



THE METROPOLITAN WATER DISTRICT
OF SOUTHERN CALIFORNIA

Public Comment
Proposed UST Regulations
Deadline: 1/2/18 by 12 noon



Office of the General Manager

December 28, 2017

SUBMITTED VIA EMAIL: commentletters@waterboards.ca.gov

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

Dear Ms. Townsend:

Subject: Comment Letter - Proposed UST Regulations

The Metropolitan Water District of Southern California (Metropolitan) appreciates the opportunity to comment on the State Water Resources Control Board's (State Water Board's) proposed amendments to California's underground storage tank (UST) regulations [California Code of Regulations, Title 23, Division 3, Chapter 16 (commencing with Section 2610)]. Metropolitan provided comments on the draft language presented at the informational workshops in March 2017 and wishes to thank Water Board staff for their responsiveness to our proposed changes. Metropolitan would like to provide three additional comments on the recently released proposed amendments to the UST regulations for the State Water Board's consideration.

Background

Metropolitan is a regional water wholesaler that delivers approximately two million acre-feet per year to 26 member public agencies, who in turn provide water to nearly 19 million people in Los Angeles, Orange, Riverside, San Bernardino, San Diego, and Ventura counties. Metropolitan owns and operates forty one (41) underground storage tanks that are located across these six different counties in southern California. Twenty seven (27) of these USTs support vehicle fuel stations at thirteen (13) locations and the remaining fourteen (14) USTs provide the fuel for large emergency generators that are a critical component of Metropolitan's water treatment and distribution infrastructure.

Comments

Metropolitan offers the following comments on the proposed UST regulations for the State Water Board's consideration:

Jeanine Townsend
Page 2
December 28, 2017

§ 2637.2 (b)

After § 2637.2 (b), Metropolitan recommends that the State Water Board insert a new subsection (c) clarifying that if an UST has more than one overflow prevention device [e.g., both an audible and visual alarm and a flow restrictor (flapper valve)], only one overflow prevention device needs to be tested. This clarifies the inspection requirement and also minimizes unnecessary work, especially for those owner/operators that have multiple USTs located over a wide service area. The rationale for this request is that if the flapper valve is secondary to an audible and visual overflow alarm system that is tested annually, then the flapper valve inspection is redundant, costly and time consuming, and does not add any additional level of protection.

The current wording in the proposed amended language is not clear if all overflow prevention equipment is to be inspected. Many of Metropolitan's USTs have audible and visual alarm overflow prevention systems and also have flapper valves installed as secondary overflow prevention equipment. While there are manufacturer's guidelines for inspecting the audible and visual overflow prevention equipment, there are no industry standards or guidelines to inspect a flapper valve. This could potentially lead to unintended consequences that could force UST owners to remove and replace flapper valves with testable flapper valves. We feel this creates an unnecessary and redundant requirement that would likely trigger the removal of flapper valves to avoid the additional work and cost of replacing existing flapper valves just so that they can be inspected even though they are not the primary overflow prevention equipment. It is therefore recommended that the amended regulation be clarified to focus the intent of the requirement upon inspecting only the primary overflow prevention equipment and not all overflow prevention equipment that may be part of the UST system.

Recommended Change:

§ 2637.2 (b) *Overflow prevention equipment inspections shall be conducted using an inspection procedure that demonstrates that the overflow prevention equipment is set to activate at the correct level specified in section 2635(c)(1) and will activate when regulated stored substance reaches that level. These inspections shall be performed in accordance with manufacturer's guidelines or standards. If there are no manufacturer's guidelines or standards, the overflow prevention equipment shall be inspected using an applicable method specified in an industry code or engineering standard. If there are no applicable manufacturer's guidelines, industry codes, or engineering standards an inspection method approved by a state registered professional engineer shall be used.*

(c) For Underground Storage Tanks with more than one overflow prevention device installed, only one overflow prevention device is required to undergo inspection to meet the requirements for this subdivision.

(d) ~~(e)~~ Overflow prevention equipment inspections shall be performed by a service technician meeting the requirements of section 2715(f).

Jeanine Townsend
Page 3
December 28, 2017

§ 2716 (d)

For § 2716 (d), Metropolitan recommends that rather than requiring that the Visual Inspection Report be provided within 48 hours, it be changed to **within five (5) business days** of the completion of the designated UST operator visual inspection. This change is being recommended because the proposed 48 hour requirement is not a Federal UST requirement. Also, this change is necessary because if a Designated UST Operator Visual Inspection is completed on a Friday afternoon, it is unlikely that it can be provided to the owner or operator within 48 hours because the next 48 hours occur over the weekend and the proposed regulations do not specify 48 business hours. Therefore, this would automatically put a UST owner or operator in a non-compliance situation due to no real fault of their own. The recommendation to change this requirement to five business days provides a realistic time frame for the designated operator to provide the Inspection Report to the owner or operator. Changing the requirement to five business days is also necessary because there are many situations where the designated operator may have to travel for several days (more than 48 hours) to inspect various remote UST locations and cannot send the Inspection Report to the owner or operator until they return to their office later in the week. Also, changing the requirement to five business days is necessary because consultants that are contracted to perform the “Designated UST Operator Visual Inspection” (as is the case for Metropolitan due to internal staffing constraints) need this additional time in order to review the information recorded by the designated UST operator (field technician) to ensure that the Inspection Reports are accurately prepared and go through a QA/QC process to verify that all the information is complete and accurate before compiling and providing the Inspection Reports to their clients such as Metropolitan.

In addition, Metropolitan recommends that the State Water Board clarify the method for notification (i.e., detailed email or telephone message) by the designated UST operator to the owner or operator of any compliance issues discovered during the visual inspection. Without this clarification, some designated operators may rely solely on the visual inspection form to satisfy the requirement to “alert” the owner/operator.

Recommended Change:

§ 2716 (d) ~~Within 48 hours~~ ***5 business days*** of the completion of the designated UST operator visual inspection required by subdivision (a) above, the designated UST operator shall sign and provide the owner or operator with a copy of the “Designated Underground Storage Tank Operator Visual Inspection Report.” In addition, the designated UST operator shall alert the owner or operator ***by detailed email or phone message*** of any compliance issues discovered during the visual inspection that may require follow-up actions such as damage to the underground storage tank system, obstructions in the fill pipe, or liquid or debris present in under-dispenser containment areas, containment sumps and spill containers.

Jeanine Townsend
Page 4
December 28, 2017

§ 2716 (e)

Metropolitan recommends that § 2716 (e) be modified in a similar manner as recommended for § 2716 (d) by changing the requirement to **within 5 business days** of being provided a signed copy of the “Designated Underground Storage Tank Operator Visual Inspection Report,” the owner or operator shall provide a description of each corrective action taken. This change is being recommended because the proposed 48 hour requirement is not a Federal UST requirement. Changing the requirement to five business days allows the owner or operator to review, analyze, and determine and/or document the appropriate corrective action in response to the Inspection Report. Additionally, this change is necessary because if the owner or operator receives a signed copy of the “Designated Underground Storage Tank Operator Visual Inspection Report” late on a Friday afternoon, it is very unlikely that they can provide a description of each corrective action taken within 48 hour time period specified because the next 48 hours occur over the weekend and the proposed regulations do not specify 48 business hours. Therefore, this would automatically put a UST owner or operator in a non-compliance situation due to no fault of their own. Changing the requirement to five business days is a reasonable and practical time period needed for the UST owner or operator to adequately review and address and/or describe each corrective action taken or planned. At Metropolitan (and as with most companies), staff typically has numerous responsibilities and no one has a job that is solely dedicated to following up on UST inspection reports. Therefore, it is not a realistic or reasonable expectation to have all UST Inspection Report corrective actions described and signed and dated within a 48 hour time period. Providing five business days to complete the corrective action documentation step is both practical and sound and does not increase any potential risk or threat of a UST spill or have any other type of detrimental impact.

Furthermore, Metropolitan recommends that the State Water Board clarifies the “Designated Underground Storage Tank Operator Visual Inspection Report” also addresses specific actions and/or plans for corrective actions that may be initiated, but not completed before the next visual inspection period. This change will aid owners or operators in ensuring that the corrective actions have been or will be completed as part of the inspection process.

Recommended Change:

§ 2716 (e) *Within ~~48 hours~~ 5 business days of being provided a signed copy of the “Designated Underground Storage Tank Operator Visual Inspection Report,” the owner or operator shall provide a description of each corrective action plan and/or actions taken. The description shall be provided on the copy of the “Designated Underground Storage Tank Operator Visual Inspection Report” signed by the designated UST operator and the owner or operator shall sign and date the report, acknowledging the identified compliance issues.*

Jeanine Townsend
Page 5
December 28, 2017

§ 2715 (c)

For 2715 (c), Metropolitan recommends that the **initial training** conducted before an individual performs the duties of a facility employee **be conducted through a practical demonstration** (i.e., hands on training physically conducted at the UST location) and include all the requirements under subsection (1) A-D. Metropolitan agrees that a practical demonstration is a critical part of the initial training. However, Metropolitan recommends that the continued training that shall be provided at least once every 12 months be a refresher training that still meets all the requirements under subsection (1) A-D, but does not have to include a practical demonstration. This meets the intent of the preamble of 40 Code of Federal Regulations, part 280.36, which states that it is important that training programs for [facility employees] include both sharing information and evaluating knowledge for responding to emergencies, leak detection monitoring alarms, spills, and overfills associated with operating the UST system. Additionally, it would allow UST owners and operators to provide the required annual training in another training format (e.g., video, online computer training, on-the-job training, etc.) for the site-specific UST equipment for the facility employees to review responding to emergencies, leak detection monitoring alarms, spills, and overfills associated with operating the UST system. This provides a more efficient and cost effective method to conduct annual training for a large number of facility employees that work various round-the-clock shifts at remote locations across Southern California (which is the case for Metropolitan's facility employees).

Recommended Change:

§ 2715 (c) *The designated UST operator(s) shall train facility employees in the proper operation and maintenance of the underground storage tank system at least once every 12 months. For facility employees hired before October 13, 2018, the initial training shall be conducted within 30 days of the date of hire. For individuals assuming the duties of a facility employee on or after October 13, 2018, the initial training shall be conducted before the individual performs the duties of a facility employee.*

(1) The initial training shall be conducted through a site-specific practical demonstration that provides both sharing information and evaluating knowledge for responding to emergencies, leak detection monitoring alarms, spills, and overfills associated with operating the UST system and must include, but is not limited to, the following:

(A) The operation of the underground storage tank system in manner consistent with the facility's best management practices.

(B) The facility employee's role with regard to the monitoring equipment as specified in the facility's monitoring plan.

(C) The facility employee's role with regard to the monitoring equipment as specified in the facility's response plan.

(D) The name of the contact person(s) for emergencies and monitoring equipment alarms.

Jeanine Townsend
Page 6
December 28, 2017

(2) The refresher training of facility employees conducted at least once every 12 months, must include, but is not limited to, the following:

- (A) The operation of the underground storage tank system in manner consistent with the facility's best management practices.
- (B) The facility employee's role with regard to the monitoring equipment as specified in the facility's monitoring plan.
- (C) The facility employee's role with regard to the monitoring equipment as specified in the facility's response plan.
- (D) The name of the contact person(s) for emergencies and monitoring equipment alarms.

Conclusion

Thank you again for the opportunity to comment on the proposed UST regulations. Metropolitan looks forward to working with the State Water Board and asks that the State Water Board consider these comments prior to finalizing the UST regulations. If you have any questions or need addition information, please contact Joyce Clark at jtruhan@mwdh2o.com or (213) 217-5593.

Very truly yours,



Daniel Guillory, P.E.
Interim Manager, Safety and Regulatory Services Section

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