposed California UST Regulations in sections 2630(d) and 2631, demonstration of compatibility of UST systems is required for any substance stored or to be stored in the UST and is not limited to substances with a concentration greater than 10 percent ethanol or 20 percent biodiesel.

The Federal UST Regulations require the tank, piping, containment sumps, release detection equipment, spill equipment, and overfill prevention equipment to demonstrate compatibility. Proposed California UST Regulations, sections 2630(d) and 2631 contain requirements for demonstrating compatibility for primary containment (tank and piping), secondary containment (containment sumps), and release detection equipment which are equivalent to Federal UST Regulations, sections 280.32(b)(1) and (2). To be consistent with the Federal UST Regulations, the proposed subdivision requires UST owners or operators demonstrate compatibility for UST components, which may be exposed to the stored hazardous substance and not subject to proposed California UST Regulations, sections 2630(d) and 2631, such as spill containers (spill equipment), overfill prevention equipment, and ancillary equipment.

The Federal UST Regulations require demonstration of compatibility through: 1) certification or listing of UST system equipment or components by a nationally recognized, independent testing laboratory; 2) written approval from the manufacturer of the equipment or component; or 3) a method determined by the implementing agency to be no less stringent than the first two options.

The State Water Board and the U.S. EPA have identified a written approval from a state registered professional engineer as an alternative method of demonstrating compatibility that is no less stringent than using a manufacturer's affirmative statement of compatibility. (Federal Register, Vol. 80, No. 135, Wednesday July 15, 2015, Rules and Regulations, IV. Revisions to the Requirements for Owners and Operators of Underground Storage Tank Systems, D. Other Changes, 4. Compatibly, pg. 41604.)

Using a written approval from an independent testing organization, in accordance with industry codes, voluntary consensus standards, or engineering standards, or a written affirmative statement of compatibility from the manufacturer(s) of the components for use with the hazardous substance stored or to be stored is consistent with the Federal UST Regulations. The Federal UST Regulations also allow other options to demonstrate compatibility if determined by the implementing agency to be no less protective of human health and the environment than the options explicitly specified in the Federal UST Regulations, section 280.32(b)(1). Demonstrating compatibility through the use of a written approval from a state registered professional engineer for use with the hazardous substance stored or to be stored is no less protective of human health and the environment than a UST component manufacturer providing an affirmative statement of compatibility as explicitly specified in Federal UST Regulations, section 280.32(b)(1)(ii).

SECTION 2634. MONITORING AND RESPONSE PLAN REQUIREMENTS FOR NEW UNDERGROUND STORAGE TANKS CONTAINING MOTOR VEHICLE FUEL AND CONSTRUCTED PURSUANT TO SECTION 2633.

Specific Purpose and Necessity of the Proposed Action

Subdivision (c)(2) –This subdivision is modified to require UST owners and operator with USTs designed, constructed, and monitored in accordance with existing California UST Regulations, section 2633 and proposed California UST Regulations, section 2634 to be monitored according to one of the methods listed in proposed California UST Regulations, section 2643. This requirement is necessary to be consistent with Federal UST Regulations, section 280.41(a)(1)(i). It has not been permissible to install any USTs designed, constructed, and monitored in accordance with existing California UST Regulations, section 2633 and proposed California UST Regulations, section 2634 since January 1, 1997. Federal UST Regulations, section 280.41(a)(1)(i) prohibit UST owners and operators with USTs older than 10 years from monitoring the UST according to the method specified in proposed California UST Regulations, section 2646. All USTs designed, constructed, and monitored in accordance with existing California UST Regulations, section 2633 and proposed California UST Regulations, section 2634 are older than 10 years and, therefore, are no longer eligible to be monitored according to proposed California UST Regulations, section 2646.

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

Specific Purpose and Necessity of the Proposed Action

1. **Subdivision (a)(2)** – The compliance timeframes in this subdivision are amended for clarification purposes consistent with other changes to the regulations.

2. **Subdivision (b)** – This subdivision is modified by moving overfill prevention equipment design and construction requirements to proposed subdivision (c)
3. **Subdivision (c)(1)** – Part of existing subdivision (b)(2) is moved to this proposed subdivision (c)(1) and modified by requiring the UST to be equipped with overfill prevention equipment unless the requirements of paragraph (2) below, are met.
4. **Subdivision (c)(2)** – Existing subdivision (b)(3) is moved to this proposed subdivision.
5. **Subdivision (d)** – Adding this new subdivision to prohibit UST owners and operators from using flow restrictors in vent piping to meet the overfill prevention equipment requirements of the proposed California UST Regulations, section 2635(c) when overfill prevention equipment is installed on and after the effective date of this subdivision. This requirement is necessary to be consistent with Federal UST Regulations, section 280.20(c)(3).
6. **Subdivision (e)** – Existing subdivision (c) is moved to proposed subdivision (e).
7. **Subdivision (f)** – Existing subdivision (d) is moved to proposed subdivision (f).

SECTION 2636. DESIGN, CONSTRUCTION, INSTALLATION, TESTING, AND MONITORING REQUIREMENTS FOR PIPING.

Specific Purpose and Necessity of the Proposed Action

1. **Subdivision (f)(3)** – Existing subdivision (f)(3) is deleted because the deadline has expired and all USTs with underground pressurized piping, except for emergency generator tanks systems (EGTSs) meeting proposed subdivision (f)(5)(A), are required to be equipped with an automatic line leak detector (ALLD). Existing subdivision (f)(4) is moved to this proposed subdivision.
2. **Subdivision (f)(5)(A)** – Existing subdivision (f)(6) is moved to this proposed subdivision and modified by limiting the use of this provision to EGTSs installed before the effective date of this subdivision. This provision provides an alternative for underground pressurized piping connected to EGTS to meet the ALLD requirement of section 2636(f)(2) until October 13, 2018. Prohibiting EGTSs from using this provision on and after October 13, 2018 is necessary to be consistent with Federal UST Regulations, sections 280.10(a)(1)(iii), 280.41(b)(1)(i)(A), (b)(2)(i) and 280.44(a).

As deferred systems, EGTSs previously were not required to meet the Federal UST Regulations. Existing California UST Regulations requires EGTSs to meet certain requirements such as using a continuous monitoring system, which activate an audible and visual alarm in the event of a leak or a malfunction of the monitoring system, in order to satisfy the ALLD requirement. EGTSs are no longer deferred from the Federal UST Regulations and are subject to complying with the ALLD requirement of the Federal UST Regulations, section 280.44(a). The U.S. EPA has determined that the existing provision in the California UST Regulations that exempts EGTSs from installing an ALLD is not as stringent as having an ALLD installed on underground pressurized piping because the continuous monitoring system does not shut off the system when a leak is detected. (Release Detection for Underground Storage Tanks and Piping: Straight Talk on Tanks (EPA 510-K-16-003). May 2016, pgs. 35 & 36.)

3. **Subdivision (f)(5)(B)** – Adding this subdivision allows UST owners or operators of EGTS to equip their USTs with underground pressurized piping with an ALLD that creates only an audible and visual alarm in the event that a leak is detected. This provision is necessary to provide an option for EGTS to meet the Federal UST Regulations, sections 280.10(a)(1)(i) and (ii), 280.41(b)(1)(i)(A), and 280.44(a) without interrupting the operation of EGTSs in times of emergency. Allowing the ALLD to create an audible and visual alarm in the event that a leak is detected is consistent with Federal UST Regulations, section 280.44(a) and the definition of an ALLD in Health and Safety Code section 25281.
4. **Subdivision (g)** – Subparagraphs (A), (B), and (C) of existing paragraph (1) have been deleted because all of the compliance deadlines have expired and all USTs with dispensers are required to be equipped with under-dispenser containment or an approved under-dispenser spill container or control system.

SECTION 2637. SECONDARY CONTAINMENT TESTING.

Specific Purpose and Necessity of the Proposed Action

1. **Subdivision (a)** – As explained in more detail below, modifying this subdivision is necessary to be consistent with Federal UST Regulations, sections 280.20(c)(4), 280.33(d) and 280.35(a)(1)(ii). Adding the term “components” is necessary to be consistent with Health and Safety Code section 25284.1(a)(4)(B)(i) which requires testing of secondary containment components. Additionally, this subdivision is reorganized for clarification purposes.
2. **Subdivision (a)(1)(A)** – Existing subdivision (a) is moved to this proposed subparagraph and modified by removing the compliance deadlines because they all have expired and all USTs with secondary containment are required to perform secondary containment testing.
3. **Subdivision (a)(1)(B)(i)** – Adding this new subparagraph to require secondary containment testing within 30 days following the date of completion of the repair to the secondary containment is necessary to be consistent with Federal UST Regulations, section 280.33(d).
4. **Subdivision (a)(1)(B)(ii)** – Adding this new subparagraph to require secondary containment testing to be performed within 30 days following the date of discontinuing the use of a method of continuous monitoring that automatically monitors the integrity of both the primary and secondary containment is necessary to be consistent with Federal UST Regulations, section 280.35(a)(1)(i). Proposed California UST Regulations, section 2637(a)(2) provides a provision that specifies that the use of a method of continuous monitoring that automatically monitors the integrity of both the primary and secondary containment satisfies the secondary containment testing requirement. This proposed subparagraph requires secondary containment testing to be performed within 30 days following the date of discontinuing the use of the provision of proposed California UST Regulations, section 2637(a)(2). This proposed subparagraph only applies to those USTs installed before July 1, 2004 that are not required by Health and Safety Code section 25290.1 to use a method of continuous monitoring that automatically monitors the integrity of both the primary and secondary containment satisfies the secondary containment.
5. **Subdivision (a)(2)** – Existing subdivision (g) is moved to proposed subdivision (a)(2).

6. **Subdivision (d)** – Modifying this subdivision by deleting a licensed tank tester as a qualified individual that can perform secondary containment testing is necessary for clarification purposes. It only is necessary for an individual to meet the requirements of proposed California UST Regulations, section 2715(f) to be qualified to perform a secondary containment test. The individual is not required to be a licensed tank tester. This is not a substantive change because licensed tank testers currently are required to meet the proposed California UST Regulations, section 2715(f) in order to perform a secondary containment test.
7. **Subdivision (e)** – Adding this new subdivision to require the results of secondary containment testing to be recorded on the “Secondary Containment Testing Report Form” is necessary to assist both the UST regulated community and UPAs ensure that all required information is maintained in a consistent fashion. (Federal UST Regulations, §§ 280.34(a)(5) & 280.35(c).)
8. **Subdivision (f)** – Existing subdivision (e) is moved to this proposed subdivision and modified to require the test results submitted to the UPA be the “Secondary Containment Testing Report Form.” This is necessary to assist both the UST regulated community and UPAs ensure that all required information is submitted in a consistent fashion.
9. **Subdivision (g)** – Existing subdivision (f) is moved to this proposed subdivision and modified by removing the provision for the UPA to waive the notification requirement. Removing the provision for the UPA to waive the notification requirement is necessary for the program to be implement consistently throughout the state. In addition, modifying this subdivision to identify the test at issue is necessary for clarification purposes.

SECTION 2637.1. SPILL CONTAINER TESTING.

Specific Purpose and Necessity of the Proposed Action

1. **Section 2637.1** – As explained in more detail below, adding this new section for the requirements of spill container testing is necessary in order to set forth the requirements for testing of spill containers. Although Health and Safety Code section 25284.2 requires annual testing of spill containers, existing California UST Regulations do not have any provisions making specific or clarifying how to meet the statute. This proposed section makes specific and clarifies the requirements to comply with Health and Safety Code and the Federal UST Regulations, sections 280.33(f), 280.34(a)(5), 280.35(a)(1)(ii), and (b).
2. **Subdivision (a)** – Adding this new subdivision specifies compliance timeframes for spill container testing and is necessary for clarification purposes.
3. **Subdivision (a)(1)** – Adding this new paragraph requiring the testing of the spill container upon installation is necessary to clarify when the testing cycle begins. In addition, this new paragraph requiring the testing of the spill container at least once every 12 months after installation clarifies the compliance timeframe for the annual testing required by Health and Safety Code section 25284.2 and is at least as stringent as Federal UST Regulations, section 280.35(a)(1)(ii).

4. **Subdivision (a)(2)** – Adding this new paragraph requiring the testing of the spill container within 30 days following the date of completion of the repair to the spill container is necessary to be consistent with Federal UST Regulations, section 280.33(f).
5. **Subdivision (b)** – Adding this new subdivision specifying how to determine the method to use to test spill containers is necessary to ensure that spill container testing is conducted properly such that the results of the testing are reliable. This reliability is obtained by testing the spill container in accordance with the specifications of the equipment manufacturer or, if there are no manufacturer specifications 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 criteria. As proposed, this 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).)
6. **Subdivision (c)** – Adding this new subdivision requiring the spill container test be performed by an individual meeting the training and certification requirements of a UST service technician is necessary to ensure that the tests have been performed properly and the results of the testing are reliable. In addition, training and certification prevents equipment from being damaged due to mishandling or conducting an inappropriate test for the type of spill container and is consistent with existing training and certification requirements. (Proposed California UST Regulations, § 2715(f).)
7. **Subdivision (d)** – Adding this new subdivision requiring that spill container testing results be recorded on the “Spill Container Testing Report Form” is necessary to assist both the UST regulated community and UPAs ensure that all required information is maintained in a consistent fashion. (Federal UST Regulations, §§ 280.34(a)(5) & 280.35(c).)
8. **Subdivision (e)** – Adding this new subdivision requiring the UST owner or operator to submit a copy of the “Spill Container Testing Report Form” to the UPA is necessary in order to keep UPAs updated on the status of the site, and is consistent with the existing reporting requirements. (Proposed California UST Regulations, §§ 2637(e), 2638(d), 2712(d), & 2715(a).)
9. **Subdivision (f)** – Adding this new subdivision requiring the UST owner or operator to notify the UPA 48 hours prior to the testing is necessary in order to keep UPAs updated on the status of the site and is consistent with the existing notification requirements. (Proposed California UST Regulations, §§ 2637(h), 2638(e), & 2643(g), & 2644.1(a)(4).)

SECTION 2637.2. OVERFILL PREVENTION EQUIPMENT INSPECTION.

Specific Purpose and Necessity of the Proposed Action

1. **Section 2637.2** – As explained in more detail below, adding this new section specifying the requirements of the overfill prevention equipment inspection is necessary in order to set forth the requirements for inspecting overfill prevention equipment. This proposed section makes specific and clarifies the requirements to comply with the Federal UST Regulations, sections 280.33(f), 280.34(a)(5), and 280.35(a)(2) and (b).

2. **Subdivision (a)** – Adding this new subdivision requires the UST owners and operators of USTs that do not meet California UST Regulations, section 2635(c)(2) to meet the requirements of this section and is necessary to clarify to both the UST regulated community and UPAs when to implement overfill prevention equipment inspections. Exempting UST owners and operators of USTs meeting California UST Regulations, section 2635(c)(2) is consistent with Federal UST Regulations, section 280.20(c)(2)(ii) and is necessary to not be more stringent than the Federal UST Regulations.
3. **Subdivision (a)(1)** – Adding this new paragraph specifies compliance timeframes for overfill prevention inspections for UST owners and operators of USTs installed before the effective date of this subdivision. Inspections of the overfill prevention equipment must be performed at least once by October 13, 2018, at least once every 36 months thereafter, and within 30 days following the date of the completion of a repair of the overfill prevention equipment to be consistent with Federal UST Regulations, sections 280.33(f), and 280.35(a)(2) and (b)(1).
4. **Subdivision (a)(2)** – Adding this new paragraph specifies compliance timeframes for overfill prevention inspections for UST owners and operators of USTs installed on or after the effective date of this subdivision. Inspection of the overfill prevention equipment must be performed upon the completion of the installation, at least once every 36 months thereafter, and within 30 days following the date of completion of a repair of the overfill prevention equipment to be consistent with Federal UST Regulations, sections 280.33(f) and 280.35(a)(2) and (b)(2).
5. **Subdivision (b)** – Adding this new subdivision specifying how to determine the method to use to inspect the overfill prevention equipment is necessary to ensure that overfill prevention equipment inspection is conducted properly such that the results of the inspection are reliable. This reliability is obtained by inspecting the overfill prevention equipment in accordance with the specifications of the equipment manufacturer or, if there are no manufacturer specifications for the overfill prevention equipment inspection, 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 inspection criteria. As proposed, this subdivision is consistent with existing California UST Regulations regarding the servicing of a UST and Federal UST Regulations, section 280.35(a)(2). (Proposed California UST Regulations, § 2637(c).)
6. **Subdivision (c)** – Adding this new subdivision requiring that the overfill prevention equipment inspection be performed by an individual meeting the training and certification requirements of a UST service technician is necessary to ensure that the inspection is performed properly and that the results of the inspection are reliable. In addition, training and certification prevents equipment from being damaged due to mishandling or conducting an inappropriate inspection for the type of overfill prevention equipment and is consistent with existing training and certification requirements. (Proposed California UST Regulations, § 2715(f).)
7. **Subdivision (d)** – Adding this new subdivision requiring that the overfill prevention equipment inspection results be recorded on the “Overfill Prevention Equipment Inspection Report Form” is necessary to assist both the UST regulated community and UPAs ensure that all required information is maintained in a consistent fashion. (Federal UST Regulations, §§ 280.34(a)(5) & 280.35(c).)

8. **Subdivision (e)** – Adding this new subdivision requiring the UST owner or operator to submit a copy of the “Overfill Prevention Equipment Inspection Report Form” to the UPA is necessary in order to keep UPAs updated on the status of the site, and is consistent with the existing reporting requirements. (Proposed California UST Regulations, §§ 2637(g), 2638(d), 2712(d), & 2715(a).)
9. **Subdivision (f)** – Adding this new subdivision requiring the UST owner or operator to notify the UPA 48 hours prior to the inspection is necessary in order to keep UPAs updated on the status of the site and is consistent with the existing notification requirements. (Proposed California UST Regulations, §§ 2637(h), 2638(e), & 2643(g), & 2644.1(a)(4).)

SECTION 2638. CERTIFICATION OF MONITORING EQUIPMENT

Specific Purpose and Necessity of the Proposed Action

1. **Subdivision (b) & (c)** –The compliance timeframes in this subdivision are amended for clarification purposes consistent with other changes to the regulations.
2. **Subdivision (e)** – Modifying this subdivision by removing the provision for the UPA to waive the notification requirement is necessary for the regulations to be implement consistently throughout the state.

ARTICLE 4. EXISTING UNDERGROUND STORAGE TANK MONITORING REQUIREMENTS

SECTION 2640. GENERAL APPLICABILITY OF ARTICLE.

Specific Purpose and Necessity of the Proposed Action

Subdivision (d) – This subdivision is modified to prohibit UST owners and operators of USTs subject to Health and Safety Code section 25292(b)(5)(A) from performing monitoring pursuant to proposed California UST Regulations, section 2645. This requirement is necessary to be consistent with Federal UST Regulations, section 280.41(a)(1)(i). Monitoring pursuant to proposed California UST Regulations, section 2645 only is permissible for single-walled USTs. It has not been permissible to install any single-walled USTs in California since January 1, 1997. Federal UST Regulations, section 280.41(a)(1)(i) prohibit USTs older than 10 years from being monitored according to the method specified in proposed California UST Regulations, section 2645. All single-walled USTs are older than 10 years and, therefore, are no longer eligible to be monitored according to proposed California UST Regulations, section 2645.

SECTION 2640.1 COMPATIBILITY REQUIREMENTS FOR ALL EXISTING UNDERGROUND STORAGE TANKS.

Specific Purpose and Necessity of the Proposed Action

1. **Section 2640.1** – Adding this new section requiring UST owners and operators to demonstrate compatibility of the UST system with the hazardous substance to be stored is necessary in order to set forth the requirements for demonstrating compatibility of the UST system with the hazardous substance to be stored. This proposed section makes specific

and clarifies the requirements to comply with the Federal UST Regulations, section 280.32(b).

The Federal UST Regulations require the tank, piping, containment sumps, release detection equipment, spill equipment, and overfill prevention equipment to demonstrate compatibility.

In addition, the Federal UST Regulations require demonstration of compatibility through: 1) certification or listing of UST system equipment or components by a nationally recognized, independent testing laboratory; 2) written approval from the manufacturer of the equipment or component; or 3) a method determined by the implementing agency to be no less stringent than the first two options.

The language of this section is different from the Federal UST Regulations due to the need to be consistent with existing California UST Regulations. This difference is minor and resulting language is consistent with the intent of the Federal UST Regulations.

2. **Subdivision (a)** – Adding this new subdivision requires UST owners or operators to demonstrate compatibility for all primary containment of the UST system with the substances containing a concentration greater than 10 percent ethanol or five percent biodiesel by submitting a written approval 30 days prior to the storage. This requirement is necessary to be at least as stringent as Federal UST Regulations, section 280.32(b) and existing California UST Regulations for design, construction, and monitoring of USTs. (Proposed California UST Regulations, §§ 2631(b).)

Requiring the demonstration of compatibility of the UST system with the substance to be stored containing a concentration greater than five percent biodiesel instead of a concentration greater than 20 percent biodiesel is necessary because biodiesel blends between six and 100 percent do not meet the existing definition of “compatible.” (California UST Regulations, 2611, “Compatible.”) The term compatible is defined as the ability of two or more substances to maintain their respective physical and chemical properties upon contact with one another for the design life of the tank system under conditions likely to be encountered in the UST. According to the United States Department of Energy’s National Renewable Energy Laboratory, Biodiesel Handling and Use Guide, Fourth Edition, (2009), properties of blends of biodiesel, between six and 100 percent, have an effect on materials and very low blends of biodiesel, such as five percent or less of biodiesel, “have no noticeable effect on materials compatibility.” Biodiesel blends of five percent or less are so similar to those of petroleum diesel that the American Society for Testing and Materials (ASTM) International considers conventional diesel that contains up to five percent biodiesel to meet its Standard Specification for Diesel Fuel Oils.

Requiring the UST owner or operator to demonstrate compatibility by submitting documentation 30 days prior to storing the substance to the UPA is necessary to be equivalent to the Federal UST Regulations, section 280.32(b) which requires demonstrating compatibility to the implementing agency 30 days prior to storage.

Requiring the UST owners and operators to demonstrate compatibility only for the primary containment (tank and piping) of the UST system in this subdivision is necessary to be consistent with Federal UST Regulations, section 280.32(a)(1). Under-dispenser containment (containment sumps), spill containers (spill equipment), and overfill prevention equipment, are subject to the compatibility requirements of article 3 which are at least as stringent as the Federal UST Regulations. (Proposed California UST Regulations, § 2665(b).)

Release detection equipment is subject to the performance standards of proposed California UST Regulations, section 2643(f) which includes the applicability of the equipment.

Requiring a written approval only from an independent testing organization, in accordance with industry codes, voluntary consensus standards, or engineering standards, for use with the substance to be stored is necessary to be consistent with the Federal UST Regulations and existing California UST Regulations for design, construction, and monitoring of USTs. (Proposed California UST Regulations, §§ 2631(b) & (k); Federal UST Regulations, § 280.32(b)(1)(i).)

Proposed California UST Regulations, 2631(k) prohibits USTs that do not meet the construction requirements contained in Health and Safety Code sections 25291, excluding subdivision (a)(7), 25290.1, or 25290.2, as applicable, from using a manufacturer's affirmative statement of compatibility as a method of demonstrating compatibility for the primary containment. USTs subject to this section do not meet the construction requirements contained in Health and Safety Code sections 25291, excluding subdivision (a)(7), 25290.1, or 25290.2.

The State Water Board has not identified an alternative method of demonstrating compatibility for primary containment that is no less stringent than certification or listing of UST system equipment or components by a nationally recognized, independent testing laboratory.

SECTION 2643. NON-VISUAL MONITORING/QUANTITATIVE RELEASE DETECTION METHODS.

Specific Purpose and Necessity of the Proposed Action

1. **Subdivision (b)(1)** – Modifying this paragraph to require monitoring results to be produced every 30 days is necessary to be consistent with Federal UST Regulations, section 280.41(a)(1).
2. **Subdivision (b)(2)** – Existing subdivision (b)(2) is deleted because manual inventory reconciliation has not been an acceptable form of monitoring for USTs in California since December 22, 1998. (Proposed California UST Regulations, § 2646(b).) Existing subdivision (b)(3) is moved to this proposed subdivision (b)(2) and amended. The modification requiring statistical inventory reconciliation to be able to report a quantitative leak rate using a threshold value that does not exceed one-half the minimum detectible leak rate at least once every 30 days is necessary to be consistent with Federal UST Regulations, section 280.41(a)(1).
3. **Subdivision (b)(3)** – Adding this new paragraph to define continuous in-tank leak detection monitoring method as an acceptable forms of leak detection is necessary to be consistent with Federal UST Regulations, sections 280.43(d)(1) and (3).
4. **Subdivision (b)(4)** – Existing subdivision (b)(4) is deleted because manual inventory reconciliation has not been an acceptable form of monitoring USTs since December 22, 1998. (Proposed California UST Regulations, § 2646(b).) Existing subdivision (b)(5) is moved to proposed subdivision (b)(4).

5. **Subdivision (c)(2)** – Modifying this paragraph to require monitoring to be conducted at least once every 30 days is necessary to be consistent with Federal UST Regulations, sections 280.41(b)(i)(B) and (ii) and 280.44(c).
3. **Subdivision (d)** – Modifying this subdivision to require monitoring to be conducted at least once every 30 days is necessary to be consistent with Federal UST Regulations, sections 280.41(b)(1)(i)(B), 280.43, and 280.44(c).
4. **Subdivision (g)** – Modifying this subdivision by removing the provision for the UPA to waive the notification requirement is necessary for the regulations to be implemented consistently throughout the state.

SECTION 2644. NON-VISUAL MONITORING/QUALITATIVE RELEASE DETECTION METHODS.

Specific Purpose and Necessity of the Proposed Action

Subdivision (e) – Modifying this paragraph to require monitoring to be conducted at least once every 30 days instead of monthly is necessary to be consistent with Federal UST Regulations, sections 280.41(b)(i)(B) and 280.44(c).

SECTION 2644.1. ENHANCED LEAK DETECTION.

Specific Purpose and Necessity of the Proposed Action

Subdivision (a)(4) – Modifying this subdivision by removing the provision for the UPA to waive the notification requirement is necessary for the regulations to be implemented consistently throughout the state.

SECTION 2645. MANUAL TANK GAUGING AND TESTING FOR SMALL TANKS.

Specific Purpose and Necessity of the Proposed Action

Deleting this section for manual tank gauging and testing for small tanks is necessary because this monitoring method has not been an acceptable form of leak detection in California since January 1, 2007, and is consistent with proposed California UST Regulations, section 2640(d). Monitoring through the use of manual tank gauging only is permissible for single-walled USTs. It has not been permissible to install any single-walled USTs in California since January 1, 1997. Federal UST Regulations, section 280.41(a)(1)(i) prohibit USTs older than 10 years from being monitored through the use of manual tank gauging. All single-walled USTs are older than 10 years and, therefore, are no longer eligible to be monitored manual tank gauging.

SECTION 2646. MANUAL INVENTORY RECONCILIATION.

Specific Purpose and Necessity of the Proposed Action

Except for subdivision (c), which has been moved to subdivision (b) of section 2646.1, section 2646 for manual inventory reconciliation is deleted. Deleting this section is necessary because this monitoring method has not been an acceptable form of leak detection in California since December 22, 1998. Existing California UST Regulations, section 2646(b) prohibits using manual inventory reconciliation after December 22, 1998 to satisfy UST monitoring requirements. Subdivision (c) is moved to subdivision (b) of 2646.1 because the method of collecting data for statistical inventory reconciliation was specified by incorporating 2646(c) by reference and continues to be an acceptable method of collecting data to perform statistical inventory reconciliation.

SECTION 2646.1. STATISTICAL INVENTORY RECONCILIATION.

Specific Purpose and Necessity of the Proposed Action

1. **Subdivision (b)** – Modifying this subdivision to require meeting proposed paragraphs (1) and (2) is necessary because existing section 2646, which is referenced in this subdivision, is proposed to be deleted. Although manual inventory reconciliation has not been an acceptable form of monitoring since December 22, 1998, the method of collecting data for performing manual inventory reconciliation is the same for collecting data to perform statistical inventory reconciliation.
2. **Subdivision (b)(1)** – Existing subdivision (c)(1) of section 2646 is moved to proposed subdivision (b)(1) of this section. Although manual inventory reconciliation has not been an acceptable form of monitoring since December 22, 1998, the method of collecting data for performing manual inventory reconciliation is the same for collecting data to perform statistical inventory reconciliation. In addition, the subdivision is modified to allow for a reduction in “daily measurements” if consistent with the independent third party certification for the method used.
3. **Subdivision (b)(2)** – Existing subdivision (c)(2) of section 2646 is moved to proposed subdivision (b)(2) of this section and modified to require the use of a method that introduces the least amount of error in the 30 day inventory reconciliation calculations instead of the least amount of error in the monthly inventory reconciliation calculations to be consistent with Federal UST Regulations, section 280.41(a)(1) requiring inventory reconciliation calculations to be on a 30 day cycle. Although manual inventory reconciliation has not been an acceptable form of monitoring since December 22, 1998, the method of collecting data for performing manual inventory reconciliation is the same for collecting data to perform statistical inventory reconciliation.
4. **Subdivision (c)** – Modifying this subdivision to include the term operator is necessary to be consistent with existing California UST Regulations because both the UST owner and the operator are responsible for meeting the California UST Regulations. (Proposed California UST Regulations, § 2620(b).) In addition, modifying this subdivision by deleting the provision allowing 20 calendar days for the statistical inventory reconciliation provider to process the data and provide a result is necessary to be consistent with the Federal UST Regulations that requires leak detection monitoring to produce results every 30 days.

Finally, modifying this subdivision to allow previously submitted data to be included with current data is necessary so that those statistical inventory reconciliation methods that require more than a minimum of 30 days of data can produce a result at least once every 30 days as required by Federal UST Regulations, section 280.41(a)(1).

5. **Subdivision (d)(3) and (d)(4)** – Existing paragraph (4) of subdivision (d) is moved to proposed paragraph (3) and paragraph (3) is amended for clarification purposes.

SECTION 2647. VADOSE ZONE MONITORING REQUIREMENTS.

Specific Purpose and Necessity of the Proposed Action

Subdivision (h) – Adding this new subdivision to require site assessments conducted on and after the effective date of this subdivision to be signed by a licensed professional with experience in the relevant technical discipline is necessary to be consistent with Federal UST Regulations, section 280.45(a).

SECTION 2648. GROUND WATER MONITORING REQUIREMENTS.

Specific Purpose and Necessity of the Proposed Action

1. **Subdivision (d)** – Adding this new subdivision to require site assessments conducted on and after the effective date of this subdivision to be signed by a licensed professional with experience in the relevant technical discipline is necessary to be consistent with Federal UST Regulations, section 280.45(a).
2. **Subdivision (e)** – Existing subdivision (d) is moved to proposed subdivision (e).
3. **Subdivision (f)** – Existing subdivision (e) is moved to proposed subdivision (f).

SECTION 2649. WELL CONSTRUCTION AND SAMPLING REQUIREMENTS

Specific Purpose and Necessity of the Proposed Action

All amendments in this section are consistent with the amendments without regulatory effect discussed in the introduction of this document.

ARTICLE 6. UNDERGROUND STORAGE TANK REPAIR AND UPGRADE REQUIREMENTS

SECTION 2660. GENERAL APPLICABILITY OF ARTICLE.

Specific Purpose and Necessity of the Proposed Action

1. **Subdivision (h)** – Modifying this subdivision by removing the upgrade compliance deadlines is necessary because they all have expired. In addition, modifying this subdivision to require meeting upgrade requirements as applicable, instead of by a compliance deadline, is necessary to be consistent with the Federal UST Regulations for upgrading USTs. Instead of

requiring USTs to be upgraded by a compliance deadline, Federal UST Regulations require upgrading certain UST systems or components when they are installed, repaired, or replaced. (Federal UST Regulations, §§ 280.10(a)(1)(ii) & (iii), 280.20, & (c)(3).)

2. **Subdivision (m)** – Modifying this subdivision by relocating the word “existing” is necessary to remove the limitation the language creates. Existing California UST Regulations defines “existing underground storage tank” as a UST installed before January 1, 1984. However, existing California UST Regulations also requires “new” USTs, USTs installed on or after January 1, 1984, to be constructed with compatible materials. (Existing California UST Regulations, § 2631.1(a).) Therefore, relocating the word “existing” is necessary to clarify that the compatibility requirement for repairs and upgrades applies to all “existing” and “new” UST systems and not only “existing” UST systems.

SECTION 2661. REQUIREMENTS FOR REPAIRING UNDERGROUND STORAGE TANK.

Specific Purpose and Necessity of the Proposed Action

Subdivision (f) – Modifying this subdivision to require testing to be performed pursuant to existing California UST Regulations for tightness testing is necessary to clarify tightness testing requirements.

SECTION 2663. INTERIOR TANK LINING REQUIREMENTS.

Specific Purpose and Necessity of the Proposed Action

All amendments in this section are consistent with the amendments without regulatory effect discussed in the introduction of this document.

SECTION 2665. SPILL AND OVERFILL PREVENTION EQUIPMENT UPGRADE REQUIREMENTS.

Specific Purpose and Necessity of the Proposed Action

1. **Subdivision (b)** – Adding this new subdivision requires all UST owners and operators to meet the requirements for overfill prevention equipment and spill containers of article 3. Requiring all UST owners and operators to meet the requirements for overfill prevention equipment and spill containers of article 3 is necessary to clarify that installation, upgrade, compatibility, testing, and inspection requirements of article 3 for overfill prevention equipment and spill containers apply. This requirement is be consistent with the installation, upgrade, compatibility, testing, and inspection requirements of the Federal UST Regulations, sections 280.20(c)(3), (c)(4), 280.32, 280.35(a)(1)(ii), and (a)(2).
2. **Subdivision (c)** – Adding this new subdivision requires UST owners and operators of USTs using flow restrictor installed on vent piping to meet overfill prevention equipment requirements of proposed California UST Regulations, section 2635(c) to meet proposed California UST Regulations, section 2635(c) and (d) when overfill prevention equipment is installed, repaired, or replaced. Requiring UST owners and operators of USTs using flow

restrictor installed on vent piping to meet overfill prevention equipment requirements of proposed California UST Regulations, section 2635(c) and (d) when overfill prevention equipment is installed, repaired, or replaced is necessary to be at least as stringent as Federal UST Regulations, section 280.33(f). Federal UST Regulations prohibit flow restrictors on vent piping from being installed as overfill prevention equipment on and after October 13, 2015. In addition, Federal UST Regulations require that flow restrictors on vent piping which are replaced or cannot be repaired on or after the effective date of this subdivision, shall be retrofitted with overfill prevention equipment that does not use flow restrictors on vent piping. Proposed California UST Regulations prohibits using flow restrictors on vent piping as overfill protection equipment when repaired and is necessary to prevent the frequency of UST releases due to operability issues of the overfill prevention equipment.

SECTION 2666. REQUIREMENTS FOR UPGRADING UNDERGROUND PIPING.

Specific Purpose and Necessity of the Proposed Action

1. **Subdivision (b)(2)** – Adding this paragraph requires all buried single-walled pipe, except for vent piping, vapor recovery piping, tank riser piping, and suction piping meeting the requirements of proposed California UST Regulations, section 2636(a)(3), to be upgraded with secondary containment and continuous interstitial monitoring in accordance with article 3 when repaired or replaced on and after the effective date of this subdivision. This requirement is necessary to be at least as stringent as Federal UST Regulations, section 280.20. The Federal UST Regulations requires piping installed or replaced after April 11, 2016 to be both secondarily contained and interstitially monitored.

The proposed paragraph differs from Federal UST Regulations, section 280.20 due to key definitional differences between the Federal UST Regulations and the California UST Regulations. Using the term buried pipe is necessary to avoid being more stringent than the Federal UST Regulations. Federal UST Regulations do not regulate piping as underground pipe where all the exterior of the piping is viewable. (Federal UST Regulations, § 280.12, def. of “Underground storage tank.”) In contrast, California regulates underground pipe as underground pipe regardless of whether it is viewable. Therefore, it is necessary for the proposed paragraph to use the term buried pipe in order to exclude underground pipe where all the exterior of the piping is viewable from the requirement to upgrade to secondary containment and continuous interstitial monitoring, so that the proposed paragraph is not more stringent than the Federal UST Regulations.

Exempting vent piping, vapor recovery piping, and tank riser piping, is necessary to avoid being more stringent than the Federal UST Regulations, which does not consider piping that does not routinely contain product as pipe. (Federal UST Regulations, § 280.20(b).) Although existing California UST Regulations do not regulate vent piping, vapor recovery piping, and tank riser piping installed on USTs installed on or before January 1, 1984 or on USTs installed on or after January 1, 1984 and before July 1, 2003 that meets proposed California UST Regulations, section 2636(a), existing California UST Regulations do regulate vent piping, vapor recovery piping, and tank riser piping on USTs installed on or after July 1, 2003. In order to be consistent with the Federal UST Regulations and existing California UST Regulations and to treat all vent piping, vapor recovery piping, and tank riser piping consistently it is necessary to exempt vent piping, vapor recovery piping, and tank riser piping from this requirement.

Exempting suction piping meeting the requirements of proposed California UST Regulations, section 2636(a)(3), is necessary to be consistent with Federal UST Regulations, section 280.20.

Requiring the upgrade of buried single-walled pipe which requires repair is necessary to be at least as stringent as the Federal UST Regulations. The Federal UST Regulations requires piping installed or replaced after April 11, 2016 to have secondary containment and continuous interstitial monitoring. The Federal UST Regulations defines replaced pipe as removing 50 percent or more of piping of a run and installing other piping. California UST regulators would have difficulty tracking how much of a piping run has been replaced. In addition, UST owners and operator could choose to replace only small sections of a piping run so that something less than 50 percent is replace to avoid this upgrade requirement. Therefore, this proposed paragraph requires the upgrade to occur when any portion of the single-walled buried pipe requires repair.

Requiring buried single-walled pipe to be upgraded in accordance with article 3 will require continuous interstitial monitoring and is necessary to be consistent with existing California UST Regulations for secondarily contained interstitial monitored pipe. (Proposed California UST Regulations, § 2636(f)(1).) In addition, requiring buried single-walled pipe to be upgraded in accordance with article 3 will require the pipe to be subject to the installation, compatibility, monitoring, and testing requirements of article 3. (Proposed California UST Regulations, §§ 2631, 2636, 2637, & 2638.)

2. **Subdivision (e)** – Modifying this subdivision requires all under-dispenser containment and under-dispenser spill containment or control systems to meet the requirements of article 3 and is necessary to clarify that installation, compatibility, and testing requirements for secondary containment of article 3 apply. This requirement is consistent with the installation, compatibility, and testing requirements of the Federal UST Regulations, sections 280.20, 280.20(f), 280.32, 280.33(d), and 280.35(a)(1)(ii).
3. **Subdivision (f)** – Adding this new subdivision requires all underground pressurized piping connected to an EGTS to be retrofitted with an ALLD in accordance with section 2636(f)(2) by October 13, 2018. In addition, this provision allows UST owners or operators of EGTS to equip their USTs with underground pressurized piping with an ALLD that creates only an audible and visual alarm in the event that a leak is detected in lieu of restricting or shutting off the flow of product through the piping. Allowing the ALLD to create an audible and visual alarm in the event that a leak is detected is consistent with Federal UST Regulations, section 280.44(a) and the definition of an ALLD in Health and Safety Code section 25281. This provision is necessary to provide an option for EGTS to meet the Federal UST Regulations, sections 280.10(a)(1)(i) and (ii), 280.41(b)(1)(i)(A), and 280.44(a) without interrupting the operation of EGTSs in times of emergency.

ARTICLE 7. UNDERGROUND STORAGE TANK CLOSURE REQUIREMENTS

SECTION 2672. PERMANENT CLOSURE REQUIREMENTS.

Specific Purpose and Necessity of the Proposed Action

1. **Subdivision (f)** – Adding this new subdivision requiring UST owners or operators to retain the analytical results of all soil and groundwater samples obtained during permanent closure activities for at least 36 months after the UST system is properly closed is necessary to be consistent with Federal UST Regulations, sections 280.34(b)(8) and 280.74.

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

SECTION 2711. INFORMATION AND APPLICATION FOR PERMIT TO OPERATE AN UNDERGROUND STORAGE TANK.

Specific Purpose and Necessity of the Proposed Action

1. **Subdivision (c)** – Adding this proposed subdivision requiring UST owners or operators to notify the UPA in writing 30 days prior to a change in the substance stored and provide documentation demonstrating the compatibility of the UST system with the substance to be stored is necessary to be at least as stringent as Federal UST Regulations, sections 280.32(b) and 280.34(a)(2). Federal UST Regulations requires UST owners or operators to notify the implementing agency 30 days before switching to a hazardous substance with concentrations greater than 10 percent ethanol or 20 percent biodiesel. This proposed requirement deviates from the Federal UST Regulations by requiring UST owners or operators to notify the UPA in writing and is necessary to assist both the UST regulated community and the UPA in tracking compliance with this requirement. In addition, this proposed subdivision also requires notification when there will be any change of the substance stored and is necessary to be consistent with existing California UST Regulations regarding the application for the permit to operate. (Proposed California UST Regulations, §§ 2711(a)(10) & (b).) Last, requiring UST owners or operator to submit compatibility documentation to the UPA is necessary to verify that the UST system is compatible with the substance to be stored ensuring that a substance that is not compatible with the UST system is not introduce to the UST system. (Proposed California UST Regulations, §§ 2630(d), 2631(b), (d), (j), (k), & (l), 2633(b), 2638(a), 2640.1, 2641(j) & 2643(f); & Federal UST Regulations, §§ 280.34(b)(3), (5), & (7).)
2. **Subdivision (d)** – Existing subdivision (c) is moved to proposed subdivision (d).

SECTION 2712. PERMIT CONDITIONS.

Specific Purpose and Necessity of the Proposed Action

1. **Subdivision (b)** – Modifying this subdivision is necessary for clarity purposes.
2. **Subdivision (b)(1)** – Part of existing subdivision (b) and (b)(2) is moved to this paragraph.

3. **Subdivision (b)(1)(A)** – Existing subdivision (b)(1) is moved to this subparagraph.
4. **Subdivision (b)(1)(B)** – Existing subdivision (b)(3) is moved to this subparagraph.
5. **Subdivision (b)(1)(C)** – Existing subdivision (b)(4) is moved to this subparagraph.
6. **Subdivision (b)(1)(D)** – Existing subdivision (b)(5) is moved to this subparagraph.
7. **Subdivision (b)(1)(E)** – Existing subdivision (b)(6) is moved to this subparagraph.
8. **Subdivision (b)(1)(F)** – Adding this new subparagraph to require UST owners and operators to maintain testing records for the minimum time specified is necessary to be consistent with Federal UST Regulations, section 280.34(b)(5) and existing California UST Regulations for recordkeeping.
9. **Subdivision (b)(1)(G)** – Adding this new subparagraph to require UST owners and operators to maintain inspection records for the minimum time specified is necessary to be consistent with Federal UST Regulations, sections 280.34(b)(5) and (6) and existing California UST Regulations for recordkeeping.
10. **Subdivision (b)(2)** – Existing subdivision (b)(2) and part of existing subdivision (b) is moved to this proposed paragraph.
11. **Subdivision (b)(3)** – Part of existing subdivision (b) is moved to this paragraph.
12. **Subdivision (b)(4)** – Adding this new paragraph to require UST owners and operators to maintain the site assessment required for vapor and groundwater monitoring for as long as the monitoring method is used is necessary to be consistent with Federal UST Regulations, section 280.34(b)(8) and existing California UST Regulations for recordkeeping.
13. **Subdivision (b)(5)** – Adding this new paragraph to require UST owners and operators to maintain compatibility records for as long as the substance is stored is necessary to be consistent with Federal UST Regulations, sections 280.32(c) and 280.34(b)(3).
14. **Subdivision (b)(6)** – Part of existing subdivision (b) is moved to this paragraph.

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 Action

1. **Subdivision (a)** – Modifying this subdivision to include the term operator is necessary to be consistent with existing California UST Regulations because the UST owner and operator are responsible for the meeting the existing California UST Regulations. (Proposed California UST Regulations, § 2620(b).) The 2003 UST rulemaking “Training Plus” Regulations specifies that requiring UST owners and operators to meet industry established training criteria by either the owner or operator must signing a statement indicating they understand and are in compliance with all regulatory and statutory requirements in order to

meet all the facility training and certification needs. (Health & Saf. Code, § 25284.1.) Having the owner or operator meet industry established training criteria is consistent with Federal UST Regulations, sections 280.240 and 280.245. Removing the compliance deadline is necessary because the compliance deadline has expired.

2. **Subdivision (a)(1)** – Modifying this subdivision is necessary to clarify timeframes in which compliance must be achieved.
3. **Subdivision (a)(1)(A)** – Part of existing subdivision (a)(2) is moved to this subdivision and modified by requiring the UST owner or operator to submit the “Underground Storage Tank Statement of Understanding and Compliance Form.” Requiring the UST owner or operator to submit the “Underground Storage Tank Statement of Understanding and Compliance Form” is necessary to assist both the UST regulated community and UPAs ensure that all required information is submitted in a consistent fashion. This requirement is consistent with Federal UST Regulations, sections 280.245.
4. **Subdivision (a)(1)(B)** – Part of existing subdivision (a)(2) is moved to this subdivision and modified by requiring the UST owner or operator to submit the newly created “Designated Underground Storage Tank Operator Identification Form.” Requiring the UST owner or operator to submit the newly created “Designated Underground Storage Tank Operator Identification Form” is necessary to assist both the UST regulated community and UPAs ensure that all required information is submitted in a consistent fashion. This requirement is consistent with Federal UST Regulations, section 280.245.
5. **Subdivision (a)(2)** – Adding this subdivision requires the owner or operator to submit an “Underground Storage Tank Statement of Understanding and Compliance Form” upon any change in the owner or operator which previously submitted the signed “Underground Storage Tank Statement of Understanding and Compliance Form,” no later than 30 days after the change. Adding this requirement is necessary to clarify that a current statement of understanding and compliance from either the current owner or operator must be submitted. If the owner or operator which signed the submitted “Underground Storage Tank Statement of Understanding and Compliance Form” changes, the current owner or operator must submit a current “Underground Storage Tank Statement of Understanding and Compliance Form” within 30 days of the change. 30 days is consistent with existing requirements for submitting a signed statement indicating that the owner or operator understands and is in compliance with all applicable UST requirements.
6. **Subdivision (a)(3)** – Existing subdivision (a)(3) is moved to this subdivision and modified by requiring the UST owner or operator to submit the “Designated Underground Storage Tank Operator Identification Form.” Requiring the UST owner or operator to submit the “Designated Underground Storage Tank Operator Identification Form” is necessary assist both the UST regulated community and UPAs ensure that all required information is submitted in a consistent fashion.
7. **Subdivision (b)** – Modifying this subdivision by removing the compliance deadline is necessary because the compliance deadline has expired.
8. **Subdivision (c)** – Existing subdivision (c) is moved to proposed section 2716, subdivisions (a), (b), and (c). Existing subdivision (f) is moved to this subdivision and modified by requiring facility employees to be trained prior to assuming their duties on and after October 13, 2018. Requiring facility employees to be trained prior to assuming their

duties on and after October 13, 2018 is necessary to be consistent with Federal UST Regulations, section 280.243(c).

9. **Subdivision (c)(1)** – Existing subdivision (c)(1) is moved to proposed section 2716, subdivisions (b)(2), (c)(2), and (c)(3). Existing subdivision (f)(1) is moved to this subdivision and modified by requiring designated UST operators to train facility employees through a practical demonstration. Requiring designated UST operators to train facility employees through a practical demonstration is necessary to be consistent with Federal UST Regulations, section 280.242(d).
10. **Subdivision (c)(2)** – Existing subdivision (c)(2) is moved to proposed section 2716, subdivision (b)(4). Existing subdivision (f)(2) is moved to this subdivision.
11. **Subdivision (c)(3)** – Existing subdivision (c)(3) is moved to proposed section 2716, subdivision (b)(7). Existing subdivision (f)(3) is moved to this subdivision.
12. **Subdivision (c)(4)** – Existing subdivision (c)(4) is moved to proposed section 2716, subdivision (b)(8). Adding this new paragraph requiring designated UST operators to document facility employee training on the “Facility Employee Training Certificate.” Requiring designated UST operators to document facility employee training on the “Facility Employee Training Certificate” is necessary to assist both the UST regulated community and UPAs ensure that all required information is maintained in a consistent fashion and to promote uniformity. This requirement is consistent with existing California UST Regulations for documenting required activities and with Federal UST Regulations, sections 280.34(b)(9) and 280.245.
13. **Subdivision (c)(5)** – Existing subdivision (c)(5) is moved to proposed section 2716, subdivision (b)(3).
14. **Subdivision (c)(6)** – Existing subdivision (c)(6) is moved to proposed section 2716, subdivision (b)(9).
15. **Subdivision (d)** – Existing subdivision (d) is moved to proposed section 2716, subdivision (d). Existing subdivision (g) is moved to this subdivision.
16. **Subdivision (e)** – Existing subdivision (e) is moved to proposed section 2716, subdivision (g). Existing subdivision (h) is moved to this subdivision.
17. **Subdivision (e)(1)** – Existing subdivision (h)(1) is moved to this subdivision and modified by removing all the expired compliance deadlines.
18. **Subdivision (e)(2)** – Existing subdivision (h)(2) is moved to this subdivision and modified by removing all the expired compliance deadlines.
19. **Subdivision (f)** – Existing subdivision (i) is moved to this subdivision.
20. **Subdivision (f)(2)(A)** – Existing subdivision (i)(2)(A) is moved to this subdivision and modified for clarity.
21. **Subdivision (f)(2)(C)** – Adding this new subparagraph requiring UST service technicians performing spill container testing to possess training and certification applicable to the method of testing being used in accordance with section 2637.1(c) is necessary to ensure

that the results of the testing are reliable and that the test method has been performed properly. In addition, training and certification prevents equipment from being damage due to mishandling or conducting and inappropriate test for the type of spill container and is consistent with existing California UST Regulations for training and certification.

22. **Subdivision (f)(2)(D)** – Adding this new subparagraph requiring UST service technicians performing overfill prevention equipment inspections to possess training and certification applicable to the method of inspection being used in accordance with section 2637.2(c) is necessary to ensure that the results of the inspection are reliable and that the inspection method has been performed properly. In addition, training and certification prevents equipment from being damage due to mishandling or conducting and inappropriate inspection for the type of overfill prevention equipment and is consistent with existing California UST Regulations for training and certification.
23. **Subdivision (f)(2)(E)** – Existing subdivision (i)(2)(C) is moved to this subdivision and modified to allow alternate training or certification to be used in the event that no training or certification exists to meet the criteria of subparagraphs (C) or (D). This alternative will give UPA inspectors the ability to evaluate if a UST service technician is qualified to test spill containers and inspect overfill prevention equipment when the manufacturer does not offer a training program.
24. **Subdivision (f)(4)** – Existing subdivision (i)(4) is moved to this subdivision and modified by removing all the expired compliance deadlines.
25. **Subdivision (g)** – Existing subdivision (j) is moved to this subdivision.
26. **Subdivision (g)(1)** – Existing subdivision (j)(1) is moved to this subdivision and modified by removing all the expired compliance deadlines.

SECTION 2716. DESIGNATED UST OPERATOR VISUAL INSPECTION.

Specific Purpose and Necessity of the Proposed Action

1. **Section 2716** – Adding this new section is necessary to specify all of the requirements regarding visual inspections of the UST system by a designated UST operator in one section. The requirement to conduct visual inspections is moved from existing California UST Regulations, section 2715(c). This new section details the tasks that must be performed during the visual inspection in order to promote statewide consistency and to be consistent with Federal UST Regulations, sections 280.36 for walkthrough inspections (visual inspections). The newly proposed subdivisions, which are discussed in detail below, clarify the minimum requirements for visual inspections. Each task specified addresses a problem or problems that have historically occurred at operating UST facilities.
2. **Subdivision (a)** – Part of existing subdivision (c) of section 2715 of the California UST Regulations specifying the frequency of the visual inspection is moved to this proposed subdivision and modified by requiring UST owners and operator to have their UST systems visually inspected by a designated UST operator at least once every 30 days instead of monthly. The modification requiring a visual inspection of the UST system instead of the just the UST is necessary to clarify that the visual inspection includes inspecting ancillary equipment in addition to the tank and connected piping such as spill prevention and

monitoring equipment. The modification requiring a visual inspection performed by a designated UST operator at least once every 30 days is necessary to be consistent with Federal UST Regulations, section 280.36(a)(1)(i).

3. **Subdivision (b)** – Part of existing subdivision (c) of section 2715 of the California UST Regulations specifying the tasks to be performed in the visual inspection is moved to this new subdivision and modified to require the designated UST operator to identify compliance issues which cause the underground storage tank system to be out of compliance with this chapter. Moving this requirement is necessary so that all of the tasks to be performed in the visual inspection are specified in a single subdivision. Modifying this subdivision to require the designated UST operator to identify compliance issues which cause the underground storage tank system to be out of compliance with this chapter is necessary to clarify the type of issues the designated UST operator is inspecting for and is consistent with the intent specified in the 2003 Rulemaking "Training Plus" Regulations statements of reasons. This subdivision also is modified consistent with the change to require visual inspections at least once every 30 days instead of monthly. This requirement is consistent with the Federal UST Regulations intent of walkthrough inspections (visual inspections of the UST systems).
4. **Subdivision (b)(1)** – Adding this new paragraph requires the designated UST operator inspection to include the review of the previous "Designated Underground Storage Tank Operator Visual Inspection Report" to verify that each compliance issue identified during the previous visual inspection was responded to appropriately and documented. This requirement is necessary to assist both the UST regulated community and UPA verify that all the compliance issues discovered during the previous inspection are corrected. Compliance issues discovered during the previous inspection that have not been responded to appropriately or documented must be included in the current inspection and are noted on the inspection report as issues identified that require follow-up action.
5. **Subdivision (b)(2)** – Part of existing subdivision (c)(1) of section 2715 of the California UST Regulations is moved to this new paragraph and modified by replacing the term "checking" with "verify" for consistency purposes.
6. **Subdivision (b)(3)** – Existing subdivision (c)(5) of section 2715 of the California UST Regulations is moved to this new paragraph and modified by replacing the term "checking" with "verify" for consistency purposes.
7. **Subdivision (b)(4)** – Existing subdivision (c)(6) of section 2715 of the California UST Regulations is moved to this new paragraph.
8. **Subdivision (b)(5)** – Existing subdivision (c)(2) of section 2715 of the California UST Regulations is moved to this new paragraph and modified by requiring the designated UST operator inspection to include inspecting for damage to the spill container. Requiring the designated UST operator inspection to include inspecting for damage of the spill container is necessary to be consistent with Federal UST Regulations, section 280.36(a)(1)(i)(A).
9. **Subdivision (b)(6)** – Adding this new subdivision to require the designated UST operator inspection to include inspecting for obstructions in the fill pipe is necessary to be consistent with Federal UST Regulations, section 280.36(a)(1)(i)(A).

10. **Subdivision (b)(7)** – Adding this new subdivision to require the designated UST operator inspection to include verifying the fill cap is securely on the fill pipe is necessary to be consistent with Federal UST Regulations, section 280.36(a)(1)(i)(A).
11. **Subdivision (b)(8)** – Existing subdivision (c)(3) of section 2715 of the California UST Regulations is moved to this new paragraph and modified by requiring the designated UST operator inspection to include inspecting for damage of under-dispenser containment. Requiring the designated UST operator inspection to include inspecting for damage of under-dispenser containment is necessary to be consistent with Federal UST Regulations, section 280.36(a)(1)(ii)(A).
12. **Subdivision (b)(9)** – Existing subdivision (c)(4) of section 2715 of the California UST Regulations is moved to this new paragraph and modified by requiring the designated UST operator inspection to include inspecting for damage of containment sumps that have had an alarm since the previous visual inspection for which there is no record of a service visit. Requiring inspecting for damage of containment sumps that have had an alarm since the previous visual inspection for which there is no record of a service visit is necessary to be consistent with Federal UST Regulations, section 280.36(a)(1)(ii)(A).
13. **Subdivision (c)** – Part of existing subdivision (c) of section 2715 of the California UST Regulations requiring the result of the visual inspection be recorded in a report is moved to this new subdivision and modified by requiring the result to be recorded on the “Designated Underground Storage Tank Operator Visual Inspection Report.” Moving this requirement is necessary so that all of the reporting requirements for the visual inspection are in a single subdivision. Requiring the designated UST operator to record the results of the inspection on the “Designated Underground Storage Tank Operator Visual Inspection Report” is necessary to ensure the inspection was conducted properly, to promote uniformity, and is consistent with existing California UST Regulations for documenting required activities. (Federal UST Regulations, §§ 280.34(a)(6) & 280.36(b).) The documentation requirements for visual inspections, which is discussed in detail below, clarify the minimum requirements for documenting the visual inspection performed by the designated UST operator. This subdivision also is modified consistent with the change to require visual inspections at least once every 30 days instead of monthly.
14. **Subdivision (c)(1)** – Adding this new paragraph to require the designated UST operator to include documentation demonstrating action taken in response to compliance issues identified by the designated UST operator during the previous inspection is necessary to ensure that compliance issues identified on the previous visual inspection report are responded to appropriately. Requiring the designated UST operator to include documentation demonstrating action taken in response to compliance issues identified by the designated UST operator during the previous inspection is consistent with Federal UST Regulations, sections 280.36(a)(1)(i)(A) and (b) and existing California UST Regulations for conducting designated UST operator inspections.
15. **Subdivision (c)(2)** – Adding this new paragraph requiring the designated UST operator to list each issue identified by the designated UST operator during the previous inspection for which there is no record that action has been taken to correct is necessary to ensure that issues identified during the previous visual inspection are responded to appropriately. Requiring the designated UST operator to list each issue identified by the designated UST operator during the previous inspection for which there is no record that action has been

taken to correct is consistent with Federal UST Regulations, sections 280.36(a)(1)(i)(A) and (b).

16. **Subdivision (c)(3)** – Part of existing subdivision (c)(1) of section 2715 of the California UST Regulations is moved to this new paragraph requiring a copy of the alarm history be attached to the inspection report.
17. **Subdivision (c)(4)** – Part of existing subdivision (c)(1) of section 2715 of the California UST Regulations is moved to this new paragraph requiring the designated UST operator to include documentation describing action taken in response to any alarms since the previous visual inspection.
18. **Subdivision (c)(5)** – Adding this new paragraph requiring the designated UST operator to list each alarm since the previous visual inspection for which there is no documentation demonstrating an appropriate response is necessary to ensure that alarms since the previous visual inspection are responded to appropriately. Requiring the designated UST operator to list each alarm since the previous visual inspection for which there is no documentation demonstrating an appropriate response is consistent with Federal UST Regulations, sections 280.36(a)(1)(i)(B) and (b).
19. **Subdivision (c)(6)** – Adding this new paragraph requiring the designated UST operator to list each area checked and whether each area checked is acceptable or needs follow-up action taken is necessary to be consistent with Federal UST Regulations, section 280.36(b).
20. **Subdivision (d)** – Existing subdivision (d) of section 2715 of the California UST Regulations is moved to this new subdivision and modified by 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 completing the inspection. As specified in the preamble of the Federal UST Regulations, the intent behind walkthrough inspections is for UST owners and operators to remove, manage, and dispose of liquid as soon as practical after discovery as well as to ensure that the UST system is kept in proper functioning order. The designated UST operator does not have the authority to correct compliance issues identified during the visual inspection unless authorized by the UST owner or operator. The UST owner or operator must be made aware of compliance issues that require follow-up action in a timely manner in order to instruct the appropriate individual to correct the compliance issue. Requiring the designate UST operator to provide a copy of the visual inspection report to the UST owner or operator within 48 hours of the completed visual inspection is necessary to specify a timeframe in which the report must be supplied to the UST owner or operator. Providing 48 hours for the designated UST operator to provide a signed copy of the visual inspection report to the UST owner or operator is sufficient time for a designated UST operator to complete the form and transmit a copy of the visual inspection report to the UST owner or operator.
21. **Subdivision (e)** – Adding this new subdivision requiring the UST owner or operator to provide a description of actions taken, or to be taken, to correct compliance issues identified by the designated UST operator within 48 hours of receiving the visual inspection report is necessary to meet the intent of Federal UST Regulations, section 280.36(b). As specified in the preamble of the Federal UST Regulations, the intent of the walkthrough inspection is to have the owner or operator of a UST take corrective action as soon as practical after issues are discovered. The UST owner or operator has the responsibility to correct compliance issues identified during the visual inspection. The intent of this proposed subdivision is to

have the owner or operator of a UST to remove, manage, and dispose of liquid as soon as practical after discovery and to develop a work plan to correct more serious compliance issues identified. Requiring the owner or operator to provide a description of actions taken, or to be taken, to correct compliance issues identified by the designated UST operator within 48 hours of receiving the visual inspection report is necessary to specify a timeframe in which the report must be completed. Providing 48 hours for the UST owners or operators to provide a description of actions taken, or to be taken, to correct compliance issues identified during the visual inspection is sufficient time to remove, manage, and dispose of liquid and to determine the need to develop a work plan to implement corrective action to correct more serious issues identified.

22. **Subdivision (f)** – Existing subdivision (e) of section 2715 of the California UST Regulations is moved to this new subdivision and modified by requiring the UST owner or operator to maintain the “Designated Underground Storage Tank Operator Visual Inspection Report” for 36 months. Requiring the UST owner or operator to maintain the “Designated Underground Storage Tank Operator Visual Inspection Report” for 36 months is necessary to be consistent with proposed California UST Regulations, section 2712(b)(1)(G).

APPENDICES

Specific Purpose and Necessity of the Proposed Action

The appendix contains proposed tables and forms that are used to comply with proposed California UST Regulations. The new forms proposed in the appendix are for: 1) UST owners or operators to make a statement of understanding and compliance with the California UST Regulations; 2) identifying designated UST operators; 3) recording training of facility employees; and 4) reporting the results of required testing and inspections. Some of the new forms replace voluntary forms created by the State Water Board for use by UST owners or operators, UST service technicians, and designated UST operators. Adding these form to the California UST Regulations is necessary to assist both the UST regulated community and UPAs 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 reduces the amount of time both the UST regulated community and UPA 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.

APPENDIX III. EXAMPLES OF RELEASE DETECTION

Specific Purpose and Necessity of the Proposed Action

This appendix is removed and replaced. The new appendix is modified consistent with the global change to the regulations to replace the terms “annually,” “biennial,” and “triennial” with the equivalent number of months. This appendix also is modified consistent with the available forms of release detection methods. Manual tank gauging is removed because it has not been an acceptable form of release detection since December 22, 1998. In addition, continuous in-tank leak detection is added to the appendix consistent with the available forms of release

detection specified in proposed California UST Regulations, section 2643(b). Finally, the methods of release detection for single walled pressurized piping are modified to be consistent with existing and proposed California UST Regulations, section 2643(c).

APPENDIX VI. UNDERGROUND STORAGE TANK MONITORING SYSTEM CERTIFICATION FORM

Specific Purpose and Necessity of the Proposed Action

This appendix is removed and replaced. The changes reflected in the new appendix are as follows. As proposed, the format of the new appendix is consistent with the format of the other proposed forms in this rulemaking.

1. **Section I** – Existing section A is moved to this proposed section and modified to require the UST service technician performing the monitoring certification to provide the California Environmental Reporting System identification number (CERS ID No.) of the facility for tracking purposes. In addition, this section has been modified by replacing the titles of the data fields “Date of Testing/Serviceing” with “DATE OF SYSTEM CERTIFICATION” and “Zip” with “ZIP CODE” for clarity purposes.
2. **Section II** – Existing section C, in part, is moved to this proposed section and modified by replacing the titles of the data fields: 1) “Testing Company Name” with “NAME OF COMPANY PERFORMING CERTIFICATION;” 2) “Testing Company Address” with “ADDRESS OF COMPANY PERFORMING CERTIFICATION;” 3) “Technician Name” with “NAME OF UST SERVICE TECHNICIAN PERFORMING CERTIFICATION;” 4) “License No.” with “CONTRACTOR/TANK TESTER LICENSE #;” and 5) “Certification No.” with the International Code Council (ICC) certification number (ICC CERTIFICATION #) for the clarity purposes.

In addition, this section requires the UST service technicians performing the certification to provide their: 1) ICC certification expiration date; and 2) monitoring system training and certifications. Requiring the UST service technicians performing the certification to provide this information is necessary to assist the UPA in verifying that the individual performing the certification is a qualified UST service technician, in accordance with proposed California UST Regulations, section 2715(f)(2)(B), at the time the certification is performed.

3. **Section III** – The data fields in existing section C which requires the UST service technician performing the certification to identify and provide a system set-up or alarm history report, if the monitoring equipment is capable of generating either, is moved to this proposed section.

The data fields in existing section D which requires the UST service technician performing the certification to identify whether: 1) the monitoring equipment is operating per manufacturer’s specifications; and 2) any monitoring equipment was replaced during the certification is moved to this proposed section.

The data fields in existing section D which requires the UST service technician performing the certification to identify whether liquid is found inside the secondary containment system is moved to this proposed section and modified to require the UST service technician, performing the monitoring system certification, to visually inspect the secondary containment system for damage or debris, in addition to liquid. Requiring the UST service technician,

performing monitoring system certification, to visually inspect the secondary containment system for damage or debris, in addition to liquid is necessary to be consistent with the Federal UST Regulations that require containment sumps to be inspected for damage, liquid, or debris annually. (Federal UST Regulations, § 280.36(a)(1)(ii)(A).)

4. **Section IV** – Existing comment section E is moved to this proposed section.
5. **Section V** – The data field in existing section C which requires the UST service technician performing the certification to provide a signature to certify the results of the certification is moved to this proposed section and modified by replacing the title of the data field “Signature” with “UNDERGROUND STORAGE TANK SERVICE TECHNICIAN SIGNATURE” for clarity purposes.
6. **Section VI** – Existing section B is moved to this proposed section and modified by removing the requirement that the UST service technician performing the certification to identify the model of the “Tank Overfill/High Level Sensor” installed on the UST. Section B also is modified to require the UST service technician performing the certification to identify the presence and type, and provide the model numbers of all monitoring equipment used for each of the following UST components: 1) tank; 2) piping; and 3) sumps, including under-dispenser containment. The requirements in existing section A and D requiring the UST service technician performing the certification to identify the make and model of the monitoring system and provide the software version installed, respectively, also is moved to this proposed section.

Removing the requirement for the UST service technician performing the certification to identify the model of the “Tank Overfill/High Level Sensor” is necessary to avoid duplicity in reporting requirements. Proposed California UST Regulations, section 2637.2(d) requires the results of the overfill prevention equipment inspection to be recorded on the “Overfill prevention equipment Inspection Report Form.” The “Overfill prevention equipment Inspection Report Form” will track the identity of the “Tank Overfill/High Level Sensor.

Requiring the UST service technician performing the certification to identify the presence and type, and provide the model numbers of all monitoring equipment used for each of the following UST components: 1) tank; 2) piping; and 3) sumps, including under-dispenser containment is necessary to assist the UPA in verifying that all portions of the UST are monitored.

7. **Section VII** – Adding this proposed section to require the UST service technician performing the certification to specify all other components that are monitored or other methods of monitoring used to monitor the UST is necessary to assist the UPA verify that all portions of the UST are monitored.
8. **Section VIII** – Existing section D is moved to this proposed section and modified to require the UST service technician performing the certification to test the functionality and identify the activation level of the overfill prevention equipment. In addition, this section is modified by adding the requirement for the UST service technician performing the certification to identify whether: 1) the flow of fuel stops at the dispensers if a leak is detected in the under-dispenser containment; 2) the backup battery for monitoring panel has been visually inspected, functionally tested, and confirmed operational; and 3) all sensors have been visually inspected for kinks or breaks in the wires and residual buildup on the floats and have been functionally tested and confirmed operational. Finally, the requirements to

identify if the audible or visual alarm is operational is modified by combining both requirements into one requirement.

Removing the requirement for the UST service technician performing the certification to test the functionality and identify the activation level of the overfill prevention equipment is necessary to avoid duplicity in reporting requirements. Proposed California UST Regulations, section 2637.2(d) requires the results of the overfill prevention equipment inspection to be recorded on the "Overfill prevention equipment Inspection Report Form." The "Overfill prevention equipment Inspection Report Form" will be used to identify the level the overfill prevention equipment is set to activate and operating properly.

Requiring the UST service technician performing the certification to identify whether the flow of fuel stops at the dispensers if a leak is detected in the under-dispenser containment is necessary to assist the UPA in verifying the UST is complying with the positive shut-down requirements of proposed California UST Regulations, section 2636(f)(4) in lieu of the annual line tightness testing of proposed California UST Regulations, section 2636(f)(3).

Requiring the UST service technician performing the certification to identify whether the backup battery for monitoring panel has been visually inspected, functionally tested, and confirmed operational is necessary to be consistent with Federal UST Regulations, section 280.40(a)(3)(i).

Requiring the UST service technician performing the certification to visually inspect cables or wiring for kinks and breaks, ensure floats move freely, and verify that the monitoring panel's backup battery is visually inspected, functionally tested, and confirmed operational is necessary to be consistent with Federal UST Regulations, sections 280.40(a)(3)(ii) and (ii).

Requiring the UST service technician performing the certification to identify if the audible and visual alarm is operational is necessary because release detection monitoring requires both and audible and visual alarm together and not one or the other.

9. **Section IX** – Adding this proposed section to require the UST service technician performing the certification to make comment is necessary for the UST service technician to describe issues, related to the monitoring system and programming, discovered during the certification.
10. **Section X** – Existing section F is moved to this proposed section and modified to require the UST service technician performing the certification to visually inspect cables or wiring for kinks and breaks, ensure that floats move freely, and that probes are functionally tested and confirmed operational. Requiring the UST service technician performing the certification to visually inspect cables or wiring for kinks and breaks, ensure that floats move freely, and that probes are functionally tested and confirmed operational is necessary to be consistent with Federal UST Regulations, section 280.40(a)(3)(ii).
11. **Section XI** – Adding this proposed section requires the UST service technician performing the certification to make comment and is necessary for the UST service technician to describe issues, related to in-tank gauging, discovered during the certification.
12. **Section XII** – Existing section G is moved to this proposed section and modified to require the UST service technician performing the certification to visually inspect cables or wiring for kinks and breaks. Requiring the UST service technician performing the certification to

visually inspect cables or wiring for kinks and breaks is necessary to be consistent with Federal UST Regulations, section 280.40(a)(3)(ii).

13. **Section XIII** – Adding this proposed section requires the UST service technician performing the certification to make comments and is necessary for the UST service technician to describe issues related to the ALLD discovered during the certification.
14. **Section XIV** – As explained in more detail below, adding this proposed section to require the UST service technician performing the certification to certify the functionality of the vacuum or pressure release detection equipment is necessary to assist both the UST regulated community and UPAs ensure that all required equipment is certified consistent with proposed California UST Regulations, section 2638(a) and the results are maintained in a consistent fashion.

Requiring the UST service technician performing the certification to identify whether vacuum or pressure release detection monitoring is being used is necessary to assist both the UST service technician performing the certification and UPA in determining if this section must be completed.

Requiring the UST service technician performing the certification to provide the released detection equipment: 1) manufacturer; 2) model; and 3) type is necessary to assist the UPA verify that the individual performing the certification possesses the proper training and certification for the results of the testing to be reliable.

Requiring the UST service technician performing the certification to identify the vacuum or pressure sensors tested is necessary to assist the UPA track each vacuum or pressure sensor and compare the results of the certification with the attached “System set-up.” and “Alarm history report.”

Requiring the UST service technician performing the certification to identify the UST components a sensor is monitoring for releases is necessary to assist the UPA ensure that all the components of the UST are being monitored for release.

Requiring the UST service technician performing the certification to test sensor functionality is necessary to be consistent with Federal UST Regulations, section 280.40(a)(3)(ii).

Requiring the UST service technician performing the certification to determine interstitial communication through a communication test is necessary to demonstrate compliance with existing California UST Regulations, section 2630(d) and proposed California UST Regulations, section 2631(g). Existing California UST Regulations require “that any loss of a hazardous substance from the primary containment will be detected by an interstitial monitoring device or method” and that the release detection equipment is “maintained such that the equipment is capable of detecting a leak at the earliest possible opportunity.”

Requiring the UST service technician performing the certification to identify how the interstitial communication is tested is necessary to assist the UPA in verifying the proper test was conducted and that the results of the testing are reliable.

Requiring the UST service technician performing the certification to identify whether the vacuum was restore after performing the certification is necessary in order to keep UPAs updated on the status of the monitoring of the site.

15. **Section XV** – Adding this proposed section to require the UST service technician performing the certification to make comments is necessary for the UST service technician to describe issues, related to vacuum and pressure monitoring, discovered during the certification.
16. **Section XVI** – The existing UST Monitoring Site Plan is moved to this proposed section.

APPENDIX VII. UNDERGROUND STORAGE TANK SECONDARY CONTAINMENT TESTING REPORT FORM

Specific Purpose and Necessity of the Proposed Action

This new appendix is a new form for reporting the results of secondary containment testing. This new form replaces a voluntary form created by the State Water Board for use by UST service technicians performing testing of secondary containment systems, to report results for all secondary containment components tested that is not in existing California UST Regulations. Adding this form to the California UST Regulations is necessary to assist both the UST regulated community and UPAs ensure that all required information is maintained and submitted in a consistent fashion and to ensure compliance with proposed California UST Regulations, section 2637. (Federal UST Regulations, §§ 280.34(a)(5) & 280.35(c).) The use of this new form is required by proposed California UST Regulations, section 2637(e).

1. **Section I** – This proposed section requires the UST service technician performing the secondary containment testing to provide the facility's: 1) business name; 2) site address; and 3) CERS ID No. and is necessary to assist the UPA in identifying the applicable UST facility for the test results. Requiring the UST service technician performing the test to provide the date the test is performed is necessary to assist both the UST regulated community and UPAs in tracking compliance deadlines for required secondary containment testing.
2. **Section II** – This proposed section requires the UST service technicians performing the testing to provide their: 1) name; 2) phone number; 3) ICC UST service technician certification number; 4) ICC UST service technician certification expiration date; and 5) contactor or tank tester license number and is necessary to ensure the individual performing the testing is a qualified UST service technician at the time the testing is performed.
3. **Section III** – This proposed section requires the UST service technician performing the testing to provide: 1) a tank identification number; 2) a vent/transition sump identification number; 3) an under-dispenser containment identification number; and 4) an explanation for each items marked "failed" or "not applicable." In addition, this proposed section requires the UST service technician performing the testing to identify the results of the: 1) secondary containment tightness testing; and 2) communication testing.

Requiring the UST service technician performing the testing to provide identification numbers for the UST secondary containment components tested is necessary to assist the UPA identify the applicable UST for the test results.

Requiring the UST service technician performing the testing to provide a summary of the secondary containment tightness testing results is necessary to assist both the UST

regulated community and UPAs with identifying issues with UST secondary containment components that require corrective action.

Requiring the UST service technician, performing the secondary containment testing for the piping, to provide results of communication testing for the piping's secondary containment is necessary to demonstrate the complete secondary containment system is tested and the UST is constructed so that any loss of the stored hazardous substance from the primary containment will be detected by the interstitial monitoring. (Proposed California UST Regulations, § 2631(g).)

Requiring the UST service technician performing the testing to provide an explanation for each secondary containment tightness and communication testing results marked "failed" or "not applicable" is necessary to assist both the UST regulated community and UPAs in identifying the appropriate corrective action.

4. **Section IV** – This proposed section requires the UST service technician performing the testing to certify the results of the inspection and is necessary to be consistent with existing California UST Regulations for reporting third party testing results and ensures the truthfulness and accuracy of the results.
5. **Sections V, VII, IX, XI, XIII, XV, XVII, XIX** – These proposed sections require the UST service technician performing the testing to provide, for each secondary containment component tested: 1) the manufacturer; 2) the tightness test method used; 3) the number of pages of the attached procedure; and 4) a list of their testing training and certifications. In addition, these proposed sections also require the UST service technician performing the testing to provide a copy of the testing procedures and all documentation required to be completed to determine the testing results. Finally, the proposed sections for testing secondary containment of piping requires the UST service technician performing the testing to provide the method of determining the results of the communication testing.

Requiring the UST service technician performing the testing to provide the manufacturer and the test method used is necessary to assist the UPA in verifying the appropriate test is performed. (Proposed California UST Regulations, § 2637(c).)

Requiring the UST service technicians performing the testing to provide a list of their training and certifications for each secondary containment component tested is necessary to assist the UPA in verifying the individual performing the testing is qualified to perform the test. (Proposed California UST Regulations, § 2637(d).)

Requiring the UST service technician performing the testing to provide a copy of the testing procedures, including all documentation required to be completed to determine the testing results for each secondary containment component tested and the number of pages of the attached procedure, is necessary to assist the UPA in verifying the testing is performed properly and the results are accurate and complete. (Proposed California UST Regulations, § 2637(c).)

Requiring the UST service technician performing the testing to identify the method of communication testing the secondary containment for piping runs is necessary to assist the UPA in verifying that the UST service technician performed an appropriate communication test.

6. **Section VI, VII, X, XII, XIV, XVI, XVIII, XX** – These proposed sections provide the UST service technician performing the testing a location to provide: 1) an explanation for each secondary containment tightness and communication testing results marked “failed” or “not applicable;” and 2) the number of pages of the attached testing protocol.

Providing a location for the UST service technician performing the testing to provide an explanation for each secondary containment tightness and communication testing results marked “failed” or “not applicable is necessary to assist both the UST regulated community and UPAs to identify the corrective action required to correct the issue. In addition, these sections may be used by the UST service technician to describe any other issues related to the secondary containment of the tank discovered during the testing.

Requiring the UST service technician performing the testing to provide the number of pages of the attached testing protocol is necessary to assist the UPA in verifying that the report is complete.

APPENDIX VIII. UNDERGROUND STORAGE TANK SPILL CONTAINER TESTING REPORT FORM

Specific Purpose and Necessity of the Proposed Action

This new appendix is a new form for reporting the results of spill container testing. This new form replaces a voluntary form created by the State Water Board for use by UST service technicians performing testing of the spill container to report results for all spill containers tested that is not in existing California UST Regulations. Adding this form to the California UST Regulations is necessary to assist both the UST regulated community and UPAs ensure that all required information for spill container testing is maintained and submitted in a consistent fashion and to ensure compliance with Health and Safety Code section 22528.2 and proposed California UST Regulations, sections 2635(b) and 2637.1. (Federal UST Regulations, §§ 280.34(a)(5) & 280.35(c).) The use of this new form is required by proposed California UST Regulations, section 2637.1(d).

1. **Section I** – This proposed section requires the UST service technician performing the spill container testing to provide the facility’s: 1) business name; 2) site address; and 3) CERS ID No. and is necessary to assist the UPA in identifying the applicable UST facility for the test results. Requiring the UST service technician performing the test to provide the date the test is performed is necessary to assist both the UST regulated community and UPAs in tracking compliance deadlines for required spill container testing.
2. **Section II** – This proposed section requires the UST service technicians performing the testing to provide their: 1) name; 2) phone number; 3) ICC UST service technician certification number; 4) ICC UST service technician certification expiration date; 5) contactor or tank tester license number; and 6) spill container testing training and certifications and is necessary to assist the UPA verify that the UST service technician performing the testing is a qualified UST service technician, in accordance with proposed California UST Regulations, section 2637.1(c), at the time the testing is performed.
3. **Section III** – This proposed section requires the UST service technician performing the testing to provide: 1) the tightness test methods used; 2) a copy of the testing procedures including all documentation required for determining the results of the test; 3) the number of

pages of the attached procedure; 4) a tank identification number; 5) the manufacturer of the spill container; 6) the inside diameter of the spill container; and 7) the depth of the spill container. In addition, the UST service technician performing the testing is required to identify for each spill container tested: 1) the method of cathodic protection; 2) that the minimum volumetric capacity is at least five gallons; and 3) the method of keeping the spill container empty.

Requiring the UST service technician performing the testing to provide the manufacturer of the spill container and the test method used is necessary to assist the UPA in verifying the appropriate test is performed in accordance with proposed California UST Regulations, section 2637.1(b).

Requiring the UST service technician performing the testing to provide a copy of the testing procedures, including all documentation required to be completed to determine the testing results for each spill container tested and the number of pages of the attached procedure, is necessary to assist the UPA in verifying the testing is performed properly and the results are accurate and complete. (Proposed California UST Regulations, § 2637.1(b).)

Requiring the UST service technician performing the spill container testing to provide a tank identification number of the tank that the spill container tested is installed on is necessary to assist the UPA track the results of the spill container testing for reach UST.

Requiring the UST service technician performing the testing to provide the inside diameter and the depth of the spill container is necessary to assist the UPA in verifying the spill container is large enough to be a minimum of five gallons. In addition, requiring the UST service technician performing the testing to provide the depth of the spill container is necessary to assist the UPA in determining how much of the spill container the UST service technician tested for tightness.

Requiring the UST service technician performing the spill container testing to identify the method of cathodic protection for the spill container is necessary to assist the UPA in verifying compliance with proposed California UST Regulations, section 2635(b)(1).

Requiring the UST service technician performing the testing to identify that the minimum volumetric capacity of the spill container is at least five gallons is necessary to assist the UPA in verifying compliance with proposed California UST Regulations, section 2635(b)(2). While the volume of a cylindrical container can be calculated with a diameter and depth measurement alone, spill containers with a calculated volume equal to five gallons or greater may have a capacity of less than five gallons after installation because UST components located within the spill container may occupy a portion of the volume needed to achieve a five gallon capacity.

Requiring the UST service technician performing the testing to identify the method of keeping the spill container empty is necessary to assist the UPA in verifying the UST owner or operator has the ability to empty the spill container when any liquid is discovered in the spill container. In addition, requiring the UST service technician performing the testing to identify the method of keeping the spill container empty is necessary to assist the UPA in verifying the spill container complies with proposed California UST Regulations, section 2635(b)(3).

4. **Section IV** – This proposed section requires the UST service technician performing the testing to provide the results of the testing. Requiring the UST service technician performing the testing to provide the results of the testing is necessary to assist both the UST regulated community and UPAs to identify any spill containers that require corrective action.
5. **Section V** – This proposed section requires the UST service technician performing the testing to provide an explanation for each spill container testing result marked “fail” and is necessary to assist both the UST regulated community and UPAs to identify what corrective action is required to correct the issue.
6. **Section VI** – This proposed section requires the UST service technician performing the testing to certify the results of the testing and is necessary to be consistent with existing California UST Regulations for reporting third party testing results.

APPENDIX IX. UNDERGROUND STORAGE TANK OVERFILL PREVENTION EQUIPMENT INSPECTION REPORT FORM

Specific Purpose and Necessity of the Proposed Action

This new appendix is a new form for reporting the results of overfill prevention equipment inspections. This new form is necessary to assist both the UST regulated community and UPAs ensure that all required information for overfill prevention equipment inspections is maintained and submitted in a consistent fashion and to ensure compliance with proposed California UST Regulations, sections 2635(c) and 2637.2. (Federal UST Regulations, §§ 280.34(a)(5) & 280.35(c).) The use of this new form is required by proposed California UST Regulations, section 2637.2(d).

1. **Section I** – This proposed section requires the UST service technician performing the overfill prevention equipment inspection to provide the facility’s: 1) business name; 2) site address; and 3) CERS ID No. and is necessary to assist the UPA in identifying the applicable UST facility for the inspection results. This proposed section also requires the UST service technician performing the inspection to provide the date the inspection is performed and is necessary to assist both the UST regulated community and UPAs in tracking compliance deadline for required overfill prevention inspections.
2. **Section II** – This proposed section requires the UST service technicians performing the inspection to provide their: 1) name; 2) phone number; 3) ICC UST service technician certification number; 4) ICC UST service technician certification expiration date; 5) contactor or tank tester license number; and 6) manufacturer certifications and is necessary to assist the UPA verify that the UST service technician performing the inspection is a qualified UST service technician, in accordance proposed California UST Regulations, section 2715(f), at the time the inspection is performed.
3. **Section III** – This proposed section requires the UST service technician performing the inspection to provide: 1) the inspection method used; 2) a tank identification number; 3) the date the UST was installed; 4) the inside diameter of the tank; 5) the manufacturer(s) of the overfill prevention equipment; 6) a copy of the inspection procedures; 7) the number of pages provided; 8) the tank’s percent capacity; and 9) the level in the tank at which the overfill prevention equipment is set to active. In addition, this proposed section requires the UST service technician performing the inspection to identify the overfill prevention

equipment response and whether the: 1) fill piping and vent piping are secondarily contained; 2) flow restrictors are installed in the vent piping; and 3) the overfill prevention equipment is in proper operating condition. Finally, this proposed section requires the UST service technician performing the inspection to attach the inspection procedures and all documentation required to determine the results and provide the number of pages attached.

Requiring the UST service technician performing the inspection to provide the manufacturer of the overfill prevention equipment and the inspection method used is necessary to assist the UPA in verifying the testing is performed and complies with proposed California UST Regulations, section 2637.2(b).

Requiring the UST service technician performing the inspection to provide a tank identification number for the tank that the inspected overfill prevention equipment is installed on is necessary to assist the UPA to track the overfill prevention equipment inspection results for each UST.

Requiring the UST service technician performing the inspection to provide the manufacturer of the overfill prevention equipment and inspection method used is necessary to assist the UPA in verifying the appropriate inspection is performed in accordance with proposed California UST Regulations, section 2637.2(b).

Requiring the UST service technician performing the inspection to provide the inside diameter of the tank and the level in the tank at which the overfill prevention equipment is set to active is necessary to assist the UPA in verifying the percent capacity at which the overfill prevention equipment is set to activate and compliance with existing California UST Regulations, section 2635(b)(2).

Requiring the UST service technician performing the inspection to provide the installation date of the UST, provide the percent capacity at which the overfill prevention equipment is set to activate, identify if whether the vent piping and fill piping are secondary contained, and identify the response of the overfill prevention equipment is necessary to assist the UPA in verifying compliance with existing California UST Regulations, section 2636(a)(1).

Requiring the UST service technician performing the inspection to identify whether flow restrictors are installed in vent piping is necessary to assist both the UST regulated community and UPAs identify whether the UST system is subject to the installation, repair, and upgrade requirements of proposed California UST Regulations, sections 2635(d), 2661(i), and 2665(b).

Requiring the UST service technician performing the inspection to identify the overfill prevention equipment is in proper operating condition is necessary to assist the UPA in verifying that the overfill prevention equipment is set to activate at the correct level and will activate when regulated stored substance reaches that level.

Requiring the UST service technician performing the inspection to provide a copy of the inspection procedures, including all documentation required to be completed to determine the inspection results for each overfill prevention equipment inspected and the number of pages of the attached procedure, is necessary to assist the UPA in verifying the inspection is performed properly and the results are accurate and complete. (Proposed California UST Regulations, § 2637.2(b).)

Requiring the UST service technician performing the inspection to identify whether the overfill prevention equipment is set at the correct level and if the overfill prevention equipment is in proper operating condition to activate when the stored substance reaches that level is necessary to assist the UPA in verifying that the for the overfill prevention equipment is in compliance with proposed California UST Regulations, section 2635(c).

4. **Section IV** – This proposed section requires the UST service technician performing the inspection to provide results of the inspection and is necessary to assist both the UST regulated community and UPAs with identifying overfill prevention equipment that require corrective action.
5. **Section V** – This proposed section requires the UST service technician performing the inspection to provide an explanation for each overfill prevention equipment inspection result marked “fail” and is necessary to assist both the UST regulated community and UPAs identify the corrective action required to correct the issue.
6. **Section VI** – This proposed section requires the UST service technician performing the inspection to certify the results of the inspection and is consistent with existing California UST Regulations for reporting third party inspections.

APPENDIX X. UNDERGROUND STORAGE TANK STATEMENT OF UNDERSTANDING AND COMPLIANCE FORM

Specific Purpose and Necessity of the Proposed Action

This new appendix is a new form for reporting that the UST owner or operator understands and is in compliance with all applicable UST requirements. This new form replaces a voluntary form created by the State Water Board for use by UST owners or operators, to report that they understand and are in compliance with all applicable UST requirements that is not in existing California UST Regulations. Adding this form to the California UST Regulations is necessary to assist both the UST regulated community and UPAs ensure that all required information is maintained and submitted in a consistent fashion and to ensure compliance with proposed California UST Regulations, section 2715(a). (Federal UST Regulations, §§ 280.34(a)(9) & 280.245.) The use of this new form is required by proposed California UST Regulations, section 2715(a)(1)(A).

1. **Section I** – This proposed section requires UST owners or operators to provide the facility’s: 1) business name; 2) site address; and 3) CERS ID No. and is necessary for identifying the applicable UST facility for this statement.
2. **Section II** – This proposed section requires the UST owners or operators filling out the form to provide their: 1) name; 2) phone number; and 3) mailing address. In addition, this propose section requires UST owners and operators to identify whether they are the owner or operator of the UST and whether they are a government agency and if so, what type of government agency. Requiring UST owners or operators to identify and provide this information is necessary to assist the UPA identify the individual or entity who is responsible for complying with Health and Safety Code and California UST Regulations.
3. **Section III** – This proposed section requires UST owners or operators to certify that they understanding and are in compliance with Health and Safety Code and the California UST Regulations and is necessary to ensure the UST owner or operator have the knowledge

necessary to make informed decisions regarding statutory and regulatory compliance. This requirement is consistent with existing California UST Regulations for UST owner or operator certification.

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

Specific Purpose and Necessity of the Proposed Action

This new appendix is a new form for reporting the identity of the individual designated as the UST operator. This new form replaces a voluntary form created by the State Water Board for use by UST owners, to report the identity of the individual designated as the UST operator that is not in existing California UST Regulations. Adding this form to the California UST Regulations is necessary to assist both the UST regulated community and UPAs ensure that all required information is maintained and submitted in a consistent fashion and to ensure compliance with proposed California UST Regulations, section 2715(a). (Federal UST Regulations, §§ 280.34(a)(9) & 280.245.) The use of this new form is required by proposed California UST Regulations, sections 2715(a)(1)(B) & (a)(2).

1. **Section I** – This proposed section requires UST owners or operators to provide the facility's: 1) business name; 2) site address; and 3) CERS ID No. and is necessary to assist the UPA in identifying the applicable UST facility for the listed designated UST operators.
2. **Section II** – This proposed section requires UST owners or operators to provide the designated UST operator's: 1) name; 2) ICC designated UST operator certification number; 3) mailing address; and 4) phone number and is necessary to assist the UPA in verifying that the individuals listed are qualified to perform the duties of a designated UST operator in accordance with existing California UST Regulations, section 2715(b).

APPENDIX XII. UNDERGROUND STORAGE TANK FACILITY EMPLOYEE TRAINING CERTIFICATE

Specific Purpose and Necessity of the Proposed Action

This new appendix is a new form for identifying individuals that have completed facility employee training. The State Water Board does not currently have a form for this purpose. Adding this form to the California UST Regulations is necessary to assist both the UST regulated community and UPAs ensure that all required information is maintained in a consistent fashion and to ensure compliance with proposed California UST Regulations, section 2715(c). (Federal UST Regulations, §§ 280.34(a)(9) & 280.245.) The use of this new form is required by proposed California UST Regulations, section 2715(c)(3).

1. **Section I** – This proposed section requires the designated UST operators performing the training to provide the facility's: 1) business name; 2) site address; and 3) CERS ID No. and is necessary to assist the UPA in identifying the applicable UST facility for the listed trained facility employees.
2. **Section II** – This proposed section requires the designated UST operators performing the training to provide their: 1) name; 2) mailing address; 3) phone number; 4) ICC designated

UST operator certification number; and 5) ICC designated UST operator certification expiration date and is necessary to ensure the individual performing the training is qualified.

3. **Section III** – This proposed section requires the designated UST operators performing the training to provide: 1) the name; 2) initial training date; and 3) date of assuming facility employee duties of the facility employee for each facility employee and is necessary to identify the individual trained, when they first were trained, and when they accepted the responsibilities of a facility employee. The requirement also is consistent with Federal UST Regulations, sections 280.245(a) and (b), which provide that the record of training must list the names of the individuals trained, their initial training dates, and the dates they assumed duties.
4. **Section IV** – This proposed section requires the designated UST operators performing the training to certify the list of trained facility employees and is necessary to be consistent with Federal UST Regulations, sections 280.245(b)(1), which requires that the record of training be signed by the trainer. This proposed section also requires the designated UST operators performing the performing the training to provide the date the training is performed and is necessary to assist both the UST regulated community and UPAs in tracking compliance deadlines for required training facility employees.

APPENDIX XIII. UNDERGROUND STORAGE TANK DESIGNATED UNDERGROUND STORAGE TANK OPERATOR VISUAL INSPECTION REPORT

Specific Purpose and Necessity of the Proposed Action

This new appendix is a new form for recording the results of the visual inspection performed by a designated UST operator. 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. Adding this form to the California UST Regulations is necessary to assist both the UST regulated community and UPAs ensure that all required information is maintained and submitted in a consistent fashion and to ensure compliance with proposed California UST Regulations, section 2716. (Federal UST Regulations, §§ 280.34(a)(6) & 280.36(b).) The use of this new form is required by proposed California UST Regulations, section 2716(c).

1. **Section I** – This proposed section requires the designated UST operator performing the visual inspection to provide the facility's: 1) business name; 2) site address; and 3) CERS ID No. and is necessary to assist the UPA in identifying the applicable UST facility for the inspection results. This proposed section also requires the designated UST operator performing the inspection to provide the date the inspection is performed and is necessary to assist both the UST regulated community and UPAs in tracking compliance deadline for required visual inspections.
2. **Section II** – This proposed section requires the designated UST operators performing the visual inspection to provide their: 1) name; 2) phone number; 3) ICC UST service technician certification number; and 4) ICC UST service technician certification expiration date; and is necessary to assist the UPA verify that the UST service technician performing the inspection is a qualified designated UST operator, in accordance proposed California UST Regulations, section 2715(b), at the time the inspection is performed.

3. **Section III** – This proposed section requires the designated UST operator performing the visual inspection provide an explanation for any answer of “no” or “not applicable” and is necessary to assist both the UST regulated community and UPAs identify the compliance issues discovered during the inspection.
4. **Section IV** – This proposed section requires the designated UST operator performing the visual inspection to certify the results of the inspection and is consistent with existing California UST Regulations for reporting third party inspections.
5. **Section V** – This proposed section requires the UST owner or operator to provide a description of corrective action for all compliance issues discovered during the visual inspection and is necessary to assist both the designated UST operator and UPA verify that the appropriate corrective action is implemented.
6. **Section VI** – This proposed section requires the UST owner or operator to acknowledge the compliance issues and that follow up actions is required and 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 immediately when discovered.
7. **Section VII** – This proposed section requires the designated UST operator performing the inspection to review the previous “Designated Underground Storage Tank Operator Visual Inspection Report” and provide documentation verifying that all follow up action items have been corrected and is necessary to assist both the UST regulated community and UPAs verify that all items discovered during any visual inspection are corrected. (Proposed California UST Regulations, § 2716(b)(1).)
8. **Section VIII** – This proposed section requires the designated UST operator performing the visual inspection to: 1) review the alarm history since the previous inspection; 2) provide a copy of the alarm history; and 3) provide documentation of the response to each alarm and is necessary to assist both the UST regulated community and UPAs verify that all alarms have been corrected. (Proposed California UST Regulations, §§ 2716(b)(2) & (c)(2) & (3).)
9. **Section IX** – This proposed section requires the designated UST operator performing the visual inspection to inspect for damage, debris, water, or hazardous substances in: 1) spill containers; 2) under-disperser containment; and 3) containment sumps that have had an alarm and have not been responded to and is necessary to assist the UPA verify compliance with proposed California UST Regulations, sections 2716(b)(5), (8), and (9). In addition, this proposed section requires the designated UST operator performing the visual inspection to verify that there are no obstructions in the fill pipe and the fill cap is securely on the fill pipe and is necessary to assist the UPA verify compliance with proposed California UST Regulations, sections 2716(b)(6) and (7).
10. **Section X** – This proposed section requires the designated UST operator performing the visual inspection to review testing and maintenance records for the facility and is necessary to assist both the UST regulated community and UPAs track compliance deadlines for required testing and maintenance. (Proposed California UST Regulations, § 2716(b)(3).)
11. **Section XI** – This proposed section requires the designated UST operator performing the visual inspection to review the facility employee training record and is necessary to assist both the UST regulated community and UPAs verify individuals performing the duties of a

facility employee have been trained in the last 12 months in accordance with proposed California UST Regulations, sections 2715(c) and 2716(b)(4).