

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

**FINAL
STATEMENT OF REASONS**

**October 2025
State Water Resources Control Board
Division of Water Quality**

Chapter 16. Underground Storage Tank Regulations

UPDATE OF INITIAL STATEMENT OF REASONS

The information contained herein is updated as follows.

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 Attachment A is the existing regulations, which are being repealed and replaced with the proposed regulations in Attachment B.

After publicly noticing the modified text, the State Water Board made modifications to the modified text that are non-substantial or solely grammatical in nature. The specific purpose and necessity of the modifications to the modified text are provided herein. As explained further below, the State Water Board also is correcting the specific purpose and necessity of the amendments to the appendices.

The following supplements the initial statement of reasons for section 2620(c)(7). The State Water Board has determined that review of an application of a site-specific variance, completing the required consultation, and holding a hearing would require approximately three Regional Water Quality Control Board (Regional Water Board) staff to spend 20 hours each. Though exceedingly rare in occurrence, the State Water Board determined the time to review a multiple site, site-specific variance, would require the same amount of time and resources as reviewing a single site, site-specific variance. Given an average staff cost of \$92 hour, this means that the Regional Water Board will incur approximately \$5,520 (3 staff x 20 hours x \$92 per hour). Therefore, the State Water Board has determined that a fee of \$5,500 is appropriate.

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

The specific purpose and necessity of the modifications to the text of specific sections are provided herein. The State Water Board also proposed certain modifications to the

proposed regulations that do not materially alter any requirement, right, responsibility, condition, prescription, or other regulatory element of any California Code of Regulations provision (i.e., changes without regulatory effect). These modifications without regulatory effect include changes made for purposes of revising syntax, spelling, grammar, readability, renumbering, correcting authorities or references cited, and the format of references and citations consistent throughout the regulations, including references to the individual articles in the regulations. Following the 15-day comment period, the State Water Board made additional modifications to the text of the proposed regulation that do not have any regulatory effect, including grammar and correcting authorities or references cited.

Pursuant to Chapter 89, Statutes of 2025 (Assembly Bill No. 1459) amends Health and Safety Code section 25281 effective January 1, 2026, to exempt tanks holding dielectric fluid from the definition of an “underground storage tank.” The proposed regulations do not require any changes to implement this amendment.

Local Mandate

The proposed regulations do not impose a mandate on local agencies or school districts, or a mandate which requires reimbursement pursuant to part 7 (commencing with section 17500) of the Government Code, division 4.

Incorporation by Reference

The 2022 American Society for Testing and Materials (ASTM) A53 standard for black steel and the 2023 ASTM D7467 are incorporated by reference into the proposed regulations. Incorporation by reference is necessary because it would be too cumbersome, unduly expensive, and otherwise impractical to publish this lengthy technical document in the proposed regulations.

Alternatives Determination

The State Water Board has determined that no reasonable alternative considered by the agency or that has otherwise been identified and brought to the attention of the agency would be: 1) more effective in carrying out the purpose of the regulations; 2) as effective and less burdensome to affected private persons, industry, local governments, and state agencies; 3) more cost effective to affected private persons, industry, local governments, and state agencies and equally effective in implementing the statutory policy or other provisions of law. The amendments to the regulations are necessary to make the regulations: 1) consistent with current technology and operational practices, including deleting deadlines that have passed; and 2) consistent with amendments to the Health and Safety Code enacted by Chapter 536, Statutes of 2012, Chapter 547, Statutes of 2014, chapter 721, Statutes of 2018, and Chapter 207, Statutes of 2023. The amendments do not duplicate or conflict with any federal law or federal regulation.

Global Modifications to the Proposed Text

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

Specific Purpose and Necessity of the Proposed Action

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

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

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

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

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

Article 1. Definition of Terms, Exclusions, and Recordkeeping

Section 2611. Additional Definitions

Specific Purpose and Necessity of the Proposed Action

1. **Abandoned underground storage tank** – The definition of the term “abandoned underground storage tank” has been modified in response to a comment that the definition is unclear. As modified, the definition specifies that an abandoned UST is a UST that has not had a functional release detection system for more than 365 consecutive days. This modification establishes a clear standard for determining when a UST is abandoned.

2. **ASTM A53** – The definition of the term “ASTM A53” has been modified to update the reference to the American Society for Testing and Materials (ASTM) A53 standard for black steel to incorporate by reference the newest A53 standard that was published after the proposed definition had been drafted.
3. **Buried** – The definition of the term “buried” has been modified in response to a comment regarding the application of the definition to emergency tank systems. As modified, the definition provides that the term “buried” does not include emergency tank system piping in a conduit through building walls or ceilings where both sides of the penetration can be visually observed. This exemption from the definition of “buried” for emergency tank system pipes that are in walls or ceilings that have visual penetrations at either end is necessary to account for the reduced risk posed by this piping and the technical limitations, as well as potential conflict with other regulatory requirements.
4. **Clean compactable backfill** – The definition of the term “clean compactable backfill” has been modified in response to a comment regarding the requirement for the fill material to be certified by the supplier as clean and compactable. The requirement for a certification from the supplier has been deleted as unnecessary. Industry typically does not require lab results to consider fill material as “clean compactable backfill.”
5. **Connected piping** – The definition of the term “connected piping” has been modified in response to comments regarding the application of the definition to specific scenarios. The modification to the definition clarifies that “connected piping” includes all piping allocated to a UST pursuant to section 2612(I). Pursuant to section 2612(I), petroleum supply or return piping extending beyond the USTs tank top fitting that is connected to a tank in an underground area is exempt from regulation as a UST.
6. **Emergency tank system** – The definition of the term “emergency tank system” has been modified to reference Health and Safety Code section 25281.5(c), rather than references included in Health and Safety Code section 252815(c) verbatim. This modification is necessary because it would be redundant, unwieldy and require the State Water Board to amend its regulation any time the referenced codes were amended.
7. **Groundwater** – The definition of the term “groundwater” has been modified in response to multiple comments about the definition of the term “groundwater” being overbroad. As modified, the definition does not include water in UST sumps.
8. **Significant violation** – In response to comments that the definition of the term “significant violation” was too broad and could include any violation, the definition has been modified to clarify that only those violations specified in the (a), (b), or (c) of the definition are significant violations.

9. **Under-dispenser containment** – In response to a comment that the definition of the term “under-dispenser containment” was too narrow to apply to marinas, the definition has been modified by changing replacing the term “groundwater” with the term “waters of the State.” As modified, the proposed definition of “under-dispenser containment” includes both typical under-dispenser containments used at service stations and floating under-dispenser containments used at marinas.
10. **Vapor condensate trap** – The definition of the term “vapor condensate trap” has been deleted from the regulations because, as identified by a commenter, this term is not used in the regulations.
11. **Violation classification** – In response to comments that the definition of the term “class I violation,” within the term “violation classification” was too broad, the definition for “class I violation” has been modified to clarify that only significant violations are “class I violations.”

Section 2612. Exclusions and Exemptions from this Chapter

Specific Purpose and Necessity of the Proposed Action

1. **Section 2612(b)** – In response to a comment, section 2612(b) has been modified to delete the phrase “conditions of” to improve readability.
2. **Section 2612(i)** – In response to a comment, section 2612(i) has been modified to include “or other portable container” after “drum” for clarification purposes.
3. **Section 2612(l)** – In response to a comment, section 2612(l) has been modified to clarify that the exemption includes piping that extends beyond the UST’s tank top that is dedicated solely to connecting the UST to one or more tanks in an underground area.
4. **Section 2612(n)** – Section 2612(n) has been deleted and section 2612 has been renumbered accordingly. This provision has been moved and combined into section 2640(b)(10) for organizational purposes. In response to comments, this provision also has been amended to clarify that this is a secondary containment exemption for piping constructed with the specific conditions.
5. **Section 2612(o)** – Section 2612(p) has been moved to section 2612(o). This section also has been modified to specify that the inspections required for to qualify for this exemption must be of the “hazardous substance primary containment” piping. Only piping that is not secondarily contained may qualify for this exemption because it is not possible to visually inspect the primary of secondarily contained piping.
6. **Section 2612(s)** – In response to a comment, section 2612(s) has been added to provide an exemption from the regulations for USTs that are part of an emergency

generator system at nuclear power facilities licensed by the Nuclear Regulatory Commission pursuant to appendix A of section 50 of the Code of Federal Regulations. This exemption is consistent with the partial exclusion of these tanks from federal regulation as USTs under section 280.10(c)(3) of title 40 of the Code of Federal Regulations and the exemption of these tanks from regulation as USTs in other states. California currently has one nuclear power facility with an emergency tank system that would meet this exemption. Based on multiple staff site visits, the State Water Board has determined that exempting this single emergency tank system will not adversely impact the waters of the State.

7. **Section 2612(t)** – In response to two comments, section 2612(t) has been added to provide a catch-all provision to include any tank or structure not listed in section 2612 that is excluded from the definition of an “underground storage tank” in Health and Safety Code section 25281 or exempt from the requirements of the regulations pursuant to the Health and Safety Code. This provision is consistent with section 2621(a)(16) in the existing regulations. As a result of the inclusion of this provision, the proposed regulations do not require any changes to implement Chapter 89, Statutes of 2025 (Assembly Bill No. 1459) which amends Health and Safety Code section 25281 effective January 1, 2026, to exempt tanks holding dielectric fluid from the definition of an “underground storage tank.” This provision also ensures that the regulations will not need to be amended in the event of any future amendments to the Health and Safety Code, which excludes or exempts additional tanks or structures from regulation as a UST.

Section 2613. Recordkeeping

Specific Purpose and Necessity of the Proposed Action

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

Section 2614. Test Notification

Specific Purpose and Necessity of the Proposed Action

The provision requiring 72 hours notice to the UPA before a test has been moved from proposed section 2660(a) to this new section in article 1. As a result of this move, the

provision is not subject to the limitations on additional design and construction standards under section 2621. UPAs may adopt local ordinances or codes requiring additional notice.

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

Section 2621. Procedures for Requesting Additional Construction Standards

Specific Purpose and Necessity of the Proposed Action

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

Article 3. Certification, Licensing, and Training Requirements

Section 2630. Underground Storage Tank Owner and Operator Certification Requirements

Specific Purpose and Necessity of the Proposed Action

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

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

Specific Purpose and Necessity of the Proposed Action

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

Section 2634. Inspector Certification and Training Requirements

Specific Purpose and Necessity of the Proposed Action

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

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

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

Specific Purpose and Necessity of the Proposed Action

1. **Section 2640(b)(1)** – Section 2640(b)(1) has been modified to add a reference to section 2652 to include the monitoring requirements for secondarily contained pipe, in addition to the monitoring requirements for tanks.
2. **Section 2640(b)(4)** – Section 2640(b)(4) has been modified to delete the term "underground storage tank" in front of "secondary containment," because it is not necessary and potentially confusing. This requirement applies to all secondary containment.
3. **Section 2640(b)(8)** – Section 2640(b)(8) has been modified to expand the provision allowing tanks to be single-walled up to 12 inches from the top center line to all tanks, regardless of the hazardous substance stored. This requirement is consistent with existing regulations and is protective of public health, safety, and the environment by preventing a release of a hazardous substance to the environment through tank top fittings.
4. **Section 2640(b)(10)** – Proposed sections 2612(n) and 2641(a) have been deleted and these provisions have been moved and combined into section 2640(b)(10) for organizational purposes. In response to comments, the provision previously located in proposed section 2612(n) also has been amended to clarify that this is a secondary containment exemption for piping constructed with the specific conditions. In addition, section 2640(b)(10) has been modified to specifically exempt fuel delivery piping that is exempted pursuant to proposed sections 2612(n) and 2612(o) for clarification purposes. Subparagraphs (A)-(C) of section 2640(b)(10) also have been modified to clarify that they only apply to Type 1 USTs. Type 2 and Type 3

tanks require interstitial monitoring on the piping construction methods described in this section based on feedback received from a commenter.

5. **Section 2640(f)(2)** – In response to a comment, section 2640(f)(2) has been modified to address vent or tank riser piping, rather than just tank riser piping, consistent with section 2640(b)(10).
6. **Section 2640(g)** – Section 2640(g) has been modified to provide that all tank entries must be made through a manway. In addition, in response to comments, the requirement that manways be installed in accordance with the manufacturer's guidelines, industry code or engineering standard has been modified to make this requirement applicable only to manways installed on or after the effective date of the proposed regulations. As modified, section 2640(g) is necessary to ensure that the integrity of the secondary containment is maintained properly, allowing for adequate monitoring of the interstitial space and reducing the risk of a release of a hazardous substance.

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

Specific Purpose and Necessity of the Proposed Action

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

Section 2642. Installation and Repair Requirements

Specific Purpose and Necessity of the Proposed Action

1. **Section 2642(c)** – Section 2642(c) has been modified to add a reference to section 2633 to the reference to section 2632 to be consistent with the requirements applicable to UST system installations in sections 2632 and 2633.
2. **Section 2642(d)** – A commenter stated that the changes from existing section 2636(c)(2) to proposed 2642(d) will result in both the primary and secondary being made of schedule (pipe wall thickness) 40 instead of schedule 40 for the primary and schedule 10 for the secondary, and that this will create construction problems. In response, section 2642(d) has been modified to require the primary to be a minimum schedule 40 and the secondary to be a minimum schedule 10, which is protective of public health, safety, and the environment.

3. **Section 2642(e)** – In response to comments, section 2642(e)(2) has been modified to extend the deadline by which all USTs must be anchored from July 1, 2026 to January 1, 2027. This provides additional time for owners or operators to comply with the requirement and reduces the cost of complying with the regulations. The Economic and Fiscal Impact Statement (Form 399) has been amended accordingly. In addition, in response to a comment, this section has been modified to clarify that the anchoring requirement is for the purpose of preventing flotation.
4. **Section 2642(g)** – Section 2642(g) has been modified to provide the owner or operator 30 days from the inspection to make the required certification. The State Water Board has determined that this is sufficient time for the owner or operator to make the required certification. In addition, this deadline is consistent with other requirements in the regulations.
5. **Section 2642(l)** – Proposed section 2642(l) has been deleted and section 2642 has been renumbered accordingly. Proposed section 2642(l) has been deleted because it contained duplicative aspects of the requirements in proposed 2642(m). Proposed section 2642(m) has been moved to section 2642(l) and has been modified to be broad enough to cover has been deleted, because it is unnecessary. It is commonly understood that all structural determinations must be performed by a special inspector in accordance with the definition in Health and Safety Code, section 25281(s).

Section 2643. Operating Requirements for Underground Storage Tanks

Specific Purpose and Necessity of the Proposed Action

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

Article 5. Monitoring Requirements for Underground Storage Tanks

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

Specific Purpose and Necessity of the Proposed Action

The information required on the monitoring site plan pursuant to section 2650(c)(1) has been modified in response to comments concerned with the level of detail. Specifically, section 2650(c)(1) has been modified to delete the requirement to include “dispensers, spills containers, and additional components” on the monitoring site plan to additional

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

Section 2651. Monitoring Requirements for Underground Storage Tanks

Specific Purpose and Necessity of the Proposed Action

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

Section 2652. Additional Monitoring Requirements for Piping

Specific Purpose and Necessity of the Proposed Action

1. **Section 2652(a)** – Section 2652(a) has been modified to clarify that piping only must be monitored for a release of a hazardous substance from the piping, not from the tank. Monitoring requirements for the tank are separate.
2. **Section 2652(a)(1)(B)** – Section 2652(a)(1)(B) has been modified to clarify that the requirement to replace non-functioning mechanical release detection equipment used to continuously monitor under-dispenser containment includes impact shear

valves. This requirement does not include impact shear valves that are not used for release detection. The State Water Board has determined that this requirement is necessary due to the frequency of failures of mechanical release detection components.

3. **Section 2652(a)(2)** – After publicly noticing the modified text, section 2652(a)(2) has been modified section 2652(a)(2) by adding a comma between “buried” and “pressurized piping” for grammatical reasons.
4. **Section 2652(a)(2)(C)** – In response to a comment, section 2652(a)(2)(C) has been added to allow emergency tank systems to use a continuous vacuum, pressure, or hydrostatic interstitial monitoring system that activates an audible and visual alarm in lieu of shutting off or restricting flow through the piping when a release of a hazardous substance is detected or the monitoring system malfunctions to satisfy the line leak detector requirement in section 2652(a)(2)(B). This provision is necessary due to the emergency nature of these systems and is consistent with existing regulations.
5. **Section 2652(a)(3)-(4)** – Section 2652(a)(3)-(4) has been modified to replace the term “monitoring” with the more specific term “tightness testing” to clarify the type of monitoring that must be completed annually.
6. **Section 2652(b)** – Section 2652(b) has been modified to refer to all piping connected to Type 3 USTs instead of only buried piping. Unburied product piping connected to Type 3 USTs are not exempt from the vacuum, pressure or hydrostatic pressure monitoring requirements of subdivisions (d) and (e) of Health and Safety Code, section 25290.1.
7. **Section 2652(c)** – Section 2652(c) has been modified to delete the word “periodic” in front of “testing,” because section 2663(a) is not limited to periodic testing and it is necessary that piping be configured to facilitate all testing required pursuant to section 2663(a).

Article 6. Testing Requirements for Underground Storage Tanks

Section 2660. Testing Requirements for Underground Storage Tanks

Specific Purpose and Necessity of the Proposed Action

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

Section 2662. Requirements for Integrity Testing

Specific Purpose and Necessity of the Proposed Action

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

Consistent with the State Water Board's original intent, section 2662(b) has been modified to only require an integrity test to be performed after work on components requiring excavation to access. Integrity tests are necessary in these instances because access is buried following completion of the installation, replacement, or repair, decreasing the likelihood of discovering a release of a hazardous substance from the component. In addition, in response to comments, this section also has been modified to replace the reference to UST systems installed on or before July 1, 2003 with the defined terms "Type 1 underground storage tanks" and "Type 2 underground storage tanks" for consistency purposes.

Section 2663. Requirements for Release Detection Equipment Testing

Specific Purpose and Necessity of the Proposed Action

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

Section 2666. Requirements for Secondary Containment Testing

Specific Purpose and Necessity of the Proposed Action

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

Article 7. Unauthorized Release Reporting and Initial Response Requirements

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

Specific Purpose and Necessity of the Proposed Action

1. **Section 2671(a)(4)** – Section 2671(a)(4) has been modified to delete the word "recalibrated" because it is unnecessary. Recalibration is included within the definition of the term "repair."

2. **Section 2671(c)(2)** – In response to a comment, section 2671(c)(2) has been modified to replace the term “Facility ID Number” with the term “CERS ID Number” for consistency with CERS.

Article 8. Underground Storage Tank Closure Requirements

Section 2680. Temporary Closure Requirements

Specific Purpose and Necessity of the Proposed Action

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

Section 2681. Permanent Closure Requirements

Specific Purpose and Necessity of the Proposed Action

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

changes the names of these fields in the future. In response to a comment, the requirement to update this information in CERS also has been extended from 72 hours to 30 days for consistency with the requirements in section 2613(b) and a reference to section 2613(b) has been added for specificity and clarity.

Section 2682. Abandoned Underground Storage Tanks

Specific Purpose and Necessity of the Proposed Action

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

Section 2683. Underground Storage Tank Reuse and Reinstallation Requirements

Specific Purpose and Necessity of the Proposed Action

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

Section 2684. Cleanup Oversight Agency Notification and Review

Specific Purpose and Necessity of the Proposed Action

1. **Section 2684(a)** – Section 2684(a) has been modified to provide the UPA 30 days from receipt of the required information and documentation to submit the information and documentation to the Cleanup Oversight Agency. The State Water Board has determined that this is sufficient time for the UPA to submit the information and documentation to the Cleanup Oversight Agency. In addition, this deadline is consistent with other requirements in the regulations.
2. **Section 2684(c)** – After publicly noticing the modified text, section 2684(c) has been modified to delete the “or” between “compliance with” and “section 2681 and section 25298....”

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

Section 2690. Operating Permit Applications for Underground Storage Tanks

Specific Purpose and Necessity of the Proposed Action

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

Section 2691. Operating Permit

Specific Purpose and Necessity of the Proposed Action

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

Section 2692. Unified Program Agency Reporting Requirements

Specific Purpose and Necessity of the Proposed Action

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

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

Specific Purpose and Necessity of the Proposed Action

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

Section 2695. Removal of Red Tags

Specific Purpose and Necessity of the Proposed Action

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

Section 2696. Content of Red Tags

Specific Purpose and Necessity of the Proposed Action

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

Appendices

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

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

Appendix 2. Reserved

Specific Purpose and Necessity of the Proposed Action

This form has been deleted because it is not necessary. Part of the modernization efforts of the proposed regulations is updating CERS to better streamline information required for UST facilities. After a system-wide update to CERS, this information will be converted to data fields in CERS for streamlining purposes and improved tracking of designated UST operators. Appendix 2 has been reserved for future use, avoiding the need for unnecessary renumbering of the remaining appendices and updating of cross-references throughout the regulations.

Appendix 4. Designated UST Operator Visual Inspection Report Form

Specific Purpose and Necessity of the Proposed Action

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

Appendix 5. Release Detection Equipment Testing Report Form

Specific Purpose and Necessity of the Proposed Action

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

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

Specific Purpose and Necessity of the Proposed Action

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

Appendix 7. Overfill Prevention Equipment Testing Report Form

Specific Purpose and Necessity of the Proposed Action

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

Appendix 7.1. Overfill Prevention Equipment Testing Report Form Continuation Page

Specific Purpose and Necessity of the Proposed Action

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

Appendix 8. Secondary Containment Testing Report Form

Specific Purpose and Necessity of the Proposed Action

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

**SUMMARY AND RESPONSE TO COMMENTS RECEIVED DURING THE 45-DAY
COMMENT PERIOD FROM NOVEMBER 22, 2024 TO JANUARY 17, 2025, AND
PUBLIC HEARING ON JANUARY 13, 2025**

List of Comment Letters Public Comments regarding Electronic Reporting Regulations Comment Letters (#)		
Commenters	Submitted by:	Comment Letter Number
Alameda County Department of Environmental Health	Emily Hoe	#1
Barghausen Consulting Engineers, LLC	Jennifer Manning	#2
California Council for Environmental and Economic Balance	Tim Carmichael	#3
California Department of Corrections and Rehabilitation Environmental and Regulatory Compliance Section	Svetlana Ahl	#4
California Fuels and Convenience Alliance	Alessandra Magnasco	#5
Contra Costa Health Hazardous Materials Program	John Pham	#6
County of Santa Clara Department of Environmental Health	Michelle Santos	#7(a)
County of Santa Clara Department of Environmental Health	Michelle Santos	#7(b)
General Public	Jean Ngyuen	#8
General Public	Ricardo Martinez	#9
General Public	Steven Gailey	#10
In Compliance Services	Lucas Jones	#11
Jaco Oil Company	Chris David	#12
Metropolitan Water District of Southern California	Ofelia Perez	#13
Pacific Gas and Electric Company	Maureen Zawalick	#14
University of California Office of Risk Services	Ken Smith	#15
County of Riverside Department of Environmental Health	Nicholas Crain	#16
San Francisco Department of Public Health	Thomas Chan	#17
General Public	Kevin Westlake	#18
Southern California Gas	Jim Brown	#19
State Water Resources Control Board, Office of Enforcement	Amber Camarena	#20
State Water Resources Control Board, Office of Enforcement	Brian Taylor	#21
Tait Environmental Services	Brian Harmon	#22(a)
Tait Environmental Services	Brian Harmon	#22(b)
Tait Environmental Services	Brian Harmon	#22(c)
Walton Engineering	Anthony Reyes	#23
Western States Petroleum Association	Chistine Zimmerman	#24
McHugh Koepke Padron Government Relations (Oral testimony at the public hearing)	Dawn Koepke	#25
NOV Inc. (Received Late)	Bill Schneider	#26
NOV Inc. (Received Late)	Sam Zerbib	#27
Tank Specialists of California (Received Late)	Gary Backe	#28

San Diego County Certified Unified Program Agency (Received Late)	Zoraida Moreno	#29
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GENERAL COMMENTS:

Comment Summary 1: Commenters identify minor formatting issues, such as having an extra blank space between the definitions for “cost effective” and “decommissioned tank” in section 2610, errant underlining in section 2681, 2713, and 2714, or a blank page after appendices 3.1 and 4.1. (Comments #18 and # 20)

Response: Formatting of the text of the regulations has no regulatory effect. The State Water Board has modified the proposed regulations to correct formatting errors and to improve readability. Please note that in some cases there is not a formatting error. The State Water Board posted the proposed regulatory amendments to its website in Word in tracked changes format. Some perceived errors, such as a blank page after appendices 3.1 and 4.1 are the result of the commenters’ settings for viewing the document in tracked changes and the issue is not in the final document with all changes accepted.

Comment Summary 2: Commenter recommends reviewing use of colons, semicolons, and periods for consistency. (Comment #20)

Response: The State Water Board agrees and has made appropriate modifications.

Comment Summary 3: One commenter states that the economic impact could be four times larger than projected. Another commenter states that the new requirements could range as high as \$90,000 or more and that there is not enough time to plan for these costs. (Comments #5 and #25)

Response: The State Water Board developed the economic impact analysis based on information gathered from industry leaders. The commenters have not provided a basis to conclude that the State Water Board’s economic impact analysis is incorrect. The State Water Board has modified the date for requiring new UST installs to be anchored to prevent flotation and have adjusted the economic impact analysis accordingly.

Comment Summary 4: Commenter is concerned regarding permitting delays and time constraints with complying with the requirements for anchoring and new monitoring equipment and asks for a grace period for enforcement. Commenter requests an extension of the deadline to permanently close all single-walled USTs and a grace period for enforcement of the deadline. (Comment #5)

Response: The State Water Board has modified the date for requiring new UST installs to be anchored to prevent flotation. The requirement to replace mechanical monitoring is based on the risk these items pose to public health, safety, and the environment. The State Water Board does not have the authority to override through regulations the

statutory requirement to permanently close single-walled UST or the applicable statutory enforcement provisions.

Comment Summary 5: Commenter encourages the State Water Board to enhance outreach and education efforts. (Comment #5)

Response: The State Water Board and the UPAs already conduct outreach and education of the type requested by the Commenter, including making small businesses aware of the State Water Board's Replacing, Removing, or Upgrading Underground Storage Tanks Program, which provides grants and loans to small businesses to assist them in complying with regulatory requirements.

Article 1. Definition of Terms, Exclusions, and Recordkeeping

Section 2611. Additional Definitions

Comment Summary 6: Commenter states that the proposed definition of "abandoned underground storage tank" is unclear. Specifically, the commenter asks what does it mean for a UST to be out of operation? (Comment #2)

Response: The State Water Board has modified this definition to specify that an abandoned UST is a UST that has not had a functional release detection system for more than 365 consecutive days.

Comment Summary 7: Commenter is concerned that the proposed definition of "buried" includes above grade piping connected to emergency generators, which is within a building. This piping is subject to Fire code and Building code requirements and commenter has concerns about technical limitations unique to emergency generator systems preventing compliance with requirements for "buried" piping. (Comment #17)

Response: The State Water Board has modified the definition of "buried" to specifically address emergency tank systems. As modified, emergency tank systems that are in walls or ceilings that have visual penetrations at either end will be exempt from the definition of "buried" to account for the reduced risk posed by this piping and the technical limitations, as well as potential conflict with other regulatory requirements

Comment Summary 8: Commenter asks if piping in a trench covered with removable grates will qualify as "buried?" Commenter also states that the proposed definition may need to be expanded for odd regulatory scenarios. (Comment #16)

Response: Yes, piping in a trench concealed by a removable grate will be considered buried under the proposed definition. It would not be appropriate, or possible, for the definition to go into detail on all possible "odd" scenarios, however, the State Water

Board has modified the definition of “buried” to specifically address the unique situations often found with emergency tank systems.

Comment Summary 9: Commenter asks whether the definition of “clean compactable fill” will require certificate or lab results to demonstrate it meets the requirements of the proposed regulations? (Comment #18)

Response: The State Water Board has deleted the requirement for the supplier to certify that the clean compactable fill is clean as unnecessary. Industry typically does not require lab results to consider fill material as clean compactable fill material.

Comment Summary 10: Two commenters request clarification on the definition of the term “connected piping,” particularly as it relates to aboveground or unburied piping. One commenter specifically asked about the “connected piping” in terms of emergency tank systems. (Comments #7(a) and #29)

Response: “Connected piping” includes both buried and unburied piping. The State Water Board has modified the definition of “connected piping” to clarify that “connected piping” includes all piping allocated to a UST pursuant to section 2612(l). Pursuant to section 2612(l), petroleum supply or return piping extending beyond the USTs tank top fitting that is connected to a tank in an underground area is exempt from regulation as a UST.

Comment Summary 11: Commenter recommends adding a definition for “containment sump.” (Comment #6)

Response: The State Water Board disagrees. It is not necessary to define “containment sump” in the proposed regulations, because the use of the term is commonly understood in the industry.

Comment Summary 12: Multiple commenters state that “event” is misspelled in the definition of “emergency tank system.” (Comments #4, #6, #7(a), #8, #10, #20, #21, and #22(a))

Response: The State Water Board has corrected this typo.

Comment Summary 13: Commenter is concerned that the reference in the definition for emergency tank system for the National Fire Protection Association for the definition of steam generation pressure tanks may cause confusion for non-fire UPAs that may not have access to this code. (Comment #29)

Response: The State Water Board disagrees. The State Water Board has modified the definition to reference Health and Safety Code section 25281.5(c), rather than citing the references included in the Health and Safety Code section 25281.5(c) verbatim. Copying the referenced fire and electrical codes would be redundant, unwieldy, and

would require the State Water Board to amend its regulations any time the referenced codes are amended.

Comment Summary 14: Commenter is concerned that the definition of “environmental footprint” includes the term “environmental footprint” and recommends separating environmental impacts into their own definitions. (Comment #6)

Response: The State Water Board disagrees. As used in the definition for “environmental footprint,” the use of “environmental footprint” is not redundant or self-referential and does not create any confusion.

Comment Summary 15: Commenter recommends adding the phrase “released to the environment” to the definition of “free product.” (Comment #6)

Response: The State Water Board disagrees. The proposed definition and use of the term “free product” is consistent with the definition in the existing regulations and the term is commonly understood in the industry.

Comment Summary 16: Multiple commenters are concerned that the proposed definition for “groundwater” is too broad and will expand the scope of work of the proposed regulations as it will include water in sumps or other UST components. (Comments #3, #24, and #25)

Response: The State Water Board agrees and has modified the definition of “groundwater” to ensure that water in UST components is not part of the definition for groundwater.

Comment Summary 17: Commenter recommends keeping the existing definition of “hazardous substance” in the regulations. (Comment #7(a))

Response: The State Water Board disagrees. It is not necessary to define “hazardous substance.” Section 2610 provides that the terms in the proposed regulations, including “hazardous substance,” have the same meaning as defined in Health and Safety Code chapter 6.7.

Comment Summary 18: Commenter is concerned that permitting a new class of “independent compliance inspectors” will lead to corruption, because these inspectors will not be bound by the same code of ethics as Unified Program Agency inspectors. (Comment #11)

Response: The State Water Board disagrees. Independent compliance inspectors include both State Water Board inspectors and inspectors contracted by an UPA. Inspectors contracted by the UPA and are required to be independent of both the facility being inspected and the UPA to ensure there is no conflict of interest. Government contractors are subject to applicable code of ethics and all independent compliance

inspectors must comply with the State Water Board's or the UPA's Inspection and Enforcement Plan, as applicable.

Comment Summary 19: Commenter recommends adding a definition for the term "periodic," which is used in the definition for "independent testing organization." (Comment #2)

Response: The State Water Board disagrees. It is not necessary to define "periodic," because the use of the term is consistent with the commonly understood meaning of this term.

Comment Summary 20: Commenter recommends adding "system" after "underground storage tank" to the definition of "remote monitoring" for specificity. (Comment #6)

Response: The State Water Board disagrees. The definition of "underground storage tank" includes tank and connected piping. The definition of "remote monitoring" does not include monitoring of any components that are not included in the definition of an "underground storage tank."

Comment Summary 21: Three commenters are concerned that the proposed definition for "responsible party" expands responsibility to parties who are not responsible parties under the existing definition of "responsible party." (Comments #3, #24, and #25)

Response: The State Water Board disagrees. The changes from the existing definition of "responsible party" are minor clarifications and are consistent with existing practice under applicable State Water Board orders.

Comment Summary 22: Commenter recommends replacing the "or" in the definition for "responsible party" with an "and." (Comment #20)

Response: The State Water Board disagrees. A person is a "responsible party" if the person meets any of the categories of people within the definition, therefore, "or" is grammatically correct.

Comment Summary 23: Commenter recommends including the certification requirements for service technicians in the definition for "service technician." (Comment #18)

Response: The State Water Board disagrees. The definition establishes who a service technician is, including what actions are the duties of a service technician. This is separate from the certification requirements in article 3, which establish the requirements that an individual must meet to legally be permitted to perform the duties of a service technician. Putting the certification requirements in the definition of a service technician would be redundant and would present drafting issues for other sections of the proposed regulations.

Comment Summary 24: Multiple commenters are concerned that the definition for “significant violation” is too broad and could include any violations. (Comments #3, #24, and #25)

Response: The State Water Board agrees and has modified the definition to clarify that only those violations specified in the (a), (b), or (c) of the definition are significant violations.

Comment summary 25: Commenter is concerned that the definition for “significant violation” does not include a definition for the term “chronic.” (Comment #2)

Response: The term “chronic” is defined within the definition of “Class II violation” under the definition of “violation classification.” This definition is consistent with existing practice and Health and Safety Code section 25404(a)(3)(C).

Comment Summary 26: Commenter states that the last sentence in the definition for “significant violation that poses an imminent threat to human health or safety or the environment” references subdivision (d) in the definition for “significant violation” despite there not being a subdivision (d) in the definition for “significant violation.” (Comment #7(a))

Response: The definition of “significant violation” includes the referenced subdivision (d).

Comment Summary 27: Commenter asks about the definitions of “Type 1 underground storage tank” and “Type 3 underground storage tank” and how to handle facilities that have both Type 1 and Type 3 USTs. (Comment #2)

Response: A single facility may have USTs that are all one type or multiple types of USTs. The owner or operator must meet all the requirements applicable to the type of UST at issue, regardless of how many types of USTs are at the facility.

Comment Summary 28: Commenter is concerned the definition for “under-dispenser containment” excludes dispensers at marinas or floating docks and recommends removing the words “from the dispenser and prevents the unauthorized release from entering the soil or groundwater” from the definition of “under-dispenser containment.” Commenter also recommends including floating under-dispenser containments at marinas within the definition. (Comment #18)

Response: The State Water Board has modified the definition of “under-dispenser containment” by replacing the term “groundwater” with the term “waters of the State.” As modified, the proposed definition of “under-dispenser containment” includes both typical under-dispenser containments used at service stations and floating under-dispenser containments used at marinas.

Comment Summary 29: Commenter recommends adding a definition for “vacuum, pressure, or hydrostatic monitoring.” (Comment #22(a))

Response: The State Water Board disagrees. A definition for “vacuum, pressure, or hydrostatic monitoring” is not necessary, because the term is commonly understood in the industry.

Comment Summary 30: Commenter asks for clarification on the definition of the terms “vapor condensate trap” or “vapor pot.” (Comment #6)

Response: The State Water Board has deleted this definition because this term is not used in the proposed regulations.

Comment Summary 31: One commenter states that the definition of “class I violation” is too broad and could include any violation. Another commenter recommended changes to the language of the definition of “violation classification” that would limit the scope of “class I violations” and suggested additional grammatical changes to the definition. (Comments #3 and #20)

Response: The State Water Board agrees and has made the suggested modifications, which include clarifying that only significant violations are “class I violations.”

Comment Summary 32: Commenter states that there is a typo in the definition for “violation classification.” (Comment #20)

Response: The State Water Board has corrected the typo.

Comment Summary 33: One commenter recommends that the definition for class II violations include test failures only when there is evidence that the system operator has failed to routinely inspect and maintain system components. Another commenter recommends limiting class II violations to failure to pass a test or a release detection violation where the failure creates a substantial probability of harm to human health and the environment (Comments #3 and #19)

Response: The State Water Board disagrees. The scope of class II violations is consistent with Health and Safety Code, sections 25404(a)(3) and 25110.8.5.

Comment Summary 34: Commenter asks for clarification regarding minor violations and recommends providing examples of what constitutes as a minor violation in the definition for “minor violation.” (Comment #19)

Response: The State Water Board disagrees. It is not possible to list all potential minor violations and listing examples could cause confusion as to the classification of the violations not listed.

Comment Summary 35: Commenter is concerned that the definition for class II violation will lead to unnecessary enforcement escalation and recommends revising the language to differentiate between test failures that are a result of failure to inspect, and failures resulting from a component reaching the end of its useful life. (Comment #24)

Response: The State Water Board disagrees. The regulations are designed to provide UPAs with enforcement discretion for facilities that have recalcitrant class II violations or class II violations that are a result of a pattern of neglect by the owner or operator.

Comment Summary 36: Commenter recommends deleting “classification of violation of” from the definition of the term “violation classification.” (Comment #6)

Response: The State Water Board disagrees. The definition of “violation classification” explains the different classes of violations under the proposed regulations, and removing “classification of violation of” would not improve the readability or clarity of this section.

Comment Summary 37: Commenter recommends adding a definition for the term “visual failure” for when damaged components are observed and obviously would fail the component test. Commenter further asserts that testing should not be required when it is obvious that the component will fail the test. (Comment #19)

Response: The State Water Board disagrees. The term “visual failure” is not used in the regulations, and therefore, the term does not need to be defined. Technicians are required to test UST components in accordance with manufacturer’s procedures, industry code, or an UPA approved test method that was developed by a professional engineer. Technicians may use existing industry codes that include visual test failures.

Section 2612. Exclusions and Exemptions from this Chapter

Comment Summary 38: Commenter recommends deleting the phrase “conditions of” from the exemption for a steam-refined asphalt tank in section 2612(b). (Comment #6)

Response: The State Water Board agrees and has made the modification.

Comment Summary 39: Commenter recommends retaining the term “sump, pit, pond, or lagoon” in the exemption in section 2612(e). (Comment #7(a))

Response: The State Water Board disagrees. Use of the term “sump, pit, pond, or lagoon” in this exemption is unnecessary and would create confusion with the use of the word “sump” in other places in the regulations, including in the term “containment sump.”

Comment Summary 40: Commenter recommends replacing “drum” with “container” in the exemption for drums located in basements in section 2612(i). (Comment #18)

Response: The State Water Board agrees and has modified section 2612(i) to include “or other portable container” after “drum” for clarification purposes.

Comment Summary 41: Commenter recommends modifying section 2612(l) to clarify which piping is exempt under section 2612(l) by deleting “above an underground storage tank’s tank top fittings.” (Comment #22(a))

Response: The State Water Board has modified section 2612(l) to clarify that the exemption includes piping that extends beyond the UST’s tank top that is dedicated solely to connecting the UST to one or more tanks in an underground area.

Comment Summary 42: Two commenters ask for clarification regarding proposed section 2612(n). (Comments #7(a) and 18)

Response: The State Water Board has deleted proposed section 2612(n) and renumbered section 2612 accordingly. This provision has been moved and combined into section 2640(b)(10) for organizational purposes. This provision also has been modified to clarify that this is a secondary containment exemption for piping constructed with the specific conditions.

Comment Summary 43: Commenter requests an exemption for USTs that are part of an emergency generator system at a nuclear generation facility licensed by the U.S. Nuclear Regulatory Commission consistent with the Federal UST regulations. (Comment #14)

Response: The State Water Board agrees and has added this exemption to the regulations.

Comment Summary 44: Two commenters recommend adding the catch-all language in the existing regulations that provides that any other structure exempt from regulation as a UST in Health and Safety Code section 25281(y) is exempt from the regulations to section 2612. (Comments #3 and #25)

Response: The State Water Board agrees and has added the requested catch-all language as a new subdivision in section 2612(t).

Section 2613. Recordkeeping

Comment Summary 45: Commenter recommends using the term “UST Monitoring Plan” in section 2613(a)(3) instead of “underground storage tank monitoring plan” for consistency with section 2610(d). (Comment #20)

Response: The State Water Board agrees and has modified section 2613(a)(3) as recommended.

Comment Summary 46: Commenter recommends amending section 2613(a)(12) to reference Health and Safety Code section 25284(a)(3) instead of proposed section 2691(a) of the regulations. (Comment #18)

Response: The State Water Board disagrees. It is more appropriate and clearer to reference section 2691(a).

Comment Summary 47: Two commenters ask if UPAs will be required to provide uniform processes for reviewing owner request for maintaining records off site pursuant to section 2613(c)? (Comments #3 and #25).

Response: The UPAs have discretion to approve off-site storage of documents under the proposed regulations.

Comment Summary 48: Commenter asks if section 2613(c)(9) should be clarified to specify temporary closure requirements per section 2680(f)(3) and not section 2680(h)? (Comment #18)

Response: The State Water Board disagrees with the need to clarify this section. This section applies to all temporary closure tank liquid sampling results.

Comment Summary 49: Commenter recommends moving section 2613(c)(14) to section 2613(c)(9) and combining them for organizational purposes. (Comment #18)

Response: The State Water Board disagrees with this change because section 2613(c)(9) and section 2613(c)(14) regulate two different types of sampling records.

Comment Summary 50: Commenter is concerned about the breadth of records required to be maintained pursuant to section 2613(e) for USTs that already are installed and recommends adding an effective date for these records to be maintained. (Comment #3)

Response: The State Water Board disagrees. The recordkeeping requirements in this section are consistent with existing regulations.

Comment Summary 51: Commenter is concerned that section 2613(g) allows UPAs to have different processes regarding off-site storage. Commenter also encourages allowing documents to be kept in digital format. (Comment #3)

Response: The State Water Board disagrees. It is appropriate for each UPA to have discretion over approval of off-site storage of records to account for differences in each UPA, including UPA management and locality. Digitized records are currently acceptable and will continue to be acceptable under the proposed regulations.

Comment Summary 52: Commenter requests section 2613(h) be clarified to include the condition that UPA must approve off-site storage of documents. (Comment #7(a))

Response: The State Water Board disagrees. It is clear in subdivisions (c), (d), (e), and (g) of section 2613 and section 2631(e) that the UPA must approve any off-site storage of documents.

Comment Summary 53: Two commenters are concerned that providing 36 hours in section 2613(h) to provide on-site records would delay inspections. (Comments #8 and #16)

Response: The State Water Board agrees and has modified section 2613(h) to limit it to records stored off site. Documents stored on site must be provided immediately.

Comment Summary 54: Commenter recommends increasing the time allotted in section 2613(h) to provide documents maintained off site to the UPA, the State Water Board, a special inspector, or an independent compliance inspector from 36 hours to 48 hours. (Comment #6)

Response: The State Water Board disagrees. The State Water Board has determined that 36 hours is sufficient time to retrieve and provide documents stored off site.

Comment Summary 55: Two commenters are concerned about violations being assessed for facilities that do not have records on site even though they have approval to store the records off site even though this is permitted under section 2613(h). (Comments #3 and #25)

Response: Facilities may store records off site if approved by the UPA. If the UPA has approved storing the records off site, the documents must be provided within 36 hours of receipt of the request.

Article 2. Site Specific Variance Procedures and Additional Construction Standards

2620. Site-Specific Variances

Comment Summary 56: Commenter asks if there will be a site-specific variance form to the proposed regulations? (Comment #2)

Response: Site-specific variances rarely are requested and there is no need for a required form. Applicants must comply with section 2620(c).

Section 2621. Procedures for Requesting Additional Construction Standards

Comment Summary 57: Commenter states that the word “State” should not be capitalized in section 2621(a)(2). (Comment #20)

Response: The State Water Board disagrees. “State” is capitalized because “State” is referring specifically to the State of California. The State Water Board has modified section 2621(c) accordingly to capitalize the word “State.”

Article 3. Certification, Licensing, and Training

Section 2630. Underground Storage Tank Owner and Operator Certification Requirements

Comment Summary 58: Commenter recommends flexibility regarding requiring the designated UST operator’s name on the “Underground Storage Tank Designated UST Operator Identification Form” as specified in section 2630(b) to be identical to that individual’s name as listed on the individual’s International Code Council UST System operator certificate and expresses security concerns regarding names on ICC certificates not matching names on government ID documents. (Comment #3)

Response: The State Water Board has determined that this form will not be necessary under the proposed regulations because this information will be required to be uploaded to CERS.

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

Comment Summary 59: Commenter recommends deleting the comma after the word “exam” in the last sentence in section 2631(a). (Comments #7(a) and #8)

Response: The State Water Board agrees and has made the recommended modification.

Comment Summary 60: Two commenters request clarification regarding the meaning of “operating hours” at non-staffed facilities since the wording is changed from “not routinely staffed” in the existing regulations to “not staffed during all operating hours” in section 2631(d). (Comments #3 and #25)

Response: The State Water Board disagrees. As used in this section it is clear that the “operating hours” of a facility are all hours when the hazardous substance may be withdrawn from or deposited into a UST at the facility.

Comment Summary 61: Commenter requests section 2631(f) be changed to require the designated UST operator visual inspections to “at least one visual inspection performed by the end of each month” instead of at least once every 30 days. (Comment #18)

Response: The State Water Board disagrees. The requirement to conduct the designated UST operator inspection at least once every 30 days is consistent with the existing regulations and is necessary to be consistent with and at least as stringent as the federal requirement to perform a facility inspection at least once every 30 days.

Comment Summary 62: Commenter recommends deleting the comma after the word “performed” in the last sentence in section 2631(g)(2). (Comment #8)

Response: The State Water Board agrees and has made the recommended modification.

Comment Summary 63: Commenter recommends adding the following to section 2631(g)(8): “If the AHJ approves the DO Inspection of a Containment Sump, a record of a Service Technician visit for the alarm is not required.” Commenter also is concerned that section 2631(g)(8) permits designated UST operators to make determinations about release detection sensor placement and secondary containment damage. (Comments #22(a) and #22(b))

Response: The State Water Board disagrees. Service technicians generally have much more training and experience than designated UST operators and UPAs. Only individuals meeting the qualifications of a service technician may perform these tasks. Section 2631(g)(8) does not provide the designated UST operator the authority to modify any component in the sump. The designated UST operator only may determine if the sensor is in the correct location and the sump is clean and dry.

Comment Summary 64: Two commenters request clarification regarding the documentation required under section 2631(h)(1) to be attached to the “Designated UST Operator Visual Inspection Report Form.” One commenter also is concerned about requiring copies of the same documents to be attached to multiple reports. (Comments #7(a) and #8)

Response: When performing a visual inspection, the designated UST operator must review the facility’s monitoring records to see if there have been any release detection alarms since the previous visual inspection and review the “Designated UST Operator Visual Inspection Report Form” documenting the previous visual inspection to see if any compliance issues were identified in section 3. If compliance issues were identified during the previous inspection, or release detection alarms occurred since the previous inspection, the designated UST operator must check for records documenting actions taken to correct the compliance issues (e.g., contractor work orders or test reports) and respond to the alarms, and attach copies of those records to the “Designated UST Operator Visual Inspection Report Form” documenting the current inspection. There is

no requirement to make multiple copies of each document. If for records organizational purposes the owner or operator wants to keep all their documents such as work orders or test reports together, nothing prevents making copies of such documents to be attached to the “Designated UST Operator Visual Inspection Report Form.”

Comment Summary 65: In connection with the requirement in section 2631(h)(3), two commenters ask where in the regulations it says an alarm log must be kept. (Comments #7(a) and #8)

Response: This requirement is in section 2613(c)(13).

Comment Summary 66: Commenter recommends either maintaining the existing requirement that designated UST operators note test completion dates rather than the next “due date,” or modifying the wording of section 2631(h)(7) to simply require noting the month and year, rather than the complete date, when each test is due. (Comment #13)

Response: The State Water Board notes that tracking when testing was last completed is easily done by reviewing test reports. If periodic testing is done late, it is important to reestablish the required testing frequency consistent with section 2660(b). Too often, the next round of periodic testing is incorrectly scheduled to occur 12 or 36 months after overdue testing is completed. This establishes a cycle of repeatedly testing late, resulting in repeat violations. Changing the focus to the next due date assists the owner and operator to remain in compliance by making them aware of upcoming testing deadlines. The State Water Board requires complete dates for consistency and clarity. Since testing may be performed any time during the month due, the designated UST operators should note the next due date as the last day of the month the test is due (e.g., 8/31/2026), consistent with section 2660(b).

Comment Summary 67: Commenter recommends amending section 2631(i) to allow 72 hours for the designated UST operator to provide the “Designated UST Operator Visual Inspection Report Form” to the owner or operator instead of 48 hours. (Comment #22(b))

Response: The State Water Board disagrees. This requirement is not a change. Existing regulations require the designated UST operator to provide the “Designated UST Operator Visual Inspection Report Form” to the owner or operator within 48 hours. The owner or operator needs to be quickly notified of compliance issues to be able to implement actions to correct the compliance issues as soon as possible.

Section 2632. Licensing, Certification, and Training Requirements for Installation

Comment Summary 68: Commenter states the reference to section 2632(b) in section 2632(b) is incorrect. (Comment #4)

Response: The State Water Board agrees and has corrected the reference.

Section 2633. Service Technician Licensing, Certification, and Training Requirements

Comment Summary 69: Commenter states that the requirements in section 2633 that service technicians to get certifications before starting work makes apprenticeship impossible and are different than the requirements for inspectors. (Comment #23)

Response: The certification and training requirements for service technicians and installers are the same in the proposed regulations as they are in the existing regulations. Unlike with those inspectors who are provided 180 days to meet certification and training requirements under section 2634, the State Water Board has determined it is necessary that individuals performing the work of a service technicians or as an “apprentice” for installers meet the training requirements before performing any work to ensure that USTs are installed, tested, and repaired properly.

Comment Summary 70: Commenter states there is an “and” missing between paragraphs (a)(2) and (3) of section 2633. (Comment #20)

Response: The State Water Board agrees and has made the recommended modification.

Comment Summary 71: Commenter states the reference to section 2666(d) in section 2633(a)(3)(D) is incorrect. (Comment #20)

Response: The State Water Board agrees and has corrected the reference.

Comment Summary 72: Commenter recommends that license requirements for service technicians be determined by scope of work and not by whether excavation is required. (Comment #29)

Response: The State Water Board disagrees. The State Water Board has determined that the type of International Code Council certification required to perform installation work on UST systems is dependent on whether the work will involve excavation or backfill.

Comment Summary 73: Commenter asks for clarification on the training that service technicians must obtain pursuant to section 2633 for those test methods that are written in an industry code (e.g., PEI). (Comment #17)

Response: The certification and training requirements for service technicians and installers are the same in the proposed regulations as they are in the existing regulations. Pursuant to section 2633(b), the UPA may approve comparable alternate training, certification, or an applicable method specified in an industry code or engineering standard.

Section 2634. Inspector Certification and Training Requirements

Comment Summary 74: Two commenters recommend amending section 2634(a)(1) to read as "...the individual must possess..." instead of "...the inspector must possess...." (Comments #7(a) and #8)

Response: The State Water Board agrees and has made the recommended modification.

Comment Summary 75: Multiple commenters state that "Council" is misspelled in section 2634(a)(3). (Comments #7(a), #8, and #20)

Response: The State Water Board has corrected the typo.

Comment Summary 76: Commenter requests that section 2634(a)(3) be limited to UST submittals, because non-ICC certified individuals should be allowed to approve non-UST submittals in the CERS. (Comment #8)

Response: The State Water Board disagrees. The proposed regulations only apply to USTs and UST submittals. ICC certification is not required to review and accept "non-UST submittals." Some of the information required to be in the UST operating permit application pursuant to section 2690(a), however, is submitted in the CERS Facility Information submittal element. For UST facilities, the Facility Information submittal element is part of the permit application and therefore is a "UST submittal," which must be reviewed and accepted or not accepted by an individual meeting the inspector certification and training requirements of section 2634 to ensure that the submittal meets the UST requirements.

Comment Summary 77: Commenter states allowing Unified Program Agency inspectors 180 days to become ICC certified is inconsistent with ensuring qualified individuals perform UST inspections and suggests contractors be given the same grace period of 180 days to get individuals certified, which would assist with hiring. (Comment #11)

Response: The certification and training requirements for Unified Program Agency inspectors are the same in the proposed regulations as they are in the existing regulations. The State Water Board has modified section 2634 to be consistent with the addition of independent compliance inspectors to the regulations, with only those independent compliance inspectors working on behalf of an UPA having 180 days to meet the certification and training requirements. This time is necessary to ensure UPAs can hire and train staff as needed to have enough inspectors to perform the UPA's duties.

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

Section 2640. Design, Construction, and Operating Requirements for Underground Storage Tank Systems

Comment Summary 78: Commenter recommends clarifying whether all the listed information within section 2640(a)(1) is required. (Comment #3)

Response: The State Water Board disagrees. Owners and operators must demonstrate compatibility for each of the categories listed, but may demonstrate compatibility for each category using any of the methods listed under that category.

Comment Summary 79: Commenter is concerned about the ability of an owner or operator to comply with the requirement in section 2640(a)(2) to maintain a statement of compatibility for an older tank. Commenter also is concerned that an independent testing organization or independent third-party evaluation as referenced in section 2640(a)(3) can override a manufacturer's earlier statement of compatibility. Another commenter asks for a lower standard for USTs storing non-fuel hazardous substances. (Comments #3 and #15)

Response: The requirements for maintaining documentation of compatibility are the same in the proposed regulations as they are in the existing regulations and are necessary to be consistent with title 40, chapter 1, subchapter 1, part 280, sections 280.32 and 280.34(b)(3) of the Code of Federal Regulations.

Comment Summary 80: Commenter states the references to section 2640(a)(2) in section 2640(b)(5) are incorrect. (Comment #20)

Response: The State Water Board agrees and has corrected the references.

Comment Summary 81: Commenter is concerned about the ability to meet the continuity requirement of section 2640(b)(4) for Type 3 USTs. (Comment #16)

Response: There are test methods currently available to test continuity from a single point, therefore, USTs do not need to be upgraded to meet the requirements of the section.

Comment Summary 82: Commenter states that the reference to subdivision (a) in section 2640(b)(5) should be "subdivision (b)(2), and that "subparagraph (C)" should be "subdivision (b)(3)(A)." (Comment #20)

Response: The State Water Board has corrected these references.

Comment Summary 83: Commenter recommends section 2640(b)(8) be amended to add "not including manways" after "center line of the tank." (Comment #22(a))

Response: The State Water Board disagrees. This provision is the same as in the existing regulations, except that the proposed regulations do not limit its use to USTs storing petroleum. Existing regulations require manways to be secondarily contained if they extend beyond 12 inches from the UST top center line.

Comment Summary 84: Two commenters recommend section 2640(b)(10) clearly state to which type of tanks it applies. (Comments #22(a) and #29)

Response: The State Water Board has deleted proposed section 2641(a) relating to Type 2 and Type 3 USTs and moved and combined this provision into section 2640(b)(10). In addition, the State Water Board has modified section 2640(b)(10) to clarify that section 2640(b)(10)(A)-(C) only applies to Type 1 USTs.

Comment Summary 85: Commenter asks if a steel tank with an inner shell thickness of 1/8 inch or more meets the requirement for a striker plate in section 2640(d)? (Comment #19)

Response: No, a striker plate is required to provide additional impact protection for the inner tank shell, without regard to the primary containment thickness or material of construction.

Comment Summary 86: Commenter recommends amending section 2640(e) to replace “when the tank is filled” with “when product is delivered to or removed from the tank.” (Comment #22(a))

Response: The State Water Board disagrees. The purpose of the spill containment is to prevent spills at the location where the tank is filled. There are other buckets on the UST where product is removed, for example on vapor recovery, that are not considered spill containment, and therefore, are not required to be tested or treated as spill containment.

Comment Summary 87: Commenter states that section 2640(e)(3) would require the spill containment to be equipped with an integrated drain valve, rather than by facility procedures for removing contents by hand and recommends keeping the existing requirement. (Comment #16)

Response: Existing section 2635(b)(3) specifically requires the spill containment to have a drain valve or another means to keep the spill containment empty. Proposed section 2640(e)(3) is less prescriptive than the existing regulations, which allows greater flexibility for construction of future systems. It just requires that the spill containment has a means to keep the spill containment empty.

Comment Summary 88: Commenter recommends deleting the overfill prevention method permitted by section 2640(f)(1)(D). (Comment #16)

Response: The State Water Board disagrees. The overfill prevention method of section 2640(f)(1)(D) is intended for use with exceptionally large USTs where every percentage of storage capacity above 95 percent could be tens of thousands of gallons. This method is consistent with federal requirements and is necessary for exceptionally large USTs.

Comment Summary 89: Commenter asks if the UPA's ability to waive or modify the requirement for overfill prevention equipment as specified in section 2640(f)(2) is limited to Type 1 USTs holding motor vehicle fuel? (Comment #7(a))

Response: No, this provision is not limited to Type 1 USTs holding motor vehicle fuel. The conditions necessary to waive or modify overfill prevention make it unlikely that many motor vehicle fueling systems would qualify. This provision is more likely to apply to a used oil tank or a similar UST system.

Comment Summary 90: Commenter asks about the restriction preventing an owner or operator from receiving the section 2640(f)(2) exemption from overfill prevention equipment if the owner or operator already has received an exemption under proposed section 2612(n)? (Comment #18)

Response: The State Water Board has deleted proposed section 2612(n) and renumbered section 2612 accordingly. This provision is moved and combined into section 2640(b)(10) for organizational purposes. As amended, it is clarified that this provision is an exemption from secondary containment on pipe. Vent and fill pipe must have secondary containment or have specific overfill prevention methods in lieu of secondary containment. The provision in section 2642(f)(2) is not one of the two prescribed methods utilized in lieu of the secondary containment as it does not prevent standing product in the lines. The "not holding standing fluid" requirement comes from Health and Safety Code section 25281.5(a)(4).

Comment Summary 91: Commenter states that section 2640(f)(2) only addresses single-walled "tank riser piping" and recommends that the wording also specifically address single-walled vent lines. (Comment #29)

Response: The State Water Board has modified section 2640(f)(2) to address "the single-walled vent or tank riser piping exemption."

Comment Summary 92: Multiple commenters recommend deleting the date October 1, 2018, in section 2640(f)(3). (Comments #7(a), #8, #10, and #20)

Response: The State Water Board disagrees. Specifying the effective date for prohibiting the installation or repair of flow restrictors on vent piping for the purpose of overfill prevention continues to be helpful for the purpose of determining days in violation, and therefore, is not making the recommended modification.

Comment Summary 93: Multiple commenters ask whether the manway installation requirement specified in section 2640(g) applies only to new installations or if it will be retroactively enforced on already installed USTs? (Comments #3, #13, and #25)

Response: The State Water Board has modified the language to make this requirement applicable only to manways installed on or after the effective date of the proposed regulations.

Comment Summary 94: Commenters suggests deleting the second hyphen in “under—dispenser containment” in section 2640(h). (Comments #8 and #20)

Response: The State Water Board has corrected the typo.

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

Comment Summary 95: Commenter asks how a Type 2 UST can comply with proposed section 2641(b)? (Comment #2)

Response: Proposed section 2641(b) has been moved to section 2641(a) for organizational purposes. Section 2641(a) only applies to USTs that are installed on or after July 1, 2026. This provision does not apply to Type 2 USTs.

Comment Summary 96: Commenter requests tank volume be included on the marking, code stamp, or label required by proposed section 2641(b). (Comment #18)

Response: Proposed section 2641(b) has been moved to section 2641(a) for organizational purposes. The State Water Board has determined that this information is not necessary or appropriate to be included. Pursuant to section 2613(e)(3), the owner or operator of any UST installed on or after January 1, 2026, must maintain a copy of the tank calibration chart for the life of the UST system, which provides the tank volume.

Comment Summary 97: Commenter asks to which openings proposed section 2641(b)(6) applies? (Comment #20)

Response: Proposed section 2641(b)(6) has been moved to section 2641(a)(6) for organizational purposes and has modified the provision to clarify that it only applies to those openings not equipped with a striker plate (i.e., inaccessible openings).

Comment Summary 98: Commenter recommends deleting the sentence in proposed section 2641(d) prohibiting the addition of backfill to secondary containment for Type 2 and Type 3 USTs. (Comment #7(a))

Response: Commenter mistakenly referenced proposed section 2641(d), rather than proposed section 2641(c). Proposed section 2641(c) has been moved to

section 2641(b) for organizational purposes. The State Water Board disagrees. This sentence is necessary, because adding backfill to the secondary containment might impair the ability to detect an unauthorized release at the earliest possible opportunity as required by section 2651(a).

Section 2642. Installation and Repair Requirements

Comment Summary 99: Two commenters ask if an Underwriter's Laboratory (UL) label certifying that the tank meets UL requirements for continuity and communication meets the requirements in section 2642(b) or is additional continuity testing required? (Comments #26 and #27)

Response: The UL label documents that the tank meets the first sentence of section 2642(b) for demonstrating that the tank was constructed in accordance with the applicable sections of the industry code or engineering standard under which it was built. For all tanks installed after July 1, 2026, the manufacturer also must provide the owner with documentation confirming that the manufacturer has verified continuity within the tank interstice.

Comment Summary 100: Commenter asks if the documentation required by section 2642(b) satisfies the requirements in section 2640(b)(4)? (Comment #16)

Response: Yes, tanks meeting the requirements of section 2640(b)(4) also meet the requirement of section 2642(b) at the time of installation, however, if a later tank repair impacts the interstice, the tank must be tested to demonstrate continuity. In addition to the tank, the secondary containment of the piping must be tested to demonstrate continuity.

Comment Summary 101: Commenter states that the changes from existing section 2636(c)(2) to proposed 2642(d) will result in both the primary and secondary being made of schedule (pipe wall thickness) 40 instead of schedule 40 for the primary and schedule 10 for the secondary, and that this will create construction problems. (Comment #28)

Response: The State Water Board agrees and has modified section 2642(d) to require the primary to be a minimum schedule 40 thickness and the secondary to be a minimum schedule 10 thickness.

Comment Summary 102: Two commenters request exemptions to anchoring USTs as required by section 2642(e)(1) if groundwater is below the tank excavation. (Comments #3 and #25)

Response: The State Water Board has changed the deadline in section 2642(e)(1) to extend the deadline by which all USTs must be anchored from July 1, 2026 to January 1, 2027. There have been recent instances involving empty tanks floating

during installation, repair, or retrofitting due to precipitation or runoff even when the water table is well below the tank bottom. Therefore, it would not be appropriate to exempt a UST even if the groundwater is well below the tank excavation.

Comment Summary 103: Commenter asks if engineered overburden calculated weight is an acceptable hold down method to satisfy the tank anchoring requirement in section 2642(e)(1) as opposed to using straps and anchors? (Comment #12)

Response: No, overburden does not meet the requirement in section 2642(e)(1). Overburden often is removed during repair or retrofit projects, leaving the tanks vulnerable to flotation when water enters the excavation.

Comment Summary 104: Commenter requests extending the compliance deadline for tank anchoring beyond the July 1, 2026, effective date specified in section 2642(e)(1). (Comment #5)

Response: The State Water Board has changed the deadline in section 2642(e)(1) to extend the deadline by which all USTs must be anchored from July 1, 2026 to January 1, 2027.

Comment Summary 105: Commenter recommends adding the words “to prevent flotation” after the word “anchored” in section 2642(e)(1). (Comment #18)

Response: The State Water Board agrees and has made the suggested modification.

Comment Summary 106: Commenter recommends amending the wording of section 2642(g) to require submittal of the “UST Certification of Installation/Modification” within 30 days. (Comment #18)

Response: The State Water Board agrees and has made the suggested modification.

Comment Summary 107: Commenter asks who hires special inspectors? Commenter also states that special inspectors and independent compliance inspectors should be required to possess a license from the Contractor’s State License Board. In addition, commenter states that section 2642(g)(4) states that a special inspector have experience inspecting UST system installations, but the regulations do not provide any guidelines on the experience requirements. (Comment #22(b))

Response: The UST owner is required to hire a special inspector, either to verify a tank’s structural integrity or as required by Health and Safety Code section 25288(c). Only the Contractors Licensing Board has the authority to require a license from the Contractor’s State License Board. A special inspector is required to be a professional engineer. To become a professional engineer an individual must have four years of experience in their specialty. The State Water Board has determined that this requirement is sufficient to ensure that special inspectors have the necessary experience to perform the duties of a special inspector under the proposed regulations.

Comment Summary 108: Commenter asks what is the “approval” from the UPA that is needed to repair the UST system pursuant to section 2642(i)? (Comment #2)

Response: The regulations do not require that the UPA use a specific process for this approval. Local permitting processes are not within the scope of the regulations. If approval is given orally, the UPA should document that approval in writing within a reasonable time.

Comment Summary 109: Commenter recommends section 2642(k) be amended to provide at least 90 days to replace single-walled spill containment structures in direct contact with backfill, which require replacement, with secondarily contained spill containment. (Comment #3)

Response: The State Water Board disagrees. To protect the waters of the State, the permit holder is required to provide a plan to implement recommendations from the UPA inspector within 60 days of receiving the compliance report. As spill containment replacement is a relatively simple procedure, the State Water Board has determined that 60 days is an adequate amount of time to perform this task. Owners or operators have other options available such as temporary closure for larger construction projects.

Comment Summary 110: Commenter recommends amending proposed section 2642(l) to add “or manufacturer” after “special inspector.” (Comment #27)

Response: The State Water Board has deleted proposed section 2642(l) as unnecessary and renumbered section 2642 accordingly.

Comment Summary 111: Commenter is concerned about proposed section 2642(l) requiring a special inspector to perform tests for tank construction. (Comment #22(b))

Response: The State Water Board has deleted proposed section 2642(l) and renumbered section 2642 accordingly.

Section 2643. Operating Requirements for Underground Storage Tanks

Comment Summary 112: Commenter states it is unclear if the intent of the language in section 2643(b) is to be a general duty clause and requests the Board provide clarity regarding the intent and scope of the language. (Comment #3)

Response: The State Water Board disagrees. The proposed wording, which requires that all USTs be operated and maintained to manufacturer’s specifications, is clear as written.

Comment Summary 113: Multiple commenters state that the language in proposed section 2643(c) conflicts with Health and Safety Code section 25288 and Unified Program standards. Multiple commenters also ask for clarification regarding the term

“implement corrections” and suggest alternative language. Multiple commenters also ask if UPAs can impose stricter requirements. One commenter asks if there will be flexibility for owners or operators completing repair work that takes longer than the 60 days specified in proposed section 2643(c)? (Comments #2, #3, #6, #7(a), #8, #10, #13, #16, #19, #25, and #29)

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

Comment Summary 114: Commenter asks what is an independent compliance inspector and who provides them authority to inspect? (Comment #12)

Response: The term “independent compliance inspector” is defined in section 2611. An independent compliance inspector’s authority to inspect is granted by the State Water Board or the UPA that contracts with that individual.

Comment Summary 115: Commenter states the wording in section 2643(d) is redundant of proposed section 2631(d). (Comment #8)

Response: The State Water Board agrees and has removed the redundant language from section 2631(d). Proposed section 2643(d) has been moved to 2643(e).

Article 5. Monitoring Requirements Underground Storage Tanks

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

Comment Summary 116: Multiple commenters are concerned about the level of detail required in the monitoring site plan in section 2650(c), particularly for older systems and some commenters state that this will increase costs. (Comments #3, #13, #15, 22(a), and #25)

Response: The requirement to submit a scaled diagram is not new. The monitoring site plan replaces the existing requirement for a plot plan and a separate scaled diagram. The State Water Board, however, has modified section 2650(c)(1) to delete the requirement to include “dispensers, spills containers, and additional components” on the monitoring site plan to additional components are removed because this information is not necessary to include on the Monitoring Site Plan and limit the effectiveness of the plan. The State Water Board also moved the phrase “to the extent known” to clarify that piping only must be shown to the extent known and to clarify that containment sumps

are included within the term” piping.” Owners or operators are not required to incur any additional expense to try to determine the exact layout of the piping for an old UST system, but when new USTs are installed, owners or operators need to get this documentation from the installer and maintain that documentation. As modified, this requirement does not result in any increase in cost.

Comment Summary 117: Commenter asks what are the deadlines for uploading the monitoring site plan to the CERS as required by section 2650(c)? (Comment #2)

Response: The monitoring site plan must be submitted as part of the application for a permit to operate under section 2690(a)(8)(B). Owners or operators also must submit a revised monitoring site plan to the UPA within 30 days of any change to the information therein.

Section 2651. Monitoring Requirements for Underground Storage Tanks

Comment Summary 118: Commenter recommends amending section 2651(b)(1) to replace “approval” of the UPA with “notification” of the UPA (Comment #16)

Response: The State Water Board agrees and has made the recommended modification.

Comment Summary 119: Multiple commenters are concerned that the 12-hour and 72-hour deadlines in section 2651(b)(2)-(3) are too short. (Comments #3, #4, #15, #19, and #25)

Response: The State Water Board has modified section 2651(b)(2)-(3) to extend the deadlines from 12-hours to 24-hours and 72 hours to 30 days respectively. The State Water Board also has modified the language to clarify when these requirements apply. As modified, section 2651(b)(2)-(3) allows the use of an alternative monitoring program if interstitial monitoring release detection equipment will be non-functional for more than 24 hours, but requires the UST to be temporarily closed if the release detection system is non-functional for more than 30 days. The State Water Board has determined that these deadlines are sufficient for owners or operators to complete regular repairs, while being sufficiently protective of public health, safety, and the environment.

Section 2652. Additional Monitoring Requirements for Piping

Comment Summary 120: Commenter is concerned with added cost of the requirement in section 2652(a)(1)(B) to replace non-functional mechanical release detection equipment for under-dispenser containment with continuous electronic monitoring, particularly with regards to older dispensers. (Comment #3)

Response: The State Water Board has determined that this requirement is necessary due to the frequency of failures of mechanical release detection equipment. Replacement of this equipment only is required when it fails to function properly during operation or testing. Further, as explained in more detail in the Supplemental Economic and Fiscal Impact Statement, while the cost of replacing the non-functional mechanical release detection equipment for under-dispenser containment with continuous electronic monitoring is more expensive than replacing it with similar mechanical release detection equipment, replacing the equipment with continuous electronic monitoring will reduce future repair costs. Owners and operators also may consider other compliance options that may result in long-term savings.

Comment Summary 121: Commenter recommends replacing "gallon per hour" in section 2652(a)(2) with "gallons-per-hour." (Comment #8)

Response: The State Water Board disagrees. It is more appropriate to use "gallons per hour" for release rates greater than one gallon per hour and "gallon per hour" for release rates less than one gallon per hour. In addition, it is not necessary to hyphenate "gallon per hour" or "gallons per hour. The State Water Board has modified the proposed regulations for consistency in the use of "gallon per hour" versus "gallons per hour."

Comment Summary 122: Commenter recommends either deleting the comma after the word "detected" in section 2652(a)(2)(B) or adding the word "when" before "the monitoring system malfunctions." (Comment #16)

Response: The State Water Board has deleted the comma.

Comment Summary 123: Commenter recommends that emergency tank systems be allowed to use a continuous vacuum, pressure, or hydrostatic interstitial monitoring system that activates an audible and visual alarm in lieu of shutting off or restricting flow through the piping when a release is detected or the monitoring system malfunctions to satisfy the line leak detector requirement in section 2652(a)(2)(B). (Comment #17)

Response: The State Water Board agrees and has added section 2652(a)(2)(C) to provide the requested provision for emergency tank systems.

Comment Summary 124: Commenter is concerned regarding the annual line tightness testing in section 2652(a)(3) and states there will be increased cost and lack of certified technicians. (Comment #12)

Response: The State Water Board disagrees. The proposed regulations do not include any significant changes in the tightness testing requirements from the existing regulations.

Comment Summary 125: Commenter recommends replacing "gallon per hour" in section 2652(a)(3) with "gallons per hour." (Comment #8)

Response: The State Water Board disagrees. It is more appropriate to use “gallons per hour” for release rates greater than one gallon per hour and “gallon per hour” for release rates less than one gallon per hour. The State Water Board has modified the proposed regulations for consistency in the use of “gallon per hour” versus “gallons per hour.”

Comment Summary 126: Commenter states the references to section 2665(a) in section 2652(c) are incorrect. (Comment #20)

Response: The State Water Board agrees and has corrected the references.

Article 6. Testing Requirements for Underground Storage Tanks

Section 2660. General Requirements for Testing

Comment Summary 127: Multiple commenters are concerned about the length of the notice to the UPAs required before testing in proposed section 2660(a) and whether UPAs can require additional notice. (Comments #1, #18, and #22(a))

Response: The State Water Board has moved the provision requiring 72 hours notice to the UPA before a test from proposed section 2660(a) to section 2614 in article 1. As a result of this move, the provision is not subject to the limitations on additional design and construction standards under section 2621. UPAs may adopt local ordinances or codes requiring additional notice.

Comment Summary 128: Commenter recommends amending section 2660(c) to allow UPAs discretion to change the periodic test date after testing of some repaired components. (Comment #18)

Response: The State Water Board disagrees. The decision to move periodic testing dates is the responsibility of the owner or operator alone. This allows the owner or operator the ability to align and schedule staff and service technicians to properly perform one or multiple testing requirements.

Comment Summary 129: Commenter asks if proposed “repairs” covered by section 2660(c) includes monitoring system upgrades, sensor replacements, and overflow replacement? (Comment #7(a))

Response: Yes. As defined in section 2611, the term “repair” means “to restore to proper operating condition a UST system component that had ceased to function properly, causing the UST system to be out of compliance with chapter 6.7 of division 20 of the Health and Safety Code or this chapter.”

Comment Summary 130: Two commenters recommend deleting the last sentence in section 2660(d), because it is redundant of section 2660(c). (Comments #7(a) and #8)

Response: The State Water Board agrees and has made the recommended modification.

Comment Summary 131: Commenter asks about section 2660(e) and if there is a list of manufacturer standards and the National Institute of Standards and Technologies (NIST) standards for when there are no manufacturer standards? (Comment #8)

Response: Many testing equipment manufacturers have standards. In the absence of equipment manufacturer standards, NIST covers most types of test equipment, such as gauges, commonly used to test UST components. The State Water Board is not aware of a comprehensive list of equipment without manufacturer standards.

Section 2662. Requirements for Integrity Testing

Comment Summary 132: Two commenters recommend replacing the words “Underground storage tank systems installed before July 1, 2003” with “Type 1 underground storage tanks” in sections 2662(b)(1) and 2662(b)(2). (Comments #7(a) and #8)

Response: The State Water Board agrees and has made the recommended modification.

Section 2663. Requirements for Release Detection Equipment Testing

Comment Summary 133: Commenter states that requiring testing of continuous vacuum, pressure, or hydrostatic interstitial monitoring release detection systems for piping to include verification of continuity, as specified in section 2663(a), will increase cost for some UST owners and recommends cycling tests. (Comment #22(c))

Response: The State Water Board disagrees. The State Water Board has determined that there are existing testing methods that can quickly and inexpensively verify continuity. Verifying continuity is necessary because zones that lack continuity have diminished release detection capabilities.

Comment Summary 134: Multiple commenters state the reference to section 2663(a)(3) in section 2663(d) is incorrect. (Comments #12, #16, #18, and #20)

Response: The State Water Board has corrected the reference.

Comment Summary 135: Commenter recommends section 2663(b) be amended to require the last three tags or stickers showing when the release detection equipment was tested to remain on the equipment. (Comment #22(a))

Response: The State Water Board disagrees. It is unnecessary to require multiple testing tags or stickers on release detection equipment. The tag or sticker applied by the service technician only is necessary to keep until the next periodic test of the component is performed.

Comment summary 136: One commenter states that section 2663(c) appears to contradict section 2652(a)(1)(B) and requests an exception to allow for the replacement of non-functional impact shear valves. Another commenter states that section 2663(c) should not require replacement of mechanical monitoring devices after cleaning or adjustment and recommends also changing the word “replaced” in section 2663(c) to “repair.” (Comments #16 and #18)

Response: The State Water Board has modified section 2663(c) to clarify that this provision only applies to release detection equipment and to cross-reference section 2652(a)(1)(B). The State Water Board also has modified section 2652(a)(1)(B) to clarify that this section includes impact shear valves used as part of the under-dispenser containment monitoring. This requirement does not include impact shear valves that are not used for release detection. The State Water Board has determined that this requirement is necessary due to the frequency of failures of mechanical release detection components. The State Water Board does not agree with the recommendation to replace the word “replace” with “repair.”

Comment Summary 137: One commenter states that the 0.1 gallon per hour, as required in section 2663(d), is not necessary and will add hours to the time required to complete annual release detection equipment testing. Another commenter states that no mechanical line leak detector will detect the 0.1 gallon per hour release as required and a continuous vacuum, pressure, or hydrostatic monitoring system also would not meet this requirement. (Comments #11 and #12)

Response: This testing requirement applies only to Type 1 and Type 2 USTs that use an electronic line leak detector to satisfy the line tightness testing requirement in section 2652(a)(3). This test is necessary to ensure that the electronic line leak detector is operating properly and will detect a release of 0.1 gallon per hour. The State Water Board has determined that newer test equipment is available that can perform the 0.1 gallon per hour test. Note that using a line leak detector to perform the annual 0.1 gallon per hour test is only one of the options available to owners or operators. Owners or operators also have the option of having a licensed tank tester perform this testing or configuring their release detection systems to otherwise satisfy the tightness testing requirement pursuant to section 2652(a)(4).

The annual line tightness testing requirements in the proposed regulations are the same as those in section 2636(f)(3) of the existing regulations and mechanical line leak

detectors are not suitable for performing such testing, which can be performed by a licensed tank tester or an electronic line leak detector.

Comment Summary 138: Commenter recommends replacing “gallon per hour” in section 2663(d) with “gallons per hour.” (Comment #8)

Response: The State Water Board disagrees. It is more appropriate to use “gallons per hour” for release rates greater than one gallon per hour and “gallon per hour” for release rates less than one gallon per hour. The State Water Board has modified the proposed regulations for consistency in the use of “gallon per hour” versus “gallons per hour.”

Comment Summary 139: Commenter states the reference to appendix 4 in section 2663(e) is incorrect. (Comment #20)

Response: The State Water Board agrees and has corrected the reference.

Section 2664. Requirements for Spill Container Testing

Comment Summary 140: Commenter states the reference to appendix 5 in section 2664(d) is incorrect. (Comment #20)

Response: The State Water Board agrees and has corrected the reference.

Section 2665. Requirements for Overfill Prevention Equipment Testing

Comment Summary 141: Commenter states the reference to appendix 6 in proposed section 2665(c) is incorrect. (Comment #20)

Response: The State Water Board agrees and has corrected the reference.

Section 2666. Requirements for Secondary Containment Testing

Comment Summary 142: Commenter states the reference to appendix 7 in section 2666(e) is incorrect. (Comment #20)

Response: The State Water Board agrees and has corrected the reference.

Comment Summary 143: Commenter is concerned that continuity testing on tanks as part of the secondary containment test every 36 months will be very difficult and expensive. (Comment #22(c))

Response: The State Water Board is limiting periodic continuity testing to UST piping only.

Article 7. Unauthorized Release Reporting and Initial Response Requirements

Section 2670. Recording Requirements for Unauthorized Releases

Comment Summary 144: Commenters recommend deleting the hyphen before the words "review the permit" in section 2670(e). (Comments #10 and #20)

Response: The State Water Board agrees and has deleted the hyphen.

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

Comment Summary 145: Commenter states the word "State" should not be capitalized in section 2671(b)(4). (Comment #20)

Response: The State Water Board disagrees. "State" is capitalized because "State" is referring specifically to the State of California.

Comment Summary 146: Commenter recommends requiring the "CERS ID" in section 2671(c)(2) is more appropriate than the "Facility ID" since the CERS ID Number is unique to every facility. (Comment #10)

Response: The State Water Board agrees and has made the recommended modification.

Article 8. Closure Requirements

Section 2680. Temporary Closure Requirements

Comment Summary 147: Multiple commenters recommend requiring the UPAs, rather than the owner or operator, to update the "Type of Action" data elements in the CERS as required by section 2680(j). (Comments #3, #13, and #25)

Response: The State Water Board disagrees. It is the responsibility of the owner or operator to apply for the permit and report changes. Additionally, UPAs do not have the ability to update this information in the CERS.

Section 2681. Permanent Closure Requirements

Comment Summary 148: Commenter is concerned the term “proposal” in section 2681(a) is vague and suggests referencing the permitting process instead. (Comment #1)

Response: The State Water Board disagrees. The word “proposal” is clear and its use is consistent with its use in the existing regulations. In addition, the regulations do not require a permit for closure.

Comment Summary 149: Two commenters are concerned that the requirement in section 2681(a) to close the UST within 365 days of receiving approval of the closure proposal from the UPA is not long enough and recommend allowing for extensions. (Comments #3 and #25)

Response: The State Water Board disagrees. The State Water Board has determined that it is not reasonable for the closure process to take longer than 365 days. Further, allowing an extension would not be sufficiently protective of public health, safety, and the environment.

Comment Summary 150: Commenter recommends amending section 2681(a) to require owners and operators to provide regulatory agencies 48-hour notice prior to UST removal. (Comment #21)

Response: The State Water Board disagrees. While many UPAs prefer to be on site during the UST removal, this is not required under the regulations. In addition, the amount of advance notice each UPA that does want to be on site varies. Therefore, prior notice to the UPA before removing a UST is not within the scope of the regulations.

Comment Summary 151: Commenter recommends amending subdivisions (c) and (e) of section 2681 to clearly indicate that closure-in-place is an exception to the requirement to close a UST by removal and to require removed USTs to be disposed of properly. (Comment #21)

Response: The State Water Board disagrees. An owner or operator may close all or part of the UST system in place so long as the requirements of section 2681(f) are met for the part of the UST system that is closed-in-place. All other parts of the UST system must be removed in accordance with section 2681(e). In addition, section 2681(e) clearly requires removed USTs to be disposed of properly and provides greater specificity than the recommended language.

Comment Summary 152: Two commenters state that the references to subdivisions (f) and (g) in section 2681(c) are incorrect. (Comments #20 and #21).

Response: The State Water Board agrees and has corrected the references.

Comment Summary 153: Commenter recommends deleting the comma between “compartmented tanks” and “require a sample” in section 2681(g)(1)(A). (Comment #20)

Response: The State Water Board agrees and has deleted the comma.

Comment Summary 154: One commenter recommends amending section 2681(g)(3) to give the UPA the have authority to approve proposed sampling locations or collection methods as part of the closure permit. Another commenter is concerned that UPA inspectors may not have the technical expertise to approve sampling locations or collection methods pursuant to section 2681(g). (Comments #1 and #3)

Response: The State Water Board disagrees. Section 2681(g) clearly states how many, where, and how each sample must be taken. The UPA is required to ensure that the closure is carried out in accordance with section 2681, which includes ensuring that sampling is performed in accordance with subdivisions (g) and (h) of section 2681. After the sampling is complete and the documentation in section 2681(i) is provided to the UPA, the UPA must provide this documentation to the Cleanup Oversight Agency in accordance with section 2684(a). The UPA’s responsibilities under this section are within the UPA’s expertise and authority.

Comment Summary 155: Commenter recommends inserting a comma between “subdivision (i)” and “the Unified Program Agency” in section 2681(k). (Comment #20)

Response: The State Water Board agrees and has inserted the comma.

Comment Summary 156: Commenter requests section 2681(n) be amended to allow the owner or operator 30 days to update the tank information in the CERS instead of only 72 hours. (Comment #3)

Response: The State Water Board agrees and has made the recommended modification. The State Water Board also has made a corresponding modification to section 2680(j).

Section 2682. Abandoned Underground Storage Tanks

Comment Summary 157: Commenter states the reference to section 2721(e) in section 2682(b) is incorrect. (Comment #20)

Response: The State Water Board agrees and has corrected the reference.

Section 2683. Underground Storage Tank Reuse and Reinstallation Requirements

Comment Summary 158: Commenter recommends changing format of the reference to the Health and Safety Code in section 2683(d). (Comment #20)

Response: The State Water Board agrees and has modified the reference format for consistency with the rest of the regulations.

Section 2684. Cleanup Oversight Agency Notification and Review

Comment Summary 159: Commenter states it is unclear whether the reference in section 2684(c) should be subdivision (f) or section 2681. (Comment #20)

Response: The State Water Board agrees and has deleted the reference to subdivision (f). The reference should be to section 2681. As amended, the reference in section 2684(c) is correct.

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

Section 2690. Operating Permit Applications for Underground Storage Tanks

Comment Summary 160: Commenter recommends amending section 2690(a) to add a provision requiring all operating permit applicants to be in compliance at the time of application. Commenter also recommends prohibiting applicants who violate the regulations or statute from entering into an agreement with the UPA to operate a UST. (Comment #21)

Response: The State Water Board disagrees. This recommendation would violate Health and Safety Code section 25285(b). Also, there is no requirement for any “agreement” between the permit applicant and the UPA.

Comment Summary 161: Commenter is concerned about the absence of any provisions regarding authorized agents submitting permit applications and other documentation on behalf of the owner or operator. (Comment #2)

Response: Owners and operators may authorize others to submit permit applications and other documentation on their behalf subject to existing laws relevant to their individual status or entity structure. Such decisions to authorize someone else to act in one’s place are not with the State Water Board’s purview. Please note, however, owners and operators are legally responsible for the accuracy and completeness of any information they authorize to be submitted on their behalf.

Comment Summary 162: Commenter requests that the California Department of Tax and Fee Administration (CDTFA) number be added to the information required pursuant to section 2690(a). (Comment #20)

Response: The State Water Board agrees and has made the requested modification.

Comment Summary 163: Commenter states the reference to Health and Safety Code section 25299.31 in section 2690(a)(5) is incorrect. (Comment #20)

Response: The State Water Board disagrees. The reference is correct.

Section 2691. Operating Permit

Comment Summary 164: Commenter recommends referencing the agreement required by Health and Safety Code section 25284(a)(3) in section 2691(a) instead of the broader reference to the Health and Safety Code, the proposed regulations, and the operating permit. (Comment #18)

Response: The State Water Board disagrees. The operator is required to comply with the Health and Safety Code, the proposed regulations, and the operating permit, therefore, the broader reference is more appropriate.

2692. Unified Program Agency Reporting Requirements

Comment Summary 165: Commenter recommends deleting the comma after the words “must send to the Board” in the first sentence in section 2692(a). (Comment #8)

Response: The State Water Board agrees and has deleted the comma.

Comment Summary 166: Commenter recommends adding the word “and” after the semicolon in section 2692(a)(4). (Comment #20)

Response: The State Water Board agrees and has made the recommended modification.

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

Comment Summary 167: Commenter states that the State Water Board is not an agency and recommends changing the wording of multiple subdivisions of section 2694 to specify either the UPA or the State Water Board, whichever applied the red tag. (Comment #10)

Response: The State Water Board agrees and has modified these subdivisions in section 2694 to specify the UPA or the State Water Board and to clarify the authorities and responsibilities of both the UPA and the State Water Board.

Comment Summary 168: Commenter is concerned having Inspection and Enforcement Plan requirements in both section 2694 and in section 15200 of title 27 of the California Code of Regulations could cause confusion. (Comment #8)

Response: The State Water Board disagrees with this comment because the Inspection and Enforcement Plan requirements in the proposed regulations are specific to USTs and supplement the requirements of section 15200 of title 27 of the California Code of Regulations. Additionally, this section is necessary to ensure that the Board's Inspection and Enforcement Plan is consistent with the requirements of section 15200 of title 27 of the California Code of Regulations, because the Board's Inspection and Enforcement plan is not subject to the requirements of section 15200.

Comment Summary 169: Commenter states that section 2694(a) implies the State Water Board will be developing and implementing an Inspection and Enforcement Plan. (Comment #10)

Response: The State Water Board's Office of Enforcement will be required to have its own Inspection and Enforcement Plan.

Comment Summary 170: Two commenters ask which provisions in article 4 are subject to the requirement in section 2694(b) to take an enforcement action? One commenter also asks if the term "fails to comply," as used in section 2694(b), is specific to any violation type(s) or all violations? Another commenter asks when is enforcement action required? The commenter also states that some violations in these articles should be deemed minor violations. (Comments #7(a) and 8)

Response: The State Water Board has modified section 2694(b) to apply to all requirements of proposed articles 4, 5, 6, and 7. The term "enforcement action" refers to a continuum ranging between citing a minor violation and referring a case for criminal enforcement action. Violations should be classified in accordance with the definition of "violation classification."

Comment Summary 171: Commenter asks if the term "underground storage tank inspectors" as used in section 2694(c) means independent compliance inspectors, UPA inspectors, or both? Commenter also asks if State Water Board inspectors will need to classify violations? (Comment #20)

Response: The State Water Board has modified section 2694(c) to delete the term "underground storage tank inspector" and has clarified that the requirements of this section apply to any violation cited by the UPA or the Board.

Comment Summary 172: Two commenters ask if dispensing qualifies as withdrawing as the term is used in sections 2694(d), (e), and (j)? Commenters also ask if any dispensing from a red tagged UST can occur “in the timeframe leading up to the emptying event” if the UPA or the State Water Board directs the owner or operator to empty the UST pursuant to section 2694(f)? In addition, commenters also state that a red tag on the fill pipe would not be visible to customers at a retail gas station. (Comments #7(a) and #8)

Response: Yes, dispensing includes withdrawing and all dispensing from a red tagged UST is prohibited. In addition, section 2694(f) clearly provides that a red tagged UST cannot be emptied through the dispenser. Finally, regardless of whether a red tag is visible to customers, pursuant to section 2694(j), the owner or operator is prohibited from allowing the delivery, depositing, or inputting of a hazardous substance into, or withdrawal of a hazardous substance from a red tagged UST and is responsible for taking all actions necessary to ensure compliance.

Comment Summary 173: Two commenters recommend replacing the word “before” in section 2694(h)(1) with “upon.” (Comments #7(a) and #8)

Response: The State Water Board has modified section 2694(h) to require the UPA or the Board to document the level of stored hazardous substance in the tank “immediately before” affixing a red tag and emptying of a tank that has been ordered to be emptied.

Comment Summary 174: Two commenters ask if the “required inspections” referenced in section 2694(l) applies to all inspections, including inspections to confirm the correction of significant violations per section 2695(c)? (Comments #7(a) and #8)

Response: No, section 2694(l) only references inspections relevant to red tags. This includes inspecting the facility to determine whether the UST system continues to be in significant violation as required by section 2695(c), and other red tag-associated visits to the facility such as removing and reapplying red tags to facilitate the emptying of a tank.

Comment Summary 175: Two commenters are concerned there is no provision for temporary removal of a red tag to facilitate repairs in section 2694. (Comments #7(a) and #8)

Response: The State Water Board agrees and has added section 2694(m) to allow for temporary removal of red tags for repairs.

Section 2695. Removal of Red Tags

Comment Summary 176: Commenter notes that the State Water Board is not an agency and recommends changing the wording of multiple subdivisions of section 2695

to specify either the UPA or the State Water Board, whichever applied the red tag. (Comment #10)

Response: The State Water Board agrees and has modified these subdivisions in section 2695 to specify the UPA or the State Water Board and to clarify the authorities and responsibilities of both the UPA and the State Water Board.

Comment Summary 177: Two commenters ask if section 2695(e) would allow the UPA to authorize removal of a red tag the State Water Board affixed to an emergency tank system, if the UPA determines that an emergency situation exists? (Comments #7(a) and #8)

Response: Yes, regardless of whether the red tag was affixed by the UPA or the State Water Board, the UPA may authorize the removal of the red tag in accordance with section 2695(e).

Section 2696. Content of Red Tags

Comment Summary 178: Multiple commenters recommend deleting the comma after the word “withdrawing” in section 2696(b)(2). One commenter also states the quotation mark is missing at the end of section 2696(b)(2). (Comments #7(a), #8, and #20)

Response: The State Water Board agrees and has deleted the comma and added the quotation mark.

Comment Summary 179: Commenter requests that the blank area on the red tag referenced in section 2696(b)(4), where the State Water Board or the UPA that affixed the red tag is required to legibly write their name and telephone number be made larger to add space for agencies with longer names. (Comment #8)

Response: The State Water Board disagrees. The State Water Board cannot justify the cost of re-sizing customized red tags for agencies with longer names. For agencies that have longer names, the agency’s acronym will suffice.

Article 10. Corrective Action and Post-Closure Abatement Requirements

Section 2710. Scope of Corrective Action

Comment Summary 180: Commenter recommends that “Federal” not be capitalized in section 2710(a)(5). (Comment #20)

Response: The State Water Board disagrees. Federal is capitalized because it specifically refers to the Federal government.

Section 2712. Free Product Removal Requirements

Comment Summary 181: Commenter recommends inserting a comma between “presence of free product” and “a responsible party must comply” in section 2712(a). (Comment #20)

Response: The State Water Board disagrees. It is not necessary to add a comma in this location.

Comment Summary 182: Two commenters are concerned that the requirements for removing free product to the maximum extent practical in sections 2712(a) and 2712(c) gives case managers too much discretion. (Comments #24 and #25)

Response: The requirements for removal of free produce are the same in the proposed regulations as in the existing regulations and these requirements are necessary to protect public health, safety, and the environment.

Section 2719. Closure

Comment Summary 183: Commenter is concerned that the language in proposed section 2719(a) is too subjective and reaches beyond existing technology and operational practices and will increase the cost of the proposed regulations. (Comment #24)

Response: The State Water Board disagrees. Proposed section 2718 has been renumbered to be section 2719. Section 2719(a) merely clarifies the existing requirements for closure for both petroleum and non-petroleum USTs, including the limitations on when a Cleanup Oversight Agency can record a land use restriction.

Section 2720. Post-Closure Abatement

Comment Summary 184: Two commenters are concerned that proposed section 2718.1 is ambiguous, subject to interpretation, and gives new authority to property owners that could lead to re-opening sites that may not be necessary. (Comments #24 and #25)

Response: The State Water Board disagrees. Proposed section 2718.1 has been renumbered to be section 2720. Section 2720 does not add any new cleanup requirements or provide any authority to property owners. Section 2720 ensures that Cleanup Oversight Agencies receive timely notification of events that may require additional abatement and ensures that Cleanup Oversight Agencies provide a timely review of and response to that notification. This section is necessary to protect public, health, safety, and the environment, while ensuring that property owners receive timely

responses from the Cleanup Oversight Agencies, so that they can develop or transfer their property.

APPENDICES

Appendix 2. Designated UST Operator Identification Form

Comment Summary 185: Commenter recommends adding a “Date” field to appendix 2. Commenter also asks if the form submitted in CERS or a newer, unsubmitted form at the facility takes precedence? (Comment #8)

Response: As reflected in the Initial Statement of Reasons, the State Water Board had intended to delete this appendix; however, due to an error, it was included in the proposed regulations. The State Water Board has deleted this form in the modified text, because it is unnecessary. After a system-wide update to CERS, this information will be converted to data fields to enter into the CERS for streamlining purposes and improved tracking of designated UST operators.

Appendix 3. Facility Employee Training Certificate

Comment Summary 186: Commenter states there is a formatting issue in appendix 3 that causes footer information to run onto another sheet (Comment #18).

Response: The State Water Board posts proposed regulatory amendments to its website in Word in tracked changes format. The issue raised by the commenter is the result of the commenter’s settings for viewing the document in tracked changes and the issue is not in the final document with all changes accepted.

Appendix 4. Designated UST Operator Visual Inspection Report Form

Comment Summary 187: Commenter states that the footer on page 1 of appendix 4 is missing definitions for “NA” and “UDC.” (Comment #8)

Response: The State Water Board agrees and has modified the footer language to include definitions for these terms.

Comment Summary 188: Various commenters state the first row under section 7 of appendix 4 has duplicate text and is missing check boxes for the duplicate text. (Comments #4, #7(b), #8, #19, and #20)

Response: The State Water Board agrees and has removed the duplicate text.

Comment Summary 189: Commenter recommends maintaining requirement in existing regulations to note test completion dates instead of the next due date required as

proposed in section 10 of appendix 4 as designated operators may enter incorrect dates. As an alternative, commenter recommends only requiring month and year instead of the full date. (Comment #13)

Response: The State Water Board disagrees. Using test completion dates have historically created cycles of late testing under existing regulations because of the additional steps required to determine the next due date. This information inevitably falls through the cracks creating systems of late testing cycles. Requiring the designated operator to list the next due date will ensure this does not happen. Changing the focus to the next due date assists the owner and operator to remain in compliance by making them aware of upcoming testing deadlines. In addition, the State Water Board requires complete dates for consistency and clarity.

Comment Summary 190: Commenter recommends adjusting the formatting in appendix 4.1 so that there is not a blank page at the end. (Comment #20)

Response: The State Water Board disagrees. With track changes turned off, this formatting error disappears.

Appendix 5. Release Detection Equipment Testing Report Form

Comment Summary 191: Commenter suggests adding a section on appendix 5 for verifying the fill area has a striker plate beneath it. (Comment #9)

Response: The State Water Board disagrees. Part of the tank information required by section 2641 includes listing which openings are not equipped with striker plates. This information should not change after installation. Additionally, this proposed requirement is not part of the release detection system, and therefore, is not part of testing the release detection.

Comment Summary 192: Commenter requests adding fields to appendix 5 that verify if all sensors were installed to detect a release at the earliest opportunity both before and after testing, and if the UST was found in alarm both before and after testing. (Comment #18)

Response: The State Water Board disagrees. This form requires service technicians to certify that the release detection system was tested in accordance with the proposed regulations. Service technicians are not certifying or making a determination on this form as to whether the UST is in compliance.

Comment Summary 193: Commenter recommends amending the third question in section 5 of appendix 5 to read "Are secondary containment systems that were tested free of damage, debris, or liquid?" (Comment #22(a))

Response: The State Water Board disagrees. This form is used for system testing and the recommended specification is not necessary.

Comment Summary 194: Multiple commenters indicated that the check box sizes and border styles within appendices 5, 5.1, and 5.2 are inconsistent. (Comments #7(b), #8, and #20)

Response: The State Water Board agrees and has modified the check box sizes and border styles for consistency.

Appendix 7. Overfill Prevention Equipment Testing Report Form

Comment Summary 195: Two commenters state that the title on page two of appendix 7 is incorrect. (Comments #4 and #20)

Response: The State Water Board agrees and has made the requested modification.

Appendix 8. Secondary Containment Testing Report Form

Comment Summary 196: Multiple commenters have indicated that a checkbox in section 7 of appendix 8 is checked. (Comments #7(b), #8, and #20.)

Response: The State Water Board has unchecked this box.

Comment Summary 197: Commenter recommends adjusting the formatting of section 7 of appendix 8 so that it does not run onto the subsequent page (Comment #20).

Response: The State Water Board posts proposed regulatory amendments to its website in Word in tracked changes format. The issue raised by the commenter is the result of the commenter's settings for viewing the document in tracked changes and the issue is not in the final document with all changes accepted.

**SUMMARY AND RESPONSE TO COMMENTS RECEIVED DURING THE 15-DAY
COMMENT PERIOD FROM MAY 2, 2025 TO MAY 19, 2025**

List of Comment Letters Public Comments regarding Electronic Reporting Regulations Comment Letters (#)		
Commenters	Submitted by:	Comment Letter Number
California Council for Environmental and Economic Balance	Tim Carmichael	#1
Metropolitan Water District of Southern California	Ofelia Perez	#2
Robertson Testing Incorporated	Zarmik Aldoyan	#3
Service Stations Systems	Debbie Watts	#4
State Water Resources Control Board, Office of Enforcement	Amber Camarena	#5
STI/SPFA	Steve Pollock	#6
Sunwest	Spencer Kissick	#7
Sunwest	Andrew Garcia	#8
TAIT Environmental Services	Brian Harmon	#9

In addition to comments on the proposed regulations, comment #4 includes several comments or questions about previous statements by State Water Board staff and other general concerns. These comments or questions do not pertain to the proposed regulations.

Article 1. Definition of Terms, Exclusions, and Recordkeeping

Section 2611. Additional Definitions

Comment Summary 1: Commenter states that the term “conduit” as used in the definition for “buried” is vague. Commenter further recommends amending the definition so that the language that is specific to emergency tank systems would apply to all USTs. (Comment #7)

Response: The State Water Board disagrees. The use of the term “conduit” is commonly understood in the industry. Further, the “buried” language extended to emergency tank systems ensures that UST systems currently meeting the visual pipe monitoring exemption provided in Health and Safety Code, section 25281.5(c) are not unintentionally captured by the new “buried” definition, causing these systems to need expensive upgrades. All other USTs as requested by the commenter, do not have a unique piping exemption under the Health and Safety Code. Therefore, all other UST systems already should meet the “buried” requirements and the associated monitoring methods.

Comment Summary 2: One commenter recommends adding “which” before “should be allocated” in subdivisions (c) and (d) of the definition for “connected piping.” Another

commenter recommends replacing “should” with “must” in subdivision (d). This commenter also states that subdivision (c) may increase permitting costs because UPAs charge fee on a per tank basis and recommends amending subdivision (a) of the definition of “connected piping.” (Comments #5 and #7)

Response 3: The comment regarding subdivision (a) of the definition of “connected piping” does not pertain to the modified text. The State Water Board has determined that the recommended amendments to the language of subdivisions (c) and (d) of the definition are not necessary for clarification of the meaning of these provisions. In addition, as written, subdivision (c) does not speak to how UPAs should handle fees for piping connecting two USTs. UPA permitting fees are not within the State Water Board’s purview.

Comment Summary 4: Commenter recommends replacing “and” with “or” between subdivisions (c) and (d) in the definition of “significant violation.” (Comment #5)

Response: The State Water Board has determined that the recommended amendment is not necessary for clarification of the meaning of the definition of “significant violation.”

Comment Summary 5: Commenter recommends amending section 2612(o) by adding “primary or secondary” in front of “piping and maintains.” (Comment #9)

Response: The State Water Board disagrees. Secondarily contained piping does not meet the definition of “unburied,” because it cannot be visually monitored. As drafted, section 2612(o) is consistent with Health and Safety Code section 25281.5(b)(2).

Comment Summary 6: Commenter recommends amending section 2613 to better incorporate CERS processes and streamline records review and maintenance. (Comment #7)

Response: The State Water Board has drafted the recordkeeping requirements of the proposed regulations to be flexible enough to incorporate proposed changes to CERS operations. While aspects of these requirements seem redundant, they are necessary to ensure pertinent information is maintained over time as CERS or UPA management strategies evolve.

Comment Summary 7: One commenter recommends amending the definition for “continuity” and adding definitions for “installation date” and “operational.” One commenter recommends adding certain unburied fuel delivery piping to the exemption or exclusion in section 2612(o). Two commenters amending section 2612(n). (Comments #7 and #9)

Response: These comments do not pertain to the modified text.

Article 3. Certification, Licensing, and Training Requirements

Section 2630. Underground Storage Tank Owner and Operator Certification Requirements

Comment Summary 8: Commenter requests clarification regarding how to submit information pursuant 2630(b). (Comment #1)

Response: This comment does not pertain to the modified text.

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

Comment Summary 9: Multiple commenters had comments about section 2631. (Comments #1, #2, #4, #7, and #9)

Response: These comments do not pertain to the modified text.

Section 2632. Licensing, Certification, and Training Requirements for Installation

Comment Summary 10: Two commenters have comments about section 2632(a). (Comments #6 and #7)

Response: These comments do not pertain to the modified text.

Section 2633. Service Technician Licensing, Certification, and Training Requirements

Comment Summary 11: Commenter recommends amending section 2633(a). (Comment #7)

Response: This comment does not pertain to the modified text.

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

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

Comment Summary 12: Multiple commenters had comments about section 2640. (Comments #6, #7, and #9)

Response: These comments do not pertain to the modified text.

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

Comment Summary 13: Commenter recommends amending section 2641(a). (Comment #6)

Response: This comment does not pertain to the modified text.

Section 2642. Installation and repair Requirements

Comment Summary 14: Commenter recommends amending section 2642(b). (Comment #7)

Response: This comment does not pertain to the modified text.

Comment Summary 15: Commenter recommends amending section 2642(d) to prohibit black steel piping that is not recognized by the State Water Board's piping matrix. (Comment #7)

Response: The State Water Board disagrees. The State Water Board has provided the piping matrix to assist owners, operators, and system designers in ensuring proper pipe construction and associated monitoring methods. The existing regulations do not specifically address the piping matrix and the requirements of section 2642(d) are clear. The State Water Board will update the piping matrix to be consistent with the proposed regulations.

Comment Summary 16: Commenter recommends replacing "inspection" with "final inspection" inspection in section 2642(g). (Comment #4)

Response: The State Water Board disagrees. The use of the term "inspection," rather than "final inspection," provides the UPA the flexibility to determine when this document should be submitted. The installation of the tank and piping can be certified any time after both have been properly placed in the ground. This does not require a final inspection.

Section 2643. Operating Requirements for Underground Storage Tanks

Comment Summary 17: Commenter is concerned that the modification to section 2643(c) removes the owner's or operator's grace period if the inspector does not provide notice to comply within 48 hours. (Comment #4)

Response: The existing regulations do not contain any provisions relating to notices to comply. As modified, section 2643(c) looks to Health and Safety Code section 25404.1.2 for the timelines for minor violations, which includes the UPA requirements regarding notices to comply.

Comment Summary 18: Commenter states that the term “operating hours” in section 2643(e) is unclear. (Comment #1)

Response: This comment does not pertain to the modified text.

Article 5: Monitoring Requirements for Underground Storage Tanks

Section 2651. Monitoring Requirements for Underground Storage Tanks

Comment Summary 19: Commenter recommends amending section 2651(c)(2). (Comment #7)

Response: This comment does not pertain to the modified text.

Section 2652. Additional Monitoring Requirements for Piping

Comment Summary 20: One commenter states that shear valves are required by the Fire Code and is concerned about costs and safety of requiring replacement of failed shear valves with continuous electronic release detection equipment pursuant to section 2652(a)(1)(B) and believes it would be better to require both a shear valve and electronic release detection equipment. Another commenter states that under-dispenser pan modifications or permits will be needed to comply with this section. (Comments #2 and #4)

Response: Owners or operators only are required to replace the mechanical release detection with electronic release detection if any component of the mechanical release detection fails. Mechanical release detection utilizes the shear valve to “stop flow at the dispenser.” If the shear valve fails, the mechanical release detection will need to be replaced with electronic release detection. To comply with the Fire Code, however, pressurized systems are required to have a shear valve. Therefore, to comply with both requirements, the shear valve will need to be installed in conjunction with newly installed electronic leak detection. The cost of implementing this requirement is included in the Supplemental Economic and Fiscal Impact Statement.

Comment Summary 21: Commenter asks if section 2652(a)(1)(C) means that a facility with floats and chains or stand-alone under-dispenser containment sensors would have to shut down? (Comment #4)

Response: This section will require unstaffed facilities to have positive shut down. Facilities without positive shut down would be in violation.

Comment Summary 22: Commenter states that there is a spelling/grammatical error in section 2652(a)(3). (Comment #4)

Response: The cited error is not in the modified text of the regulations.

Comment Summary 23: Commenter recommends amending section 2652(c). (Comment #9)

Response: This comment does not pertain to the modified text.

Comment Summary 24: Commenter recommends amending section 2652(c)(2). (Comment #9)

Response: This comment does not pertain to the modified text.

Article 6. Testing Requirements for Underground Storage Tanks

Section 2662. Requirements for Integrity Testing

Comment Summary 25: Commenter recommends amending section 2662(b)(1) to add “and product piping” after “Type 1 underground storage tanks.” Commenter also recommends amending section 2662(b)(2) to add “systems” after “Type 2 and Type 3 underground storage tanks.” (Comment #9)

Response: The State Water Board disagrees. The term “UST” includes both the tank and the connected piping, therefore, it is not necessary to specifically call out product piping in section 2662(b)(1). It also is not necessary to include the word “systems” after “Type 2 and Type 3 underground storage tanks” because, as defined in section 2611, “Type 2 underground storage tank” and “Type 3 underground storage tank” means “underground storage tank systems” installed on specific dates.

Comment Summary 26: Commenter has concerns regarding the timing of the testing required in section 2662(b)(2). (Comment #8)

Response: This comment does not pertain to the modified text.

Section 2663. Requirements for Release Detection Equipment Testing

Comment Summary 27: Commenter recommends amending section 2663(b). (Comment #9)

Response: Commenter's comment regarding section 2663(b) does not pertain to the modified text.

Comment Summary 28: Commenter states that shear valves are product specific and asks if the requirement to shut off the flow of product in section 2663(c) apply to the whole dispenser or just the product monitored by the shear valve. (Comment #4)

Response: Shear valves are product specific. If the owner or operator replaces a failed mechanical release detection method with a standalone electronic release detection device, the stand alone is not product specific and would shut power to the dispenser and all associated products. The owner or operator, however, could install an electronic release detection system that shuts off power to the pump (positive shut off), that would be product specific and would not require replacement of the functional mechanical release detection devices. The positive shut off method would shut off that product to all dispensers if detected in one dispenser.

Comment Summary 29: Commenter has concerns regarding section 2663(d). (Comment #4)

Response: This comment does not pertain to the modified text.

Section 2664. Requirements for Spill Containment Testing

Comment Summary 30: Commenter has a comment about section 2664. (Comment #3)

Response: This comment does not pertain to the modified text.

Section 2666. Requirements for Secondary Containment Testing

Comment Summary 31: Commenter recommends amending section 2666(d). (Comment #9)

Response: This comment does not pertain to the modified text.

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

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

Comment Summary 32: Commenter has comments about section 2694. (Comment #4)

Response: These comments do not pertain to the modified text.

Appendices

Appendix 2. Reserved

Comment Summary 33: Commenter recommends renumbering the appendices, because appendix 2 has been deleted. (Comment #9)

Response: The State Water Board has determined that it is not necessary to renumber appendices 3 through 8.3 and amend all the cross-references to these appendices. Appendix 2 has been reserved for future use.

Appendix 3. Facility Employee Training Certificate

Comment Summary 34: Commenter recommends email addresses be deleted from appendix 3 and asks questions regarding how to use this form. (Comment #4)

Response: These comments do not pertain to the modified text.

Appendix 4 Designated UST Operator Visual Inspection Report Form

Comment Summary 35: Commenter recommends amending appendix 4. (Comment #2)

Response: This comment does not pertain to the modified text.

Comment Summary 36: Commenter states that there is a missing checkbox in section 7 of appendix 4. (Comment #4)

Response: The checkbox is not missing.

Appendix 5. Release Detection Equipment Testing Report Form

Comment Summary 37: Multiple commenters recommend amending appendix 5. (Comments #4, #5, and #9)

Response: These comments do not pertain to the modified text.

Appendix 6. Spill Containment Testing Report Form

Comment Summary 38: Commenter recommends amending appendix 6.
(Comment #4)

Response: This comment does not pertain to the modified text.

Appendix 7. Overfill Prevention Equipment Testing Report Form

Comment Summary 39: Commenter states that the header of page two of this appendix 7 is incorrect. (Comment #4)

Response: The header was fixed in the modified text.

Appendix 8. Secondary Containment Testing Report Form

Comment Summary 40: Commenter recommends amending appendix 8.
(Comment #9)

Response: These comments do not pertain to the modified text.