

**Proposed Amendments
to the
California Code of Regulations
Title 23. Water**

**Division 3. State Water Resources Control Board
and Regional Water Quality Control Boards
Chapter 16. Underground Tank Regulations**

**FINAL
STATEMENT OF REASONS**

**May 2020
State Water Resources Control Board
Division of Water Quality**

Chapter 16. Underground 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 1, 2019. In response to comments received following the initial 45-day comment period of November 1, 2019 to December 17, 2019, the State Water Resources Control Board (State Water Board) modified the proposed regulations. The modified text was made available for comment during the 15-day comment period from April 20, 2020 to May 6, 2020.

The specific purpose and necessity of the modifications to the text are provided herein. The State Water Board made significant changes to proposed appendices (forms) based on the number of commenters recommending changes. The proposed forms used as part of the initial Notice have been replaced with new appendices, which are more user friendly and concise. 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, accessibility, or renumbering.

After reviewing the comments on the modified text, the State Water Board made changes to the modified text that are non-substantial or solely grammatical in nature. The specific purpose and necessity of the changes to the modified text are provided herein.

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. The Economic and Fiscal Impact Statement (Form 399) was provided to the public for review and inspection during the 45-day comment period and is part of the rulemaking record. The Economic Impact Analysis/Assessment prepared pursuant to Government Code section 11346.3 was included as part of the Initial Statement of Reasons.

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

SECTION 2713. LOCAL AGENCY REPORTING REQUIREMENTS

Specific Purpose and Necessity of the Proposed Regulatory Action

Section 2713(d) – This subdivision is modified for clarification purposes in response to a comment that the language was unclear. As amended, this subdivision clearly states that local agencies only must report to the State Water Board those underground storage tank (UST) facilities that the local agency did not inspect for compliance as required.

SECTION 2716. DESIGNATED UST OPERATOR VISUAL INSPECTION

Specific Purpose and Necessity of the Proposed Regulatory Action

Section 2716(e) – Commenters requested the State Water Board extend the UST owner or operator signature timeframe for acknowledging the results of the Designated UST Operator Visual Inspection on the “Underground Storage Tank Designated Underground Storage Tank Operator Visual Inspection Report” (Appendix XIII) from 48 hours to five days. Commenters suggested that the timeframe for signing those Designated UST Operator Visual Inspection Forms without noted compliance issues could be longer than the timeframe for signing forms with noted compliance issues. The State Water Board believes that having different signature times frames depending on whether a facility has compliance issues would be confusing. The State Water Board does recognize, however, that some facilities may have trouble obtaining the UST owner or operator signature within 48 hours. In particular, the State Water Board understands that this timeframe may pose problems for facilities without weekend staffing if the Designated UST Operator Visual Inspection is completed on a Friday.

The State Water Board has amended the UST owner or operator signature timeframe to extend it from 48 hours to 72 hours. The State Water Board feels that the amended timeframe strikes the appropriate balance between the practical concerns raised by the commenters and the importance of timely acknowledgement by the UST owner or operator of the results of the Designated UST Operator Visual Inspection and the need to address any compliance issues or other concerns promptly. The amended timeframe allows facilities without weekend staffing to appropriately and timely address any compliance issues or other concerns during workhours.

APPENDICES

GENERAL MODIFICATIONS

All the appendices (forms) are modified to address concerns raised by comments received and to make grammatical and accessibility changes. Modifications that apply

to all of the forms are discussed in detail here. All other modifications specific to individual forms are discussed in detail separately below.

To simplify the review of the modifications to the forms, the modified text showed the forms as struck from the appendix in their entirety and the reformatted versions of the forms were inserted into the appendix.

The forms are modified to address commenters concern that the forms do not provide enough room to record the required testing and inspection information for a typical UST facility, but at the same time had become burdensome with redundant sections. The State Water Board has modified the forms by changing the formatting of the forms to make room to record the required testing and inspection information for a typical UST facility. All portions of the forms are in 12-point Arial font for accessibility purposes and consistency with State Water Board standards.

Specific Purpose and Necessity of the Proposed Modification

1. **Pagination** – Moved the page numbers from the form headers to the footers for consistency and aesthetics throughout the forms.
2. **“Facility Information” section** – Modified the “Facility Information” section for consistency throughout the forms. Replaced “Business Name (Same as Facility Name or DBA Doing Business As)” with “Facility Name,” and “Business Site Address” with “Facility Address,” because as a commenter pointed out, not all regulated facilities are businesses.
3. **“Service Technician Information” section** – Modified the “Service Technician Information” section for consistency throughout the forms and made additional modifications for clarification purposes, to make the forms more concise, and to improve ease of use. Specifically, “Name of Company Performing the Certification” has been changed to “Company Performing the Certification,” “Phone #” has been changed to “Phone,” “Name of UST Service Technician Performing the Certification (Print as Shown on the ICC Certification)” has been changed to “Service Technician Performing Test,” “ICC Certification Expiration Date” has been changed to “ICC Expiration Date,” and “ICC Certification #” has been changed to “ICC Number.” This change was made to address commenters concerns and has made the forms more concise, simpler, and improved consistency throughout the forms. Additionally, corrected the spelling of “contractor” throughout the forms.
4. **“Training and Certifications” section** – “Training” and “Certification” components combined into a single “Training and Certifications” section on all forms where applicable (Appendices VI, VII, VIII, and IX only). This change was made to address commenters concerns and has made the forms more concise and improved consistency throughout the forms.

5. **“Test Procedure Information” section** – Deleted “Test Method Used” from multiple locations and consolidated this information into a single “Test Procedure Information” section on all forms where applicable (Appendices VII, VIII, and IX). This change was made to address commenters concerns and for simplicity, clarity, and consistency with other forms.
6. **“Certification by Service Technician Conducting Test” and “Certification by Service Technician Conducting Inspection” sections** – Modified the “Certification by Service Technician Conducting Test” and “Certification by Service Technician Conducting Inspection” sections to address commenters concerns and for consistency throughout the forms. As amended, these sections require the service technician performing the test or inspection, to provide the test methods used upon request by the governing authority. Additionally, the “Date” and “Total # of Pages” components have been added to the forms to account for the inclusion of additional pages as needed and because the date of that the service technician signs the certification signature can differ from the date the test or inspection was performed.
7. **“Comments” sections** – On each form with multiple “Comments” sections, all of the “Comments” sections have been combined into a single “Comments” section to address commenters concerns and to condense the forms and improve ease of use. In addition, all of the ruler lines in the “Comments” sections have been removed to add flexibility in completing the forms.
8. **Reorganization** – To improve consistency and make it easier to complete and review the forms, sections within each of the forms have been reorganized so that the sections are in a similar order throughout all of the forms.
9. **Footnotes** – All footnotes defining acronyms have been moved to the page 1 footer of each form as recommended by a commenter to condense the footnotes, improve readability, and consistency throughout the forms.
10. **Section Numbering** – All section numbers have been changed from Roman numerals to Arabic numbering for clarity and consistency throughout the forms.

APPENDIX VI. UNDERGROUND STORAGE TANK MONITORING SYSTEM CERTIFICATION FORM

Specific Purpose and Necessity of the Proposed Regulatory Action

The “Monitoring System Certification Form” has been modified to address concerns raised and suggestions proposed by commenters and to make grammatical and non-substantive changes. Each modification is discussed in detail below.

1. **Subheader** – Removed the subheader starting with “This form must be used to document testing and servicing of underground storage tanks (UST) monitoring equipment...,” because it is unnecessary. This information is common knowledge

among the users of the Form. Additionally, the other forms do not have similar subheadings.

2. **“Type of Action”** – Added “Type of Action” with associated selection boxes as recommended by commenters and for consistency with other forms and to assist local agencies in identifying the purpose of the Form.
3. **Section 1, “Facility Information”** – Consistent with the request of commenters, removed the “Building #” component because it is unnecessary and for consistency with the other forms.
4. **Section 2, “Service Technician Information”** – Modified language in this section to be consistent throughout forms. At the suggestion of commenters, moved the previous “Monitoring System Training and Certification” components to the new section 3, “Training and Certifications” section for consistency throughout the forms.

Section 3, “Training and Certifications” – Deleted section III, “Results of Testing/Servicing” and moved the question and selection box components from this section to the new section 5, “Monitoring System and Programming” along with other similar questions and selection boxes for consistency. Also, moved previous “Monitoring System Training” and “Certification” components to the new “Training and Certifications” section for consistency throughout the forms.

5. **Section 4, “Certification of Service Technician Conducting Test”** – Changed certification language in this section from requiring certification that the “monitoring system was inspected/serviced” to the “monitoring equipment is operational.” This requires the service technician to confirm the system is fully operational and prohibits the service technician from signing the Form if repairs are required.
6. **Section 5, “Monitoring System and Programming”** – Deleted section III, “Results of Testing/Servicing;” section VI, “Inventory of Equipment Certified;” and section VIII, “Monitoring System and Programming.” With the exception of the specific equipment listing, the components previously located in these deleted sections are now located in the new section 5, “Monitoring System and Programming.” The listing of the specific equipment inspected/serviced in section VI, “Inventory of Equipment Certified” has been replaced with the generic section 6, “Sensor Testing Results,” which can be used for any type of sensor. In addition, some of the components were modified for clarification purposes and consistency throughout the forms.
7. **Section 6, “Sensor Testing Results”** – Deleted the listing of the specific equipment inspected/serviced in section VI, “Inventory of Equipment Certified” and replaced it with section 6, “Sensor Testing Results.” The new “Sensor Testing Results” is generic and can be used for any type of sensor, eliminating the need for the previous equipment listing. As amended, this Form allows for multiple copies of this equipment listing to be added for those facilities with a larger number of sensors

to improve flexibility and ease of use. In addition, all line items now include a “Pass” or “Fail” selection box so that the service technician can clearly identify, and inspectors can quickly confirm, whether each sensor passes or fails the test. Sections 6, 7, and 8 have similar formatting for consistency throughout the Form.

8. **Section 7, “Line Leak Detector Testing”** – Modified this section, formerly section XII, “Line Leak Detector Testing,” to require each “LLD” be identified and include a “Pass” or “Fail” selection box so that the service technician can clearly identify and inspectors can quickly confirm whether each line leak detector passes or fails the test. Sections 6, 7, and 8 have similar formatting for consistency throughout the Form.
9. **Section 8, “In-Tank Gauging Testing”** – Modified this section, formerly section X, “In-Tank Gauging Testing,” to require each “Probe” be identified and include a “Pass” or “Fail” selection box so that the service technician can clearly identify and inspectors can quickly confirm whether each probe passes or fails the test. Changed the section action item from “This section must be completed if in-tank gauging is used to perform leak detection monitoring” to “Do not complete this section if either selection box is checked” to clarify the action required. Sections 6, 7, and 8 have similar formatting for consistency throughout the Form.
10. **Section 10, “Monitoring Site Plan”** – As suggested by commenters, deleted from this section, formerly section XVI, “Monitoring Site Plan,” the list of components required for inclusion in the monitoring site plan and replaced this list with “release detection equipment and monitoring locations” for to be more concise and for clarification purposes. The legend box has been removed to provide additional space for the monitoring site plan with instructions to include legend if symbols are used. In addition, the plot grid has been removed for flexibility and accessibility purposes.

APPENDIX VII. UNDERGROUND STORAGE TANK SECONDARY CONTAINMENT TESTING REPORT FORM

Specific Purpose and Necessity of the Proposed Regulatory Action

The “Secondary Containment Testing Report Form” has been modified to address concerns raised and suggestions proposed by commenters and to make grammatical and non-substantive changes. Each modification is discussed by section in more detail below.

1. **Section 6, “Tank Secondary Containment Test,” Section 7, “Pipe Secondary Containment Test,” and Section 8, “Sump/UDC Test” sections** – Removed section III, “Summary of Secondary Containment Testing Results” and replaced with new sections for secondary containment testing data and results as recommended by commenters. Currently, UST owners and operators must submit this information separately in addition to this Form. These new sections include universally required

testing data components and limit the need for additional documentation to be submitted with the Form and also include the “Pass” and “Fail” selection boxes from the previous section III.

APPENDIX VIII. UNDERGROUND STORAGE TANK SPILL CONTAINER TESTING REPORT FORM

Specific Purpose and Necessity of the Proposed Regulatory Action

The “Spill Container Testing Report Form” has been modified to address concerns raised and suggestions proposed by commenters and to make grammatical and non-substantive changes. Each modification is discussed by section in more detail below.

1. **Section 6, “Spill Container Details”** – Deleted “Method of Cathodic Protection” selection box for “Isolation.” The isolation method is rarely used, and it is unnecessary because this method is covered under the selection box “Other.” Deleted “Inside Diameter of Spill Container (inches)” and “Depth of Spill Container (inches)” since this information is not necessarily relevant to conducting a spill container test.

Also, modified the question on the gallonage of the spill bucket to clarify that the gallonage must be measured by “excluding riser volume.” This modification is necessary to confirm that the spill container volume is measured correctly and for clarification purposes to correct previous incorrect guidance provided by manufacturers regarding proper measurement.

In addition, this section has been expanded so that the service technician can include information on eight spill containers, up from four on the former test form to improve ease of use and to ensure sufficient space for typical UST facilities. Former section IV, “Summary of Testing Results” is removed. Moved the “Pass” and “Fail” selection boxes from former section IV for clarification purposes. The “Pass” and “Fail” selection boxes are now located beneath all four available spill container test result components for clarification purposes and ease of use. Previously, the test information components were stacked vertically two high on the page, rather than just a single horizontal row. Additional copies of this section may be added for larger facilities.

2. **Section 9, “Comments”** – Added selection box “Spill Containers do not have a minimum capacity of five gallons and require replacement” to clarify construction requirements. Previously section III, “Spill Container Testing Information” had a similar question “Does the Spill Container have a 5 gallon capacity?” The location and phrasing of this question created confusion as to what constituted a “Pass.” A spill container that does not meet the construction standard minimum of five gallons could pass the tightness test, which is the requirement for a “Pass,” but would still require replacement. The modifications prevent service technicians from incorrectly

marking “Fail” in these situations, while still ensuring that the compliance issue is identified.

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

Specific Purpose and Necessity of the Proposed Regulatory Action

The “Overfill Prevention Equipment Inspection Report Form” has been modified to address concerns raised and suggestions proposed by commenters and to make grammatical and non-substantive changes. For conciseness “Overfill Prevention Equipment” has been replaced throughout the Form with the new acronym “OPE.” Each modification is discussed by section in more detail below.

1. **Section 6, “Overfill Prevention Equipment Details”** – Deleted the “What is the tank diameter” component because it is unnecessary. This information already must be included with the calculations to identify proper overfill prevention equipment settings.

Also, combined the “Is the fill piping secondarily contained?” and “Is the vent piping secondarily contained?” components for conciseness. Since both pipes would need to be secondarily contained to utilize specific overfill prevention methods, it is redundant and unnecessary to ask whether the pipe is secondarily contained for both fill pipes and vent pipes.

In addition, as recommended by commenters, the line item “Overfill Prevention Equipment Manufacturer” has been replaced with “OPE Model.” The model information because the inspection methods are based on the relevant model type.

Finally, consistent with the request of commenters, the “A/V Alarm” selection box has been replaced with separate boxes for “Audible Alarm” and “Visual Alarm,” since both methods can be used independently.

2. **Section 7, “Summary of Inspection Results”** – Moved the “Pass” and “Fail” selection boxes to this section from former section IV, “Summary of Testing Results,” which has been deleted.
3. **Footnote** – Added a definition for the new acronym “OPE,” which means Overfill Prevention Equipment.

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

Specific Purpose and Necessity of the Proposed Regulatory Action

The “Designated Underground Storage Tank Operator Identification Form” has been modified to make a grammatical change. Specifically, the “and” in the “and/or” clause in the instructions is removed to be grammatically correct. This Form must be completed upon the addition or change of an individual performing either designated UST operator inspections or facility employee training.

1. **Subheaders** – Removed the subheaders beginning with “Every underground storage tank...” and “Every individual listed below will conduct...” because they are unnecessary. This information is common knowledge among the users of the Form. Additionally, the other forms do not have similar subheadings.
2. **Section 2, “Designated UST Operator Information”** – “Name of Designated UST Operator (*Print as shown on the ICC certification*)” has been changed to the more concise “Name of Designated UST Operator.” The additional language is unnecessary because “Print names exactly as shown on the ICC certification” is included as part of the section header.

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

Specific Purpose and Necessity of the Proposed Regulatory Action

The “Designated Underground Storage Tank Operator Visual Inspection Report Form” has been modified to address concerns raised by commenters and to make grammatical changes. Each modification is discussed in more detail below.

1. **Section 2, “Designated UST Operator Information”** – Deleted the “Mailing Address” component because it is unnecessary. The local agency obtains this information from the “Designated UST Operator Identification Form.”
2. **Section 3, “Compliance Issues”** – Deleted the requirement to explain any answer of “NA” noted in the Form at the request of commenters. The State Water Board agrees with the commenters that the requirement created confusion and unnecessary work in those situations where the “NA” response to a permanent or reoccurring condition does not reflect a compliance issue.
3. **Section 4, “Certification by Designated UST Operator Performing Inspection”** – Added a “Date Inspection Report Provided to Owner” component to this section at the request of commenters. The State Water Board agrees with the commenters

that it could not be determined from the Form when the inspection report was provided to the owner, making it difficult to determine if the UST owner or operator has signed the Form within 72 hours of receiving the Form as required by section 2716(e). Adding this component assists designated UST operators, UST owners and operators, and local agencies to ensure timely compliance with the UST owner or operator signature requirement.

4. **Section 7, “Inspection History”** – Added “NA” selection box at the request of commenters in order to ensure that all appropriate options have been provided. This box should be checked when no events have occurred since the past inspection.
5. **Section 8, “Release Detection Alarm History”** – Consistent with the request of commenters, replaced “NA” selection boxes with “Has each alarm since the previous inspection been responded to appropriately?” and “Have all containment sumps, that have had an alarm since the previous designated UST operator inspection report, been responded to by a qualified service technician?” The “NA” selection boxes should be utilized in situations where no events have occurred since the past inspection.
6. **Section 9, “UST System Inspection”** – Moved the instruction language from former section VIII, “Release Detection Alarm History” to this section for clarification purposes. Consistent with recommendations from commenters and for better use of space after considering the number of different types of components at typical UST facilities, the number of spaces for “Containment Sump” information has decreased and the number of spaces for “Spill Containment” and “UDC” information has increased. In addition, added a selection box for those under dispenser containers (UDCs) with mechanical float mechanisms. This box is necessary because these mechanical float mechanisms do not meet the definition of sensor as required in the section description and in the absence of this selection box, some designated operators may mark the “No” selection box, which is not the intent. Also, deleted the “NA” selection boxes since, as amended, there is no scenario in which “NA” would be an acceptable answer to these questions.
7. **Section 10, “Testing and Maintenance”** – As recommended by commenters, reduced the number of spaces for “Other Test/Maintenance” information from six to three, for better use of space after considering the tests/maintenance likely to occur at a typical UST facility.

SUMMARY AND RESPONSE TO COMMENTS RECEIVED DURING THE 45-DAY COMMENT PERIOD FROM NOVEMBER 01, 2019 TO DECEMBER 17, 2019

List of Comment Letters (Alphabetical Order) Public Comments Regarding Federal Reconciliation Regulations Comment Letters (#)		
California Council for Environmental and Economic Balance	Bill Quinn	Commenter #1
County of Nevada	Claire Chapple	Commenter #2
County of Sacramento	Megan Vaughan	Commenter #3
ECO-CHECK Compliance, Inc.	Nik Zagorov	Commenter #4
FASTECH, Inc.	Glen Ragle	Commenter #5
General Public	June Milner	Commenter #6
Metropolitan Water District of Southern California	Daniel Guillory	Commenter #7
Santa Barbara County CUPA	Nicholas Coria	Commenter #8
Santa Clara County CUPA	Greg Breshears	Commenter #9
Service Station Systems, Inc.	Debbie Watts, Maria Guanelli	Commenter #10
Southern California Technical Advisory Group	Alicia Morales	Commenter #11
Tait Environmental	Brian Harmon	Commenter #12

GENERAL COMMENTS

Comment Summary 1: Commenter is concerned the forms found in regulation have become excessive, difficult for all stakeholders to properly use, and has requested the forms become more efficient for all users. (Commenter #2)

Response: The State Water Board has revised the forms. The forms have been made more concise, required information found in multiple sections has been moved to a single section, and common header page and section formats have been duplicated between all forms for consistency.

Comment Summary 2: Commenter would like to know if any webinars will be available to the public for these regulation changes. (Commenter #5)

Response: The State Water Board has not determined the extent of public outreach and training necessary for these proposed regulations. At a minimum, written explanations of these proposed regulations will be provided.

Comment Summary 3: Commenter requests the forms be provided to the public in advance of the effective date of the regulations, allowing UST owners and operators and service technicians the opportunity to prepare site specific documentation. (Commenter #5)

Response: The State Water Board will post the final regulations, including the forms, and will notify all stakeholder of the effective date of the regulations once approval is obtained from the Office of Administrative Law.

Comment Summary 4: Commenter requests the forms not be password protected, allowing owners, operators and service technician the capability of adding documents as required by larger facilities. (Commenter #5)

Response: The posted copies State Water Board forms will be password protected since it is not permissible for users to alter the documents. The fillable sections of the forms, however, have been constructed to provide the maximum flexibility in providing information, including the use of additional pages.

Comment Summary 5: Commenter notes he expends extra resources updating the site-specific information to the form and considers the time invested to be a considerable cost. (Commenter #5)

Response: Commenter has the option of making site specific forms for each of their facilities, however, this is not a requirement.

Comment Summary 6: Commenter recommends making facility information consistent on all forms to include changing “Business Name (Same as Facility Name or DBA – Doing Business As.)” to “Facility Name” and “Business Site Address” to “Site Address.” (Commenter #9)

Response: The State Water Board has modified the “Facility Information” section for consistency throughout the forms. Specifically, the State Water Board has replaced “Business Name (Same as Facility Name or DBA Doing Business As)” with “Facility Name,” and “Business Site Address” with Facility Address,” because not all regulated facilities are businesses. These amendments make the facility information concise and consistent throughout the forms.

Comment Summary 7: Commenter recommends consolidating the multiple comments sections on each form to a single comment section and removing the ruler lines. (Commenter #9)

Response: The State Water Board has amended the forms as suggested by the commenter to make the forms more concise and easier to use.

Comment Summary 8: Commenter recommends changing “Y” to “Yes” and “N” to “No” throughout the forms. (Commenter #9)

Response: The State Water Board has amended the forms as suggested by the commenter for clarification purposes.

Comment Summary 9: Commenter would like to have seen changes to the “Facility Employee Training Certificate” (Appendix XII included in this regulatory package. (Commenter #10)

Response: The State Water Board has not proposed modifications to the certificate because it meets strict federal requirements.

Comment Summary 10: Commenter recommends providing definitions of terms in the footers only one time on each form. (Commenter #9)

Response: The State Water Board has amended the forms as suggested by the commenter to make the forms more concise and easier to use. All definitions of terms used on each form will be found on the page 1 footer.

Comment Summary 11: Commenter is concerned the requirement for the “Designated UST Operator Inspection Form” to be signed by the UST owner or operator is restrictive and the owner’s representative should be authorized to sign the form. (Commenter #2)

Response: This comment is outside of the scope of these regulations. The Form already can be signed by the owner’s representative if certain requirements are met.

LOCAL AGENCY REPORTING REQUIREMENT (SECTION 2713)

Comment Summary 12: Commenter recommended changes to the subdivision (d) for clarity. (Commenter #9)

Response: The State Water Board disagrees with the commenter’s suggestion to use either the “Always” or “Applicable” drop down selections available on the California Environmental Reporting System (CERS) Facility Search page. The State Water Board has however modified subdivision (d) for clarity and to match the CERS drop down selection. The U.S. EPA requires the State Water Board to annually provide a complete list of all underground storage tank facilities within the state as part of compliance with the Energy Policy Act of 2005. To achieve this, local agencies must use the “Applicable + Always” drop down selection in CERS, as this is the only selection option that includes all UST systems within a jurisdiction. Using the “Applicable” drop down selection as suggested by the commenter would provide an incomplete list of USTs available. There is no “Always” drop down selection in CERS.

DESIGNATED UST OPERATOR VISUAL INSPECTION (SECTION 2716)

Comment Summary 13: Commenters are concerned about the 48-hour turnaround time the owner or operator has to sign the “Designated UST Operator Inspection Report.” Commenters propose a five-day window for inspection report that have no issues, rather than 48 hours. (Commenters #1 and #7)

Response: The State Water Board has amended the UST owner or operator signature timeframe to extend it from 48 hours to 72 hours. The State Water Board feels that the amended timeframe strikes the appropriate balance between the practical concerns raised by the commenters and the importance of timely acknowledgement by the UST owner or operator of the results of the designated UST operator visual inspection and the need to address any compliance issues or other concerns promptly. The amended timeframe allows facilities without weekend staffing to appropriately and timely address any compliance issues or other concerns during work hours.

Comment Summary 14: Commenters are concerned the 30-day requirement for the designated UST operator inspection is too restrictive and have requested the State Water Board consider changing the requirement by adding a grace period or returning to a “monthly” inspection. (Commenters #2, #6, and #12)

Response: This comment is outside of the scope of these regulations and will not be considered. Part 280 of 40 Code of Federal Regulations require a facility inspection to be performed at least once every 30 days. The United States Environmental Protection Agency (U.S. EPA) has determined that these inspections are needed at least once every 30 days for release detection to ensure the equipment is operating, check release detection records, and to determine whether the tank or piping is leaking.

Comment Summary 15: Commenter would like to know if overflow alarms are required to have a follow up action. (Commenter #10)

Response: The State Water Board has amended section 8, “Release Detection Alarm History,” of the “Designated UST Operator Visual Inspection Report” to specify that release detection alarms need to be addressed during the designated operator visual inspection. Overflow alarms are not release detection alarms and do not need to be addressed during the visual inspection.

Comment Summary 16: Commenter recommends removing “copy of the” from the requirement to provide “the copy of the Designated UST Operator Visual Inspection Report,” in subdivision (e)(1). (Commenter #12)

Response: The State Water Board disagrees. As written, subdivision (e)(1) that the UST owner or operator sign a copy of the Report is consistent with the requirement in subdivision (d) that the designated UST operator provide a copy of the Report to the UST owner or operator. It is not necessary for the designated UST operator to provide the UST owner or operator with the original Report.

Comment Summary 17: Commenter recommends changing the language in subdivision (e)(2) from “Sign and date the report, acknowledging the results of the inspection” to “All reports must be acknowledged and signed.” (Commenter #12)

Response: The State Water Board disagrees. As drafted, the language properly sets forth the requirements for UST owners or operators. Dating the acknowledgment is critical in ensuring that the document has been properly endorsed.

MONITORING SYSTEM CERTIFICATION FORM (APPENDIX VI)

Comment Summary 18: Commenters are concerned that the “Monitoring System Certification Form” is unclear regarding how to fill out the Form for line leak detectors on emergency generator systems. Commenters request further clarification from the State Water Board as part of the Form. (Commenters #1 and #7)

Response: The State Water Board disagrees with the commenters. The State Water Board Forms are clear and consistent in that the “NA” selection box should be checked for any component being certified that is not required to perform the function requested in the line item. In order to keep the Form concise and increase ease of use for all parties who use the Form, the State Water Board will not add language specific to emergency generator systems, or any other unique system, to the Form.

Comment Summary 19: Commenters note “detector” is misspelled in section XII, “Line Leak Detector Testing.” (Commenters #3 and #9)

Response: The State Water Board has made this correction.

Comment Summary 20: Commenter recommends that “Type of Action” and associated selection boxes be added to the header section for consistency between forms. (Commenter #9)

Response: The State Water Board has made the recommended changes to improve consistency across the forms and to assist local regulators by identifying the reason for the submission of the Form.

Comment Summary 21: Commenter recommends changing “Date of Monitoring System Certification” to “Date of Test” in section I, “Facility Information.” (Commenter #9)

Response: The State Water Board has modified the language in section 1, “Facility Information” to “Certification Date” to be more concise. The recommended language of “Date of Test” would not be appropriate because this is a certification, not a test.

Comment Summary 22: Commenter recommends removing “Building #” in section I, “Facility Information” for consistency. (Commenter #9)

Response: The State Water Board has made this suggested change to section 1, “Facility Information” for consistency with the other forms and to eliminate an unnecessary item that would only apply to a very small number of facilities.

Comment Summary 23: Commenter recommends removing the “NA” selection for section III, “Results of Testing/Service,” since “NA” is never an acceptable answer to these questions. (Commenter #9)

Response: The State Water Board has removed the “NA” selection boxes since “NA” is not an acceptable answer to any of these questions. Please note that the referenced language has been moved from section III, “Results of Testing/Service,” which has been deleted, to section 4, “Monitoring System and Programming.”

Comment Summary 24: Commenter recommends changing section V, “Certification by Service Technician Conducting This Testing” to “Certification by Service Technician Conducting Testing.” (Commenter #9)

Response: The State Water Board has made the recommended change for conciseness to section 4, “Certification by Service Technician Conducting Test.”

Comment Summary 25: Commenter recommends combining sensors certifications in one location. (Commenter #9)

Response: The State Water Board has made the recommended change for conciseness and to improve ease of use. All sensor certifications now can be found in the section 6, “Sensor Testing Results.”

Comment Summary 26: Commenter recommends removing the “NA” selection box from leak simulation testing line item of section XII, “Line Leak Detector Testing.” (Commenter #9)

Response: The State Water Board has made the recommended change since “NA” would never be an acceptable answer to section 7, “Line Leak Detector Testing.”

Comment Summary 27: Commenter disagrees with removing communication testing from section XIV, “Vacuum / Pressure / Hydrostatic Monitoring Equipment Testing” on the “Monitoring System Certification Form” and recommends providing waivers or extensions for those systems that meet the communication testing requirement. (Commenter #3)

Response: The State Water Board has determined that it is not appropriate to require communication testing as part of the monitoring system certification because communication testing is impossible or infeasible for many UST systems.

Comment Summary 28: Commenter disagrees with removing communication testing from section XIV, “Vacuum / Pressure / Hydrostatic Monitoring Equipment Testing” on the “Monitoring System Certification Form.” Commenter asserts that communication testing is required by the regulatory requirement to keep monitoring system in proper operating condition. Commenter also states that local agencies should work with those

facilities with UST systems that were not constructed with communication in mind to make the system modification required for the testing. (Commenter #8)

Response: As discussed in the response to Comment Summary #27, the State Water Board has determined that it is not appropriate to require communication testing as part of the monitoring system certification. Communication testing does not confirm proper operation conditions of the monitoring equipment, nor is it required by any manufacturer of monitoring equipment for proper operation. Communication testing confirms the construction of the system.

Comment Summary 29: Commenter believes it is not necessary for buried pipe to be depicted on the section XVI, "Monitoring Site Plan." (Commenter #3)

Response: The State Water Board has removed the requirement to depict buried pipe on section 10, "Monitoring Site Plan" since the service technician performing the monitoring certification likely would have to guess at the location. Piping layouts should be provided on as-built drawings to the local agency as part of the permit to operate.

Comment Summary 30: Commenter questions whether communication testing will return to the "Monitoring System Certification Form" in a later iteration of regulations. (Commenter #5)

Response: If the State Water Board were to determine it is appropriate to require verification communication through testing, performance standards would first need to be established and methods would need to be available for all UST construction types.

Comment Summary 31: Commenter requests that a component be created for the local agency inspector name. (Commenter #10)

Response: The local agency inspector is not required to attend the monitoring certification and the identity of the inspector, if one does attend, is not relevant to whether the monitoring system is in proper operation. Therefore, the State Water Board has not included this information on the "Monitoring System Certification Form."

Comment Summary 32: Commenter suggests the space in section XIV, "Vacuum / Pressure / Hydrostatic Monitoring Equipment Testing," where communication testing previously was located be put to use. (Commenter #10)

Response: The components formerly in section XIV, "Vacuum / Pressure / Hydrostatic Monitoring Equipment Testing," have been moved to section 6, "Sensor Testing Results." Consistent with commenter's recommendation, section 6, "Sensor Testing Results" has been expanded to take advantage of the space where communication testing previously was located.

Comment Summary 33: Commenter believes the Form has an excessive number of pages. (Commenter #10)

Response: The State Water Board has condensed the “Monitoring System Certification Form.” As a result, the number of pages of the revised Form now is the same as in existing regulation.

Comment Summary 34: Commenter preferred having a certification summary on the first page. (Commenter #10)

Response: The State Water Board has removed section VI, “Inventory of Equipment Certified” from the “Monitoring System Certification Form” for conciseness. The summary that was in this section is unnecessary because this information is located elsewhere in the Form.

Comment Summary 35: Commenter recommends modifying the language “Does the flow of fuel stop at the dispenser if a release is detected in the under-dispenser containment?” in section VIII, “Monitoring System and Programming” since it could cause confusion. Commenter recommends changing the language to specify that this is a situation when the UDC monitoring shuts down individual dispensers regardless of turbine shutdown. (Commenter #11)

Response: The State Water Board disagrees. This line item is consistent with California Code of Regulations, title 23, division 3, chapter 16, (UST Regulations) section 2636(f)(4)(A) and is a specific condition required for excluding piping systems from the otherwise required line tightness test. Pursuant to section 2636(f)(4)(A), shutting off the pump or stopping the flow at the dispenser are both options to meet this exclusion.

Comment Summary 36: Commenter recommends including instructions in section III, “Results of the Testing/Service” of the “Monitoring System Certification Form” to explain that the attached alarm history reporting must include the most current system set up and alarm history reports. (Commenter #11)

Response: The State Water Board has incorporated those components of the former section III into section 5, “Monitoring System and Programming” and added language that requires the “post-certification reports” to be attached for clarification purposes.

Comment Summary 37: Commenter states a change in the language in section VIII, “Monitoring System and Programming” or section X, “In-Tank Gauging” to meet the requirement of 40 CFR, part 280, section 280.40(a)(3)(ii) that both probes and sensors must be inspected for damage, and the “Monitoring System and Certification Form” must be modified because it allows some probes to not be modified. (Commenter #12)

Response: The State Water Board disagrees. The requirements for 40 CFR, part 280, section 280.40(a)(3)(ii) are specific to “release detection” sensors and probes. Probes used exclusively for tank inventory or overfill prevention are not release detection, and

therefore, are not subject to this requirement and would not need the additional language as commenter suggests.

Comment Summary 38: Commenter recommends revising section VI, “Inventory of Equipment Certified” to capture all types of piping. (Commenter #12)

Response: The State Water Board has replaced the overly specific section VI with a generic sensor section in section 6, “Sensor Testing Results” that can be used for any sensor type or location throughout the UST system.

Comment Summary 39: Commenter recommends removing the instruction language for section IV, “Comments.” (Commenter #12)

Response: The State Water Board has combined all comment sections into section 9, “Comments” for conciseness and simplified the instructions for the comments section to describe all instances where comments are required.

Comment Summary 40: Commenter recommends adding two questions specific to VPH sensors to section III, “Results of Testing and Servicing” to assist service technicians. (Commenter #12)

Response: Section III, “Results of Testing and Servicing” has been removed. New section 6, “Sensor Testing Results” can be used for any sensor type, including VPH sensors, or any location throughout the UST system with selection boxes for “Pass,” “Fail,” and “NA.” Therefore, it is not necessary to add the two questions specific to VPH sensors as commenter requests.

Comment Summary 41: Commenter recommends changing the title of “Section VI, “Inventory of Equipment Certified” to “VPH Sensor” for efficiency. (Commenter #12)

Response: The State Water Board has replaced the overly specific section VI with a generic sensor section in section 6, “Sensor Testing Results” that can be used for any sensor type or location throughout the UST system.

SECONDARY CONTAINMENT TESTING REPORT FORM (APPENDIX VII)

Comment Summary 42: Commenters disagree with removing communication testing from the “Secondary Containment Testing Report Form” and recommend providing waivers or extensions for those systems that cannot meet the communication testing requirement. (Commenters #3 and #8)

Response: The State Water Board has determined that it is not appropriate to require communication testing as part of secondary containment testing because communication testing is impossible or infeasible for many UST systems.

Comment Summary 43: Commenter disagrees with removing communication testing from the “Secondary Containment Testing Report Form,” and asserts that although there are systems that were not constructed with communication in mind, local agencies should work with these facilities to make the system repairs required for communication testing. (Commenter #8)

Response: As discussed in the response to Comment Summary #42, the State Water Board has determined that it is not appropriate to require communication testing as part of the secondary containment testing because communication testing is impossible or infeasible for many UST systems.

Comment Summary 44: Commenter asked where additional tank top sump test information should be included in the “Secondary Containment Testing Report Form.” (Commenter #4)

Response: The State Water Board has moved the sump/UDC test components from the overly specific section III, “Summary of Secondary Containment Testing Results” to a generic sump/UDC test section in section 6, “Sump/UDC Test” that can be used for any type of sump/UDC test.

Comment Summary 45: Commenter questions whether communication testing will return to the “Secondary Containment Testing Report Form” in a later iteration of regulations. (Commenter #5)

Response: The State Water Board does not have any plans to reinstate communication testing at a later date. The State Water Board may, however, determine that communication testing should be required at a later date if it becomes feasible for all construction types and a protocol or performance standard for communication testing is established.

Comment Summary 46: Commenter requests that the line item “The procedures shall be made available upon request from the local agency” in section V, “Tank Containment Testing Information” be changed to “The Test procedures shall be made available to the local agency.” (Commenter #9)

Response: The State Water Board has moved this line item to section 5, “Certification by Service Technician Conducting Test” and modified it to require the service technician to certify that the service technician understands that test procedures shall be made available upon request by the governing authority. The State Water Board has determined that these procedures only should be supplied upon request by the governing authority. There currently exist a very limited number of secondary containment test procedures, and the common procedures do not need to be supplied to the governing authority with every event. There are, however, some unique site-specific secondary containment tests that the governing authority would likely request to confirm that appropriate test methods were performed.

Comment Summary 47: Commenter recommends the information in the section II, “Service Technician Information” be made consistent with other forms. (Commenter #9)

Response: The State Water Board has changed section 2, “Service Technician Information” to be consistent with all other forms.

Comment Summary 48: Commenter recommends changing “N/A” to “NA” throughout the Form for consistency with other forms. (Commenter #9)

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

Comment Summary 49: Commenter recommends changing title of section III, “Summary of Secondary Containment Testing Results” to “Summary of Testing Results.” (Commenter #9)

Response: The State Water Board has removed the test summary and replaced it with “Pass” and “Fail” selection boxes for each component tested.

Comment Summary 50: Commenters recommend combining several components of section III, “Summary of Secondary Containment Testing Results” for consistency and efficiency. (Commenters #9)

Response: The State Water Board does not find the results section particularly useful or relevant, and therefore, the “Secondary Containment Testing Report Form” has been completely reconstructed to add testing data and information. As amended, the data sections are generic tank, pipe, and sump sections allowing the service technician to customize the report based on the UST facility conditions.

Comment Summary 51: Commenter requested a component be added for the local agency inspector name. (Commenter #10)

Response: The local agency inspector is not required to attend secondary containment testing events, and the identity of the inspector, if one does attend, is not relevant to whether the secondary containment is in proper operation. Therefore, the State Water Board has not included on the “Secondary Containment Testing Report Form.”

Comment Summary 52: Commenters believe the Form has an excessive number of pages. (Commenters #10 and #12) In addition, a commenter recommends the Form be condensed by combining the various section components into one section, and combining the multiple technician training and certification components into one technician training and certification section. (Commenter #12)

Response: The State Water Board has condensed the “Secondary Containment Testing Report Form” by combining multiple “Training” and “Certification” components and consolidated this information into section 3, “Training and Certification.” The State Water Board also has deleted multiple “Test Method Used” components and

consolidated this information into section 5, "Test Procedure Information." Additionally, although the Form originally was created in fonts as small as 8-point and now the entire Form is in 12-point font to meet legally required accessibility standards, the number of pages has been reduced from six to five.

Comment Summary 53: Commenter preferred having section III, "Summary of Secondary Containment Testing Results" on the first page. (Commenter #10)

Response: The State Water Board has removed the summary page from the "Secondary Containment Testing Report Form." In keeping with the condensing of the forms, the summary page was redundant to information now found in the Form.

Comment Summary 54: Commenter recommends modifying the title of the "Vapor Recovery Pipe" component in section III, "Summary of Secondary Containment Testing Results" to include diesel return piping. (Commenter #12)

Response: The State Water Board has moved the pipe test components from the overly specific section III to a generic pipe test section, section 7, "Pipe Secondary Containment Test," that can be used for any type of pipe throughout the UST system, including vapor recovery piping.

SPILL CONTAINER TESTING FORM (APPENDIX VIII)

Comment Summary 55: Commenter recommends modifying the Form line item in section III, "Spill Container Testing Information," "Method to keep spill container empty" to "Method to keep spill container empty of fuel." (Commenter #3)

Response: The State Water Board will not adopt this recommendation. The requested modification does not satisfy the regulatory requirement to remove all liquid, not just fuel, from the spill container to maintain the five-gallon capacity.

Comment Summary 56: Commenter noted inconsistent capitalization use on the Form. (Commenter #3)

Response: The State Water Board has amended the capitalization throughout the Form to make it consistent.

Comment Summary 57: Commenter requests clarification on the spill container test. Specifically, commenter asks about the spill container construction requirement of five-gallon capacity. (Commenter #5)

Response: A spill container that does not meet the construction standard minimum of five gallons could pass the tightness test, which is the requirement for a "Pass," but would still require replacement. To assist in identifying and replacing spill containers that do not meet the construction requirement, a selection box has been included on the

“Spill Container Testing Form” for noting if the spill containers must be replaced because it does not have the minimum capacity of five-gallons.

Comment Summary 58: Commenter requests clarification on the reason the spill container volume should not include the riser assembly, and if this was associated with a specific brand of spill containers. (Commenter #5)

Response: The spill containers must be capable of holding five gallons. This is required for all models of spill containers.

Comment Summary 59: Commenter recommends the components in section II, “Service Technician Information” be consistent with the other forms. (Commenter #9)

Response: The State Water Board has amended this section on each of the forms for consistency.

Comment Summary 60: Commenters recommend changing “Date of Secondary Containment Test” in section I, “Facility Information” to either “Date of Test” or “Spill Container Test Date.” (Commenters #9 and #10)

Response: The State Water Board has modified the language in section 1, “Facility Information” to “Test Date,” which is more concise than the recommended language.

Comment Summary 61: Commenter requests the line item “the procedures shall be made available upon request from the local agency” in section III, “Spill Container Testing Information” be changed to “The Test procedures shall be made available to the local agency.” (Commenter #9)

Response: The State Water Board has moved this line item to section 5, “Certification by Service Technician Conducting Test” and modified it to require the service technician to certify that the service technician understands that test procedures shall be made available upon request by the governing authority. The State Water Board has determined that these procedures only should be supplied upon request by the governing authority. There currently exist a very limited number of spill container test procedures, and the common procedures do not need to be supplied to the governing authority with every event. There may be, however, some unique site-specific spill container tests that the governing authority would request to confirm that appropriate test method was performed.

Comment Summary 62: Commenter recommends changing section VI, “Certification by Service Technician Conducting This Testing” to “Certification by Service Technician Conducting Testing.” (Commenter #9)

Response: The State Water Board has made the recommended change to section 5 for conciseness.

Comment Summary 63: Commenter requested a component be created for the local agency inspector name. (Commenter #10)

Response: The local agency inspector is not required to attend secondary containment testing, and the identity of the inspector, if one does attend, is not relevant to whether the spill containment is in proper operation. Therefore, the State Water Board has not included on the “Spill Container Testing Report Form.”

Comment Summary 64: Commenter believes the Form has an excessive number of pages. (Commenter #10)

Response: The State Water Board has condensed the “Spill Container Testing Report Form.” As amended, the number of pages has increased from one to two pages. The increase in pages was caused by the change from font sizes as small as 8-point to 12-point font to meet legally required accessibility standards.

Comment Summary 65: Commenter preferred having a certification summary on the first page. (Commenter #10)

Response: The previous version of the “Spill Container Testing Report Form” did not have a summary, only “Pass” and “Fail” selection boxes associated with the tested spill container. This has not changed on the new Form, however, because of the change in the size of the font on the Form, the information is now found on page 2.

OVERFILL PREVENTION INSPECTION REPORT FORM (APPENDIX IX)

Comment Summary 66: Commenter asked why “the tech must verify if flow restrictors installed on vent lines interfere with overfill prevention equipment” as part of the “Overfill Prevention Inspection Report Form.” (Commenter #5)

Response: The State Water Board has clarified the requirement to inspect the vent flow restrictors on the Form. As previously proposed, the line item incorrectly implied that all vent flow restrictors must be inspected as part of the overfill prevention inspection. There are, however, some methods of overfill prevention where a vent flow restrictor does not interfere with the proper operation of the other methods of overfill prevention equipment installed on the UST, and therefore, would not require an inspection of the vent flow restrictor. The language was modified to clarify that the vent flow restrictor must be inspected as part of the overfill prevention inspection only if it potentially could interfere with other installed overfill prevention methods.

Comment Summary 67: Commenter asked if components for vapor lines will be added to the “Overfill Prevention Inspection Report Form” at some point in the future. (Commenter #5)

Response: The State Water Board has no plans to add vapor lines to the Form. Please see the State Water Board’s *Local Guidance 150*, “Underground Storage Tank

Overfill Prevention Systems” for information on the role of vapor lines in respect to overfill prevention.

Comment Summary 68: Commenter asked if facilities with multiple methods of overfill protection equipment must include all methods in CERS. (Commenter #5)

Response: The State Water Board has determined that no change to the Form is necessary in response to this comment. UST owners and operators are required to identify in CERS the method of overfill prevention being utilized on each UST. In accordance with UST Regulations, section 2635(c)(1), only one overfill prevention method is required to be installed on any UST system. Therefore, UST owner and operators only are required to list one complete and legal method of overfill prevention in CERS. The method the UST owner or operator selects to use as overfill prevention as listed in CERS, must be inspected at least once every 36 months.

Comment Summary 69: Commenter recommends the components in section II, “Service Technician Information” be consistent with the other forms. (Commenter #9)

Response: The State Water Board has amended the “Service Technician Information” section on each of the forms for consistency.

Comment Summary 70: Commenter request the line item “the procedures shall be made available upon request from the local agency” in section III, “Overfill Prevention Equipment Inspection Information” be changed to “The Inspection procedures shall be made available to the local agency.” (Commenter #9)

Response: The State Water Board has moved this line item to section 5, “Certification by Service Technician Conducting Inspection” and modified it to require the service technician to certify that the service technician understands that inspection procedures shall be made available upon request by the governing authority. The State Water Board has determined that these procedures only should be supplied upon request by the governing authority. There currently exist a very limited number of overfill equipment inspection procedures, and the common procedures do not need to be supplied to the governing authority with every event. There are, however, some unique site-specific overfill equipment inspections that the governing authority would likely request to confirm that appropriate inspection methods were performed.

Comment Summary 71: Commenter recommends changing the line item “Overfill Prevention Equipment Manufacturer(s)” in section III, “Overfill Prevention Equipment Inspection Information” to “Overfill Prevention Equipment Model #.” (Commenter #9)

Response: The State Water Board has made the recommended change as now found in section 5, “Overfill Prevention Equipment Details.” The Form now requires the model information because the inspection methods are based on the relevant model type, not simply the identity of the manufacturer.

Comment Summary 72: Commenter recommends separating the “A/V Alarm” selection box for the question “What is the overflow prevention equipment response when activated?” into separate selection boxes for “Audible Alarm” and “Visual Alarm.” (Commenter #9)

Response: The State Water Board has made the recommended change since both alarms may be used independently as overflow methods.

Comment Summary 73: Commenter recommends changing the title of section IV, “Summary of Testing Results” to “Summary of Inspection Results.” (Commenter #9)

Response: The State Water Board has made the recommended change to the title of this section, which is now section 7, “Summary of Inspection Results,” because this is an inspection, not a test.

Comment Summary 74: Commenter recommends changing the title of section VI “Certification by Service Technician Conducting This Inspection” to “Certification by Service Technician Conducting Inspection.” (Commenter #9)

Response: The State Water Board has made the recommended change to the title of this section, which is now section 5, for conciseness.

Comment Summary 75: Commenter requested a component be created for the local agency inspector name. (Commenter #10)

Response: The local agency inspector is not required to attend overflow prevention inspection events, and the identity of the inspector, if one does attend, is not relevant to whether the overflow prevention equipment is in proper operation. Therefore, the State Water Board has not included on the “Overflow Prevention Equipment Inspection Report.”

Comment Summary 76: Commenter believes the Form has an excessive number of pages. (Commenter #10)

Response: The State Water Board has condensed the “Overflow Prevention Equipment Inspection Report.” As amended, the number of pages has increased from one to two pages. The increase in pages was caused by the change from font sizes as small as 8-point to 12-point font to meet legally required accessibility standards.

Comment Summary 77: Commenter preferred having a certification summary on the first page. (Commenter #10)

Response: The previous version of the “Overflow Prevention Equipment Inspection Report Form” did not have a summary, only “Pass” and “Fail” selection boxes associated with the inspected overflow equipment. This has not changed on the new Form, however, because of the change in the size of the font on the Form, the information now is found on page 2.

Comment Summary 78: Commenter recommends changing the “Underground Storage Tank Overfill Prevention Equipment Inspection Report” (Appendix IX) to allow only one overfill mechanism per column. (Commenter #11)

Response: The State Water Board has added an instruction to this section, now section 6, “Overfill Prevention Equipment Details,” to have only one OPE per column.

DESIGNATED UST OPERATOR IDENTIFICATION FORM (APPENDIX XI)

Comment Summary 79: Commenter recommends restoring the “Change of Owner/Operator” selection box. (Commenter #9)

Response: The State Water Board disagrees since a change in a UST owner or operator is not necessarily a reason for changing the designated UST operator.

Comment Summary 80: Commenter notes the “Change of Owner/Operator” selection box has been removed but the page instructions still include the information. (Commenter #6)

Response: The State Water Board has removed the instructions referencing the “Change of Owner/Operator” to make the instructions consistent with the Form.

Comment Summary 81: Commenter recommends correcting the title in the header on page 2. (Commenter #12)

Response: The State Water Board has deleted page 2 and the associated header.

DESIGNATED UST OPERATOR VISUAL INSPECTION REPORT (APPENDIX XIII)

Comment Summary 82: Commenter suggests adding the date the designated UST operator provided the “Designated UST Operator Visual Inspection Report” Form to the UST owner to confirm time requirements are met. (Commenter #3)

Response: The State Water Board has added the date the designated UST operator provided the “Designated UST Operator Visual Inspection Report” Form to the UST owner, which is found in section 4, “Certification by Designated UST Operator Conducting Inspection,” to confirm time requirements are met.

Comment Summary 83: Commenter asks how to document a follow up action in section VII, “Inspection History” if the action was performed by the UST owner or operator. (Commenter #4)

Response: The State Water Board has determined that no change to the Form is necessary in response to this comment. While some actions can only be performed by a UST Service Technician, there are actions that may be performed by those properly

trained by the designated UST operator (See response to Comment 84). Pursuant to UST Regulations, section 2716(c)(1), the designated UST operator must attach “a copy of documentation demonstrating action taken in response to each compliance issue identified by the designated operator during the previous visual inspection...” to the Form. The UST Regulations do not prescribe the type of documentation to use. The attached documentation must document what action was performed and who performed the action.

Comment Summary 84: Commenter asks which tasks can be performed by the UST owner or operator or facility employee and which must be performed by a service technician. In particular, commenter asks whether UST owners and operators can perform liquid removal themselves. (Commenters #4)

Response: The State Water Board has determined that no change to the Form is necessary in response to this comment. UST Regulations, section 2715(c) requires the designated UST operator to train facility employees on the proper operation and maintenance of the UST system. Individuals trained by the designated UST operator to perform maintenance tasks, such as removing water from a spill container and properly documenting the event, are allowed to do so.

Comment Summary 85: Commenters recommend an “NA” selection box be added to section VII, “Inspection History” for use when there are no follow up actions required from the previous 30-day inspection. (Commenters #4, #9, #10, #11, and #12)

Response: The State Water Board has made the recommended change as suggested by the commenters to section 7, “Inspection History” for completeness and ease of use.

Comment Summary 86: Commenters recommend restoring the “NA” selection boxes to section VIII, “Release Detection Alarm History” for use when there are no release detection alarms and when there are no follow up actions required since the last 30-day inspection was performed. (Commenters #4, #9, #10, and #12)

Response: The State Water Board has made the recommended change to section 8, “Release Detection Alarm History” as suggested by the commenters for completeness and ease of use.

Comment Summary 87: Commenter requests clarification on which alarms need to be noted in section VIII, “Release Detection Alarm History” of the “Designated UST Operator Visual Inspection Report.” Commenter also asks if smart sensor alarms (S-Alarms) are release detection alarms. (Commenter #4)

Response: The State Water Board has amended the title of section 8 from the title in existing regulations “Alarm History” to “Release Detection Alarm History” to clarify that only release detection alarms must be noted. “Release detection method or system” is defined in UST Regulations, section 2611. Understanding the construction and operation of the system is critical in determining if an alarm is from the release

detection. Smart sensors monitoring any primary containment are release detection as defined in section 2611 and any alarm from these sensors must be addressed in section 8 of the Form.

Comment Summary 88: Commenter requests clarification on whether a properly responded to alarm requires a notation in section III, “Compliance Issues.” (Commenter #4)

Response: An alarm that has been properly responded to and documented by a service technician is not a compliance issue and does not require inclusion in section 3, “Compliance Issues” or any further follow up by the UST owner or operator.

Comment Summary 89: Commenters proposes adding a separate comments section on the Designated UST Operator Visual Inspection Report Form. (Commenters #4, #9, and #12) In addition, a commenter requests that space for additional notes be added to section III, “Compliance Issues.” (Commenter # 10)

Response: The State Water Board has amended the form to provide a separate section for all comments in section 13, “Comments.” For conciseness and ease of use, the State Water Board is not providing multiple comments sections.

Comment Summary 90: Commenter requests adding an “NA” selection box to section IX, “Underground Storage Tank System Inspection” for when mechanical float mechanisms are being used rather than sensors. (Commenter #10)

Response: The State Water Board has added a selection box to the “UDC ID” component of section 9, “UST System Inspection” to identify if mechanical float mechanisms are present at the facility in order to best address the situation raised by the commenter.

Comment Summary 91: Commenter requests the addition of “Tank ID” to the “Spill Container,” “Fill Pipes,” and “Fill Caps” components of section IX, “Underground Storage Tank System Inspection.” (Commenter #9)

Response: The State Water Board has combined the “Spill Container,” “Fill Pipes,” and “Fill Caps” components under “Spill Containment ID” as part of section 9, “UST System Inspection,” since all three of these items are inspected as a unit. The tank identification can be included as part of the spill containment identification provided by the designated UST operator; therefore, it is not necessary to provide a separate tank identification component.

Comment Summary 92: Commenter requests restoring the “NA” selection boxes for the “Under Dispenser Containment ID” component of section IX, “Underground Storage Tank System Inspection” and deleting the selection box for “No Under-Dispenser Containment at this facility.” (Commenter #9)

Response: The State Water Board has retained the “No Under-Dispenser Containment at the facility” selection box and has not restored the “NA” selection boxes for the “Under Dispenser Containment ID” component of section 9, “UST System Inspection.” Many facilities do not have UDCs, and therefore, there are no UDCs to inspect. The “No Under-Dispenser Containment at the facility” selection box is more concise and clearer than the “N/A” selection boxes for the “Under Dispenser Containment ID” component, which have been removed.

Comment Summary 93: Commenter requests replacing the “NA” selection boxes removed from section X, “Testing and Maintenance,” because the proposed specific alternative selection boxes could be misused or cause confusion. (Commenter #9)

Response: The State Water Board has replaced the “NA” selection boxes to section 10, “Testing and Maintenance” and removed the proposed specific alternative selection boxes for clarification purposes.

Comment Summary 94: Commenters recommend deleting the instructions referencing line numbers in section III, “Compliance Issues,” since the line numbers have been deleted. (Commenters #10 and #12)

Response: The State Water Board has made the recommended change to section 3, “Compliance Issues” to make the instructions consistent with the changes to the Form.

Comment Summary 95: Commenter is concerned the change from “leak detection alarm” to “alarm” in a question in section VIII, “Release Detection Alarm History” will create confusion as to which alarms need to be addressed by the designated operator. Commenter also believes that the change conflicts with UST Regulations, section 2716(b)(2). (Commenter #12)

Response: The State Water Board has removed the undefined term “leak detection” and replaced with “release detection” for consistency throughout the forms and with the UST Regulations. The title of section 8 was changed from “Alarm History” in existing regulations to “Release Detection Alarm History” to clarify that only release detection alarms need to have a response. Additionally, the term “leak detection alarm” was changed to “alarm” in the referenced line item and has been changed in an additional line item in this section because the change in the section title has made the additional language unnecessary. Additionally, the term “leak detection” is undefined in the UST regulations, and therefore, the use of the term may result in confusion. Further, the change does not create any conflict with UST Regulations, section 2716(b)(2).

Comment Summary 96: Commenter recommends adding a comment to section III, “Compliance Issues” to number the issues cited. (Commenter #12)

Response: The State Water Board agrees and has added the instruction “Identify by number all compliance issues listed” to section 3, “Compliance Issues,” assisting the owner or operator in specifying which issue they are responding.

Comment Summary 97: Commenter recommends removing several of the “Containment Sump ID” components of section IX, “Underground Storage Tank System Inspection.” Commenter also recommends increasing the number of “Spill Containment ID” components. (Commenter #12)

Response: The State Water Board has reduced the number of “Containment Sump ID” components from eight to four, and increased the number “Spill Containment ID” components from four to ten in section 9, “UST System Inspection.”

Comment Summary 98: Commenter recommends including additional selection boxes for the line item “Has line tightness testing been completed within the required timeframes?” in section X, “Testing and Maintenance” to address systems that do not require line testing that are not included in the selection boxes provided. (Commenter #12)

Response: The State Water Board has restored the “NA” selection box in section 10, “Testing and Maintenance” to address those systems that do not require line tightness testing and removed the proposed specific alternative selection boxes for clarification and flexibility purposes.

Comment Summary 99: Commenter recommends have fewer “Other required testing / maintenance” in section X, “Testing and Maintenance.” (Commenter #12)

Response: The State Water Board has reduced the number of “Other required testing / maintenance” from six to three “Other Test / Maintenance” in section 10, “Testing and Maintenance.”

Comment Summary 100: Commenter recommends condensing and clarifying the Form. (Commenter #12)

Response: The State Water Board has condensed the “Designated UST Operator Visual Inspection Report.” As amended, the number of pages has increased from two to four pages. The increase in pages was caused by the change from font sizes as small as 8-point to 12-point font to meet legally required accessibility standards.

Comment Summary 101: Commenter recommends adding an “s” to the term “all answer” in section III, “Compliance Issues.” (Commenter #12)

Response: The State Water Board has removed the line item in section 3, “Compliance Issues.”

Comment Summary 102: Commenter recommends leaving the “leak detection” language in the section VIII, “Release Detection Alarm History” to prevent confusion of responding to alarms other than release detection. Commenter also suggests including

additional questions for use when there have been no leak detection alarms since the previous inspection. (Commenter #12)

Response: The State Water Board has removed the term “leak detection” and replaced with “release detection” for consistency with the regulations and throughout the forms. Section 8, “Release Detection Alarm History” title was changed from “Alarm History” to “Release Detection Alarm History” to clarify that only release detection alarms need to have a response. Adding “release detection” to every occurrence of the word “alarm” within the section is unnecessary since the section title is specific to release detection alarms. As requested in a separate comment by the commenter and by additional commenters, the “NA” selection boxes have been restored to for use when there are no release detection alarms and when there are no follow up actions required since the last 30-day inspection was performed. The restoration of the “NA” selection boxes makes it unnecessary to include the additional questions as recommended by the commenter.

Comment Summary 103: Commenter recommends adding an “s” to the term “all issue” in section V, “Owner / Operator Description of Follow-Up Actions,” to delete the comma, and to redirect the owner’s responses by removing portions of the sentence. (Commenter #12)

Response: The State Water Board has removed the entire line item in section 5, “Owner/Operator Description of Follow-Up Actions” and replaced with “Number the follow up actions to correspond to appropriate compliance issues from Section 3” for clarity.

SUMMARY AND RESPONSES TO COMMENTS RECEIVED DURING THE 15-DAY COMMENT PERIOD FROM APRIL 20 TO MAY 6, 2020

List of Comment Letters (Alphabetical Order) Public Comments Regarding Federal Reconciliation Regulations Comment Letters (#)		
BL Griffin Co. Inc.	Steve Busby	Commenter #1
County of San Diego	Cecilia Lewallen	Commenter #2
Fastech, Inc.	Vanessa Ragle	Commenter #3
Los Angeles County Public Works	Donna Germann	Commenter #4
Pacific Bell Telephone Company dba AT&T	Paul Shorb	Commenter #5
Sacramento Environmental Management Dept.	James VanBuren	Commenter #6
The Metropolitan Water District of Southern California	Daniel Guillory	Commenter #7
The Regents of the University of California	Sarah Quiter	Commenter #8
Verdugo Testing Co. Inc.	Charles Camarato	Commenter #9

GENERAL COMMENTS

Comment Summary 1: Commenter has requested access to the forms prior to the effective date so that the commenter can prepare the documents for use on the first day required. (Commenter #3)

Response: The State Water Board will post the final regulations, including the forms, and the effective date once approval is obtained from the Office of Administrative Law.

Comment Summary 2: Commenter noted the word “Contractor” is misspelled in section 2, “Service Technician Information” on the “Monitoring System Certification Form.” (Commenter #1)

Response: The State Water Board has made this correction in the “Service Technician Information” sections on all applicable forms.

Comment Summary 3: The Commenter recommends modifying the forms to include identifiers to unnumbered line items to assist owners and operators in tracking of potential violations in comments sections, now that the comment sections have been separated and are only found in the back of the forms. (Commenters #8)

Response: The State Water Board has not made this change at this time because it has made a concerted effort to make the forms as concise as possible.

DESIGNATED UST OPERATOR VISUAL INSPECTION (SECTION 2716)

Comment Summary 4: Commenter is concerned about the modified 72-hour timeframe during which the UST owner or operator must sign the “Designated UST Operator Inspection Report Form.” Commenter proposes a five-day window rather than 72 hours. (Commenter #7)

Response: The State Water Board previously amended the timeframe during which the UST owner or operator must sign the “Designated UST Operator Visual Inspection Form” from 48 hours to 72 hours. As noted in response to Comment Summary #13 in the SUMMARY AND RESPONSE TO COMMENTS RECEIVED DURING THE 45-DAY COMMENT PERIOD FROM NOVEMBER 1, 2019 TO DECEMBER 17, 2019, the State Water Board believes this is sufficient time to review the Designated UST Operator Visual Inspection Report, particularly for facilities where no violation has been noted, as the Commenter is concerned. The State Water Board believes having two different response times base on the site conditions would be difficult for owners, operator and local agency inspectors to track. The modified time provides relief to those facilities where the operator is not available during weekends.

MONITORING SYSTEM CERTIFICATION FORM (APPENDIX VI)

Comment Summary 5: Commenter recommends a section be added to the “Monitoring System Certification Form” for listing all the USTs at a facility and their contents. (Commenter #2)

Response: The State Water Board disagrees since UST contents are not part of the monitoring system, which is the subject of this Form.

Comment Summary 6: Commenter recommends including a comment provision at the end of each section in lieu of the general comment section. (Commenter #2)

Response: The State Water Board disagrees. The State Water Board replaced the separate comment sections with a consolidated, section 9, "Comments" to condense the Form as recommended in comments received during the 45-day comment period.

Comment Summary 7: Commenter questions if the service technician should sign section 4, "Certification by Service Technician Conducting Test" if the system is not considered fully operation as required by the service technician certification. (Commenter #4)

Response: Commenter is correct that the service technician should not sign the certification if the monitoring unit is not considered fully operational and the monitoring system certification will not be considered complete if the service technician does not sign.

Comment Summary 8: Commenter recommends a summary sheet be added to the "Monitoring System Certification Form." (Commenter #4)

Response: The State Water Board disagrees. The Form always should be reviewed in full and removal of the redundant summary sheet makes the document more concise as recommended in comments received during the 45-day comment period.

Comment Summary 9: Commenter recommends restoring the interstitial communication testing previously located in section XIV, "Vacuum / Pressure / Hydrostatic Monitoring Equipment Testing" as part of the "Monitoring System Certification Form." Commenter suggests that communication testing is required by the UST Regulations since communication testing is equivalent to the secondary containment test for systems installed after July 1, 2004 and that the entire secondary containment system must be tested. (Commenter #6)

Response: The State Water Board disagrees with commenter. Communication testing is not required by the UST Regulations. The monitoring system certification test is not the equivalent of the secondary containment test, nor does the entire secondary containment system require testing as part of the monitoring system certification. As discussed in response to Comment Summary #27 in the SUMMARY AND RESPONSE TO COMMENTS RECEIVED DURING THE 45-DAY COMMENT PERIOD FROM NOVEMBER 1, 2019 TO DECEMBER 17, 2019, it is not appropriate to require communication testing as part of the monitoring system certification because communication testing is impossible or infeasible for many UST systems

SECONDARY CONTAINMENT TESTING REPORT FORM (APPENDIX VI)

Comment Summary 10: Commenter recommends that each underground storage tank component on the “Secondary Containment Testing Report Form” be on its own page and to include a comment section at the end of each component section in lieu of the general comment section found at the end of the document. (Commenter #2)

Response: The State Water Board disagrees. The State Water Board replaced the separate comment sections with a consolidated comment section to condense the Form as recommended in comments received during the 45-day comment period.

Comment Summary 11: Commenter recommends a summary sheet be added to the “Secondary Containment Testing Report Form.” (Commenter #4)

Response: The State Water Board disagrees. The Form always should be reviewed in full and removal of the redundant summary sheet makes the document more concise as recommended in comments received during the 45-day comment period.

SPILL CONTAINER TESTING FORM (APPENDIX VIII)

Comment Summary 12: Commenter is concerned that the wording of the selection box for replacing spill containers that do not have a minimum capacity of five gallons in section 8, “Comments” will cause some spill container systems that likely can be repaired to be replaced. (Commenter #3)

Response: All repairs to a spill container must be performed in accordance to procedures approved by the manufacturer as noted in UST Regulations, section 2660(a). The State Water Board is unaware of any manufacturer repair methods to increase the capacity of a spill container. Therefore, spill containment that does not meet the construction requirements of UST regulation, section 2635(b) at the completion of testing must be replaced unless the service technician is using a manufacturer approved method to increase the minimum capacity of the spill container.

Comment Summary 13: Commenter recommends adding a selection box to the “Spill Container Testing Form” to identify if the spill container is located in a sump. (Commenter #6)

Response: Whether the spill container is located in sump is not relevant to the test procedure or results and to make the document more concise has not been added to the Form.

OVERFILL PREVENTION EQUIPMENT INSPECTION REPORT FORM (APPENDIX IX)

Comment Summary 14: The Commenter requests modifying the “Overfill Prevention Equipment Inspection Report Form” selection boxes in section 6, “Overfill Prevention

Equipment Details” to match the overfill prevention methods as described on the tank construction information sheet found in CERS. (Commenter #6)

Response: The State Water Board disagrees. The language used in section 6, “Overfill Prevention Equipment Details” is consistent with the language found in UST Regulations, section 2635(c).

DESIGNATED UST OPERATOR VISUAL INSPECTION REPORT (APPENDIX XIII)

Comment Summary 15: Commenter notes that in section 10, “Testing and Maintenance,” there is no provision for listing the date that leak detector testing was last performed. (Commenter #1)

Response: One of the line items in section 10, “Testing and Maintenance,” of the “Designated UST Operator Visual Inspection Report” is “Has monitoring system certification been completed within the past 12 months?” Line leak detector testing is required as part of the monitoring system certification. (See section 7, “Line Leak Detector Testing” of the “Monitoring System Certification Form.”) In order to answer yes to the question “Has monitoring system certification been completed within the past 12 months?”, the line leak detector testing must have been conducted as part of the monitoring system certification. Therefore, it is not necessary to include the date that line leak detector testing was last performed.

Comment Summary 16: Commenter recommends adding lines to section 13, “Comments.” (Commenter #2)

Response: The State Water Board removed the lines in all comment sections as recommended by comments received during the 45-day comment period. Additionally, while the lines may assist those using paper versions of the Form, most users use an electronic version of the Form and the lines made it more difficult to use the Form as a fully electronic document.

Comment Summary 17: Commenter recommends moving the signature portion of the “Designated UST Operator Visual Inspection Report” to the end of the Form. (Commenter #2)

Response: The State Water Board disagrees. Consistent with all of the other forms, the signature confirmation is on the front page to make it easy to sign the forms and to verify that the signature requirement has been met.

Comment Summary 18: Commenter recommends adding an alarm summary list to the “Designated UST Operator Visual Inspection Report Form.” (Commenter #4)

Response: The State Water Board has not made this change at this time because it has made a concerted effort to make the forms as concise as possible.

Comment Summary 19: Commenter recommends modifying section 6, “Owner / Operator Acknowledgement of Inspection Results” so that the UST owner or operator would acknowledge and respond to only the items noted by the designated operator in section 3, “Compliance Issues.” (Commenter #5)

Response: The State Water Board disagrees. Section 6, “Owner / Operator Acknowledgement of Inspection Results” and the language included in section 2716 was changed to clarify the original intent of the signature section. The owner or operator is to sign each document to confirm the designated operator has properly performed the visual inspection, and that the owner is aware of the condition of the facility.

Comment Summary 20: Commenter suggests modifying the line item “Have all containment sumps, that have had an alarm since the previous designated UST operator inspection report, been responded to by a qualified service technician?” in section 8, “Release Detection Alarm History” to include a reference to UST Regulations, section 2637(b)(2) to clarify who is a service technician. (Commenter #9)

Response: The State Water Board has determined that it is not necessary to provide a citation on the Form to the UST Regulations to clarify who is a service technician. The State Water Board also notes that UST Regulations, section 2637 relates to secondary containment testing and does not have a subdivision (b)(2). Please see UST Regulations, section 2610 for the definition of a “service technician” and UST Regulations, section 2715(f) for service technician requirements.

LOCAL MANDATE

The State Water Board has determined that the proposed action will 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 2. Additionally, the State Water Board has determined that the proposed action will not result in costs or savings to any state agency or any local agency or school district that is required to be reimbursed under part 7 (commencing with section 17500) of division 4 of the Government Code, other nondiscretionary costs or savings imposed on local agencies, or costs or savings in federal funding to the State.

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 effectively: 1) provide for consistent and timely reporting between owners and operators, local agencies, the State Water Board and the U.S. EPA; 2) ensure all Forms meet accessibility requirements; 3) effectively implement California and Federal requirements governing USTs; and 4) implement California's groundwater protection requirements. The amendments do not duplicate or conflict with any federal law or federal regulation.