

FACILITY PLANNING, CONSTRUCTION AND MANAGEMENT

P.O. Box 942883
Sacramento, CA 94283-0001



December 12, 2017

Ms. Jeanine Townsend, Clerk to the Board
State Water Resources Control Board
P.O. Box 100
Sacramento, CA 95812-2000



Dear Ms. Townsend:

COMMENT LETTER – PROPOSED UST REGULATIONS

The California Department of Corrections and Rehabilitation (CDCR) appreciates the opportunity to provide comments to the State Water Resources Control Boards' (Board) proposed amendments to the California Code of Regulations (CCR), Title 23, Division 3, Chapter 16.

In addition to the comments detailed below, the CDCR wishes to address statements that are present in the Board's Notice of Proposed Regulation Action, Economic and Fiscal Impact Statement, and Supplemental Economic and Fiscal Impact Statement. The Board has indicated that this proposed regulation does not have a fiscal impact on any State agency or program. The CDCR is just one of many State Agencies that also happen to be Underground Storage Tank (UST) owners, and can attest that the proposed changes do in fact represent increased cost.

The following details CDCR comments regarding the amended regulation language.

23 CCR 2620(e)

(e) On and after the effective date of this subdivision, the period between all testing and inspections shall not exceed the maximum number of months set forth in these regulations. All testing and inspections shall be completed anytime before or during the month the testing or inspection is required.

CDCR Comment: The requirement as written appears to contradict section 2716(a), which states in part, "...all underground storage tank systems shall have a visual inspections performed by a designated UST operator at least once every 30 days in accordance with all subdivisions below." Does the Board intend to allow for as many as 60 days (e.g. DO inspection performed on 1 October and next DO inspection performed on 30 November) rather than requiring these inspections to be completed no more than 30 days apart?

23 CCR 2635(c)(1)

~~(2)(c)(1) The All underground storage tanks that do not meet paragraph (2) below shall be equipped with~~ overfill prevention ~~system shall equipment that does~~ not allow for manual override and ~~shall meet~~ meets one of the following requirements:

CDCR Comment: 23 CCR 2635(c) appears to have been deleted from the regulation. This is normally annotated via strike-through of the text. Further review of this document suggests that the language of 2635(c) has in fact been moved and is now represented as 2635(e). Will the Board please confirm this observation and indicate if there will no longer be an intro paragraph “(c)”?

23 CCR 2635(d)

(d) On and after the effective date of this subdivision, flow restrictors on vent piping do not meet the requirement of subdivision (c) above when overfill prevention equipment is installed.

CDCR Comment: 23 CCR 2635(d) makes reference to the deleted 23 CCR 2635(c), but speaks to the requirements now outlined in 23 CCR 2636(c)(1).

23 CCR 2635(e)(6)

(6) Drainage of liquid from within a secondary containment system shall be controlled in a manner approved by the local agency to prevent hazardous materials from being discharged into the environment. The liquid shall be analyzed to determine the presence of any of the hazardous substance(s) stored in the primary containment system prior to initial removal, and ~~monthly every 30 days~~ thereafter, for any continuous discharge (removal) to determine the appropriate method for final disposal. The liquid shall be sampled and analyzed immediately upon any indication of an unauthorized release from the primary containment system.

CDCR Comment: What are acceptable methods for sampling and analyzing “...to determine the presence of any of the hazardous substance(s) stored in the primary containment system...”?

23 CCR 2637(e)

(e) On and after the effective date of this subdivision, the results of the secondary containment test shall be recorded on the "Secondary Containment Testing Report Form" located in Appendix VII.

CDCR Comment: The UST Service Technician is now required to attach test procedures and all documentation required to determine the results of each component. We recommend adding a space on the form for an attachment number in addition to the number of pages in order to ensure these attachments are clearly organized. The CDCR would also point out that the term "Communiation" is misspelled on pages 2 and 3 of the Secondary Containment Testing Report Form.

23 CCR 2638(c)

(c) Annual The monitoring equipment certification shall be made on a "Monitoring System Certification Form" form (see located in Appendix VI).

CDCR Comment: The CDCR would like to point out that the term "Report" is misspelled on page 1 of the new Monitoring System Certification Form.

23 CCR 2644(a)

(a) An owner or operator who is required, pursuant to section 2641, to establish a non-visual monitoring program, shall comply with the requirements of this section if a qualitative release detection method is used. Each qualitative release detection method, including interstitial monitors, shall have an independent ~~third party~~ third party evaluation to certify accuracy and response time of the detection method in accordance with procedures in Appendix IV. Examples of qualitative release detection methods that may be used are in Appendix III.

CDCR Comment: The referenced section 2641 is not present in the proposed regulation language.

23 CCR 2661(f)

(f) Tanks and piping which have been repaired shall be tested for tightness within 30 ~~calendar~~ days following the date of completion of the repair. Tanks shall be tested in accordance with section 2643.1. Piping shall be tested in accordance with existing section 2636(f)(3) or 2643(c)(3), as applicable. Tanks or piping that fail this test shall be repaired in accordance with this section or closed in accordance with Article 7.

CDCR Comment: The referenced section 2643.1 is not present in the proposed regulation language.

23 CCR Chapter 16, Article 10

Article 10. Permit Application, Quarterly Report and Trade Secret Request Requirements

CDCR Comment: Article 10 does not include quarterly report or trade secret request requirements.

23 CCR 2716(a)

(a) On and after the effective date of this section, all underground storage tank systems shall have a visual inspection performed by a designated UST operator at least once every 30 days in accordance with all subdivisions below.

CDCR Comment: This appears to require the Designated Operator inspection to be performed up to two times in the same month if an inspection is performed on the 1st of a month that has 31 days.

23 CCR 2716(c)(6)

(6) A list of each area inspected and whether each area inspected is acceptable or needs follow-up action taken.

CDCR Comment: This appears to require the Designated Operator to prepare and attach a separate list to the Inspection form identifying each area inspected and whether each area is acceptable or follow-up items needed. If this is the intent of the regulation wouldn't a change to the Designated Underground Storage Tank Operator Visual Inspection Report form to include the required list better address the solution for this requirement?

Sincerely,



GREGOR LARABEE
Chief
Environmental and Regulatory Compliance Section

Eric Papatkakis
Laurie Perri
Paul Vasquez