INITIAL STATEMENT OF REASONS
WATER QUALITY MONITORING REQUIREMENTS FOR HAZARDOUS WASTE LAND DISPOSAL UNITS

Department of Toxic Substances Control Reference Number: R-04-11
Office of Administrative Law Notice File Number*:* Z-2010-0720-01

PROBLEM, REQUIREMENT OR OTHER CONDITION ADDRESSED

Based on the last 15 years of implementing existing water quality monitoring requirements, DTSC has determined that portions of the requirements for hazardous waste land disposal units (regulated units) may be technically infeasible, resource intensive, and provide minimal environmental benefit. Presently, the only option for facilities to obtain relief from the current requirements is to apply for a variance and to seek DTSC approval for any deviation from the regulations. This is a cumbersome, resource intensive process for both facilities and DTSC.

EFFORT TO AVOID DUPLICATION OR CONFLICTS WITH FEDERAL REGULATIONS:

The proposed rulemaking, which revises water quality monitoring requirements for hazardous waste land disposal units, in California Code of Regulations (Cal. Code Regs.), title 22, division 4.5, chapters 14 and 15, article 6, is consistent with federal requirements, specifically 40 CFR Parts 264 and 265 Subparts F, including changes that were promulgated pursuant to the federal Post-Closure Rule of 1998 (63 Fed. Reg. 56710, October 22, 1998) and the federal Resource Conservation and Recovery Act (RCRA) Burden Reduction Initiative of 2006 (71 Fed. Reg. 16862, April 4, 2006).

STUDIES RELIED ON:

DTSC has prepared a Notice of Exemption which indicates that the proposed regulatory changes do not have the potential to result in a significant effect on the environment. The proposed rulemaking was based on DTSC staff experience in implementing existing regulation.

ALTERNATIVES CONSIDERED:

DTSC held a public workshop in Sacramento on March 30, 2007 to present the regulatory concept under consideration to interested parties. DTSC considered comments received during the workshop as well as written comments received after the workshop in developing language for the proposed regulations. Several members of the regulated community attended the workshop. All comments received supported the regulatory concept. Commenters will be notified of the proposed regulations.

The following alternatives were considered in developing this rulemaking:

Alternative 1 (Recommended Alternative): Revise water quality monitoring requirements for all regulated hazardous waste land disposal units, including regulated units with a release that is commingled with a release from another solid waste management unit (SWMU), to provide additional flexibility and efficiency consistent with the federal Post-Closure Rule of 1998 and the federal RCRA Burden Reduction Initiative of 2006. This alternative would allow a facility with a commingled plume to conduct water quality monitoring under alternative requirements, thereby allowing a single site-wide monitoring program. This alternative also corrects typographic errors and archaic language.

The recommended alternative revises water quality monitoring requirements in Cal. Code Regs., title 22, chapters 14 and 15, article 6. These and other DTSC initiated revisions address requirements that have often proven to be technically infeasible and resource intensive with minimal environmental benefit. Revisions to correct typographic errors and archaic language are also included. The requirements under this alternative are still more stringent than currently required under the federal RCRA program. The recommended alternative does not incorporate elements of the federal Post-Closure Rule that authorize alternative authority for post-closure care.

Alternative 2: Revise water quality monitoring requirements for regulated hazardous waste land disposal units as discussed in Alternative 1 for permitted land disposal units only, but not for interim status facilities. This alternative was considered in order to provide interim status facilities with an incentive to achieve permit status for the regulatory relief that these proposed regulations would provide.

This alternative was not selected due to inconsistency with federal requirements, which provide relief to interim status facilities as well as permitted facilities. There was also insufficient basis for the rationale that interim status facilities would obtain permits to achieve this regulatory relief.

Alternative 3: Revise water quality monitoring requirements for commingled plumes only as discussed in Alternative 1, but exclude the other Alternative 1 revisions to the water quality monitoring requirements for regulated hazardous waste land disposal units. This alternative was not selected because DTSC has determined that some of California's water quality monitoring requirements for all regulated units (not merely commingled plumes) can be technically infeasible and resource intensive with minimal environmental benefit.

Alternative 4: Revise water quality monitoring requirements for regulated hazardous waste land disposal units, but do not revise water quality monitoring requirements for

commingled plumes.

This alternative was not selected because flexibility is required to eliminate potentially duplicative and overly prescriptive water quality monitoring requirements for commingled plumes originating from a regulated unit (hazardous waste land disposal) and another SWMU.

Alternative 5: Authorize alternative authority for post-closure care, consistent with the federal Post-Closure Rule, in addition to the revisions identified in the Recommended Alternative (Alternative 1).

This alternative was not selected because DTSC has not yet decided whether to develop regulations that would authorize alternative authority for post-closure care, consistent with the federal Post-Closure rule.

Alternative 6: Revise archaic language and correct typographical errors only.

This alternative was not selected because DTSC has identified many elements of California's water quality monitoring requirements for hazardous waste land disposal facilities that are in need of revision to be consistent with recent updates to equivalent federal requirements, and to address requirements that have proven to be technically infeasible, resource intensive, and provide minimal environmental benefit.

Alternative 7: No action. DTSC would continue to implement the water quality monitoring program for hazardous waste land disposal facilities as specified in current regulations.

This alternative was not selected because DTSC has determined that portions of California's water quality monitoring requirements for hazardous waste land disposal facilities may be technically infeasible, resource intensive, and provide minimal environmental benefit. If nothing is done, facilities could only apply for a variance and seek DTSC approval for any deviation from the regulations. This is a cumbersome, resource intensive process for both facilities and DTSC.

DETAILED STATEMENT OF REASONS:

All citations are to provisions of California Code of Regulations, Title 22, Division 4.5. These regulations address water quality monitoring standards for regulated hazardous waste land disposal units at permitted facilities (Chapter 14, article 6) and for interim status facilities that have never received full authorization or a post-closure permit (Chapter 15, article 6). In general, Chapter 14, article 6 standards are quite similar, but not equivalent to Chapter 15, article 6 standards. Often, the proposed revision found in Chapter 14, article 6 has a nearly identical revision proposed in Chapter 15, article 6

and both share the same basis for the proposed change. Changes to Chapter 14, article 6 standards for permitted facilities are discussed below. Changes to Chapter 15, article 6 follow the Chapter 14 discussion.

Proposed Revision Language for Permitted Facilities
Chapter 14. Standards for Owners and Operators of Hazardous Waste Transfer, Treatment, Storage, and Disposal Facilities
Article 6. Water Quality Monitoring and Response Programs for Permitted Facilities

Amend Subsection 66264.90(e): The revision to this subsection includes deletion of an obsolete deadline for establishment of a water quality monitoring program.

New regulatory text allows significant water quality monitoring program flexibility, consistent with the federal Post-Closure Rule of 1998, 40 CFR Section 264.90, for the owner or operator of a permitted hazardous waste land disposal unit with a commingled plume. This revision allows the owner or operator of a permitted hazardous waste land disposal unit that is situated among solid waste management units (SWMUs) or areas of concern to replace all or part of the requirements in California Code of Regulations, title 22, chapter 14, article 6 with alternative requirements if a release has occurred, and both the regulated unit and one or more SWMUs (or areas of concern) are suspected of contributing to the release. Currently, water quality monitoring and cleanup of commingled plumes may be subject to different, sometimes conflicting requirements. Releases from other SWMUs may be subject to different and less prescriptive requirements than those required by article 6 for regulated (land disposal) units. Since it can be difficult to determine if the plume is from the SWMU or the regulated unit, this section allows flexibility to develop a single monitoring program regardless of the source of the plume. The proposed regulations provide regulatory efficiency and environmental benefit by eliminating potentially duplicative water quality monitoring requirements and allow a facility with a commingled plume to establish a single site-wide monitoring program. Examples of alternative requirements include corrective action requirements in Health and Safety Code Chapter 6.5 and site cleanup requirements identified in Health and Safety Code Chapter 6.8. This change is consistent with revisions to 40 CFR Section 264.90 implemented pursuant to the federal Post-Closure Rule of 1998 and would allow California to implement provisions that are already in effect in other states.

Add Subsection 66264.90(f): This new subsection is added to require the owner or operator to demonstrate to the satisfaction of DTSC that the proposed alternative water quality monitoring requirements will provide adequate protection of human health and the environment. An alternative requirement is effective only after DTSC issues or modifies the facility's permit. Moreover, these changes ensure that a CEQA evaluation will be conducted by DTSC prior to implementation of any alternative requirements.

Add Subsection 66264.90(g): This subsection is added to provide a safeguard if the owner or operator determines that an alternative requirement implemented pursuant to 66264.90(f) may not adequately protect human health and the environment. If the owner or operator makes such a determination, then the owner or operator is required to submit an application for a permit modification to DTSC to modify and make appropriate corrections to the water quality monitoring and response program.

Add Subsection 66264.90(h): This subsection is added to provide a safeguard if DTSC determines that an alternative requirement implemented pursuant to 66264.90(f) may not adequately protect human health and the environment. If DTSC makes such a determination, DTSC shall notify the owner or operator who is then required to submit an application for a permit modification to DTSC to modify the water quality monitoring and response program. This may require reinstating requirements pursuant to Cal. Code Regs., title 22, chapter 14, article 6 to achieve adequate protection of human health and the environment.

Amend Subsection 66264.94(b)(1): This revision corrects a typographical error to provide correct spelling of the word “dissimilar.”

Amend Subsection 66264.97(b)(3): This revision replaces outdated language regarding submittal of driller’s logs (i.e., old Department of Water Resources address and phone number as well as an outdated form number) with language similar to Cal. Code Regs, title 23, section 2550.7(b)(3). The revision also specifies when the submittals must occur.

Add Subsection 66264.97(b)(8): This new subsection requires that groundwater wells for regulated units be adequately decommissioned if the wells will no longer provide useful information and DTSC has approved the decommissioning of the wells. This requirement was added to ensure that the owner/operator, as well as DTSC evaluates the usefulness of existing wells. It also allows DTSC to direct the decommissioning of a well. This issue is more prevalent today now that many monitoring systems have been in existence for more than 15 years and have grown in size incrementally over the years. The subsection should also curtail poor documentation of well decommissioning. DTSC has noted a few instances in the past where groundwater wells have been poorly or falsely documented as being decommissioned.

Add Subsection 66264.97(c)(3): This new subsection allows modification or exclusion of surface water monitoring requirements for regulated units if the owner/operator provides appropriate demonstration that these requirements are impracticable or technically inappropriate. The proposed regulation would allow technically based decisions to dictate how water quality monitoring programs are constructed rather than prescriptive, sometimes inappropriate, regulations. Flexibility in designing a surface water monitoring program is also necessary to address the erratic and seasonal flows

expressed in many parts of California. Federal regulations, 40 CFR Parts 264/265 Subpart F, do not require surface water monitoring.

Amend Subsection 66264.97(d)(1): This revision clarifies the exceptions to the unsaturated zone monitoring system requirement by reference to new section 66264.97(d)(7).

Amend Subsection 66264.97(d)(4): Several clarifying wording changes are made to address the need for unsaturated zone monitoring during all phases of water quality monitoring programs: detection, evaluation, and corrective action, rather than solely during the detection monitoring program. Language pertaining to "providing an indication of a release" and "earliest possible detection of a release" is deleted to expand the purpose of unsaturated zone monitoring.

Amend Subsection 66264.97(d)(5): The existing regulation is amended to delete obsolete references and to emphasize the need for unsaturated zone monitoring to detect a release from a new regulated unit. It is assumed that all new units will be in a detection monitoring program.

Add Subsection 66264.97(d)(7): This new subsection allows an owner/operator to modify or exclude all or some unsaturated zone monitoring requirements if these requirements are technically inappropriate or impracticable. Federal regulations (i.e., 40 CFR Parts 264/265) do not require unsaturated zone monitoring for regulated units.

Unsaturated zone monitoring may be impracticable and technically inappropriate when certain site-specific conditions occur, including situations where the unsaturated zone is limited in thickness, there is minimal pore saturation, the intrinsic permeability is low, or in any situation where there is insufficient liquid recovery to adequately sample for constituents of concern.

Also, situations can exist where unsaturated zone monitoring provides little or no additional benefit in protecting human health or the environment even though it is feasible to install and implement. For example, it would generally not be warranted to monitor the unsaturated zone if it has been remediated. Monitoring may not be required if contaminant releases to soils have already been identified and sufficiently characterized and continued monitoring will not provided beneficial data.

The proposed revision is consistent with the regulatory intent of the current article 6 text to provide regulatory relief when unsaturated zone monitoring does not provide useful information. The March 25, 1991 Final Statement of Reasons (R 89-17) states that "Unsaturated zone monitoring shall always be required unless the owner or operator makes a successful demonstration that no method of unsaturated zone monitoring could provide useful information…"

Amend Subsection 66264.97(e)(4): This revision is a minor wording change to clarify the need for appropriate implementation of water quality monitoring program requirements.

Amend Subsection 66264.97(e)(6): The revisions to this subsection add flexibility regarding the timing of background sampling events. Background sampling would no longer need to be conducted at the times of expected highest and lowest annual groundwater surface elevations as it might not be appropriate under all circumstances. Sampling events could be conducted at other times if it is determined that the date of the event is not a critical factor or if it is more appropriate to sample at a time other than during the highest or lowest annual groundwater elevation.

Amend Subsection 66264.97(e)(8)(E)(3): The revision to this subsection adds flexibility regarding the timing of a resampling event used to verify a statistically significant evidence of a release. It would allow the resampling event to occur after one month if DTSC believes the additional time would not adversely impact the sampling results and statistical evaluation.

Amend Subsection 66264.97(e)(8)(E)(6): This revision corrects a typographical error to provide correct spelling of the word “parameter.”

Amend Subsection 66264.97(e)(9)(E): This revision is a minor change that deletes reference to outdated quantitation limits related to specifying limits of accuracy and precision. The original regulations reference the Appendix IX section for guidance in selecting quantitation limits. This reference is removed because some of these limits are outdated because of improved analytical methods and no longer protective of human health and the environment.

Amend Subsection 66264.97(e)(12)(B):
This revision corrects a typographical error to correct spelling of the word “frequency” and changes “e.g.” to “i.e.” in the parenthetical.

Amend Subsection 66264.97(e)(12)(B)(1): This revision reorders the items listed as Subsections 66264.97(e)(12)(B)(1) and (2). The substance of both items is unchanged.

Amend Subsection 66264.97(e)(12)(B)(2): This revision reorders the items listed as Subsections 66264.97(e)(12)(B)(1) and (2). The substance of both items is unchanged. The revision also corrects a typographical error to add a hyphen to “semi-annually” in the first sentence and introduces a third alternate sampling method identified in newly added section 66264.97(e)(12)(B)(3).

Add Subsection 66264.97(e)(12)(B)(3): This is a significant revision to existing

regulations that adds flexibility for groundwater sampling and analysis frequency equivalent to current federal regulations, 40 CFR section 264.97(g)(2). The existing requirement for quarterly sampling may be unnecessary, depending upon site-specific conditions, especially at sites with well-characterized groundwater contaminant plumes.

Amend Subsection 66264.97(e)(13): This revision allows, upon written approval by DTSC, the modification or waiver of the requirement to conduct four specific groundwater field parameter measurements at each well every time groundwater is sampled. The owner or operator must demonstrate that representative samples are obtained. The revised language provides flexibility to allow innovative sampling techniques (e.g., passive diffusion bag samplers) that may not require any field parameters to be collected. Additionally, the revised regulation would allow different and more appropriate field parameters to be collected that are better suited to specific site conditions.

Amend Subsection 66264.97(e)(14): This subsection is amended to revise existing data graphing procedures. The original regulation required that each graph represent data from one monitoring point, while the revised regulation requires that each graph include data from multiple points as long as the graph is still legible and effective in assessing data trends. The intent of the new format is to enable better review and evaluation of the data set. The addition, “except graphs are not required for constituents for which no new data has been collected since the previous graph submittal” is language that was taken verbatim from equivalent regulations in Cal. Code Regs., title 23, section 2550.7. Some language was changed to improve clarity.

Amend Subsection 66264.97(e)(15): This revision allows flexibility for the frequency of water level measurements, allowing a change from quarterly to annually and at times other than during the expected highest and lowest annual elevations of the groundwater surface, with DTSC approval. This frequency is equivalent to federal regulations, 40 CFR 264.98(e) and 264.99(e), which require the owner/operator to determine groundwater flow rate and direction of the aquifer at least annually.

The proposed revision adds flexibility in determining the timing of water level measurement collection by allowing measurements to occur at times other than during the highest and lowest annual groundwater surface elevations (Note: water level measurements must be conducted at least annually). This will allow water level events to be conducted at other times, based on site-specific conditions, if it is determined that the date of the event is not a critical factor or if it is more appropriate to conduct measurements at a time other than during the highest or lowest annual groundwater elevation.

A data evaluation requirement has also been added to mirror the requirement that exists in subsection 66265.97(e)(15). The last sentence added to the regulation is taken

essentially verbatim from the equivalent interim status regulation, section 66265.97(e)(15). The language is valuable as it explicitly reminds the owner/operator to evaluate the groundwater monitoring system at least annually and, if necessary, modify it through the permit modification process.

Amend Subsection 66264.98(f): This revision adds flexibility regarding the timing of groundwater sampling by allowing sampling to occur at times other than during the highest and lowest annual groundwater surface elevations. This will allow sampling events to be conducted at other times if it is determined that the date of the event is not a critical factor or if it is more appropriate to sample at a time other than during the highest or lowest annual groundwater elevation.

Amend Subsection 66264.98(k)(1): This revision allows modification of the number of monitoring points to be sampled and the number of constituents of concern to be analyzed after a confirmed release. The original regulation requires that all monitoring points in the affected medium be sampled for all constituents of concern after a statistically significant evidence of a release is confirmed. Sampling all monitoring points for all constituents of concern may be technically inappropriate, especially for larger sites or sites with a large number of constituents with varying mobility. An equivalent federal regulation does not exist.

This revision also amends text to eliminate the ambiguous term “affected medium.” The revision replaces the wording “in the affected medium (groundwater, surface water or the unsaturated zone)” with clearer and more direct language, “affected by a release from the regulated unit.” The ambiguity of the term “affected medium” had caused confusion for DTSC and the regulated community.

Amend Subsection 66264.98(k)(2): This revision allows modification of the number of Appendix IX analytes to be analyzed after a confirmed release, consistent with recent changes to federal regulations. The original regulation required all Appendix IX analytes be sampled at all monitoring points in the affected medium. At times, this requirement can be technically inappropriate and unnecessary. Therefore, revised language was added to provide adequate flexibility. The revision also amends text to eliminate the ambiguous term “affected medium,” as discussed in detail in reference to section 66264.98(k)(1).

Amend Subsection 66264.98(k)(3): This revision adds flexibility regarding the timeframe for resampling after detection of an Appendix IX analyte that is not on the list of constituents of concern. This modification would allow the resampling event to occur after one month if DTSC believes the additional time would not adversely impact the results of the resampling event. The added flexibility is consistent with provisions in 40 CFR section 264.98(g)(3).

Amend Subsection 66264.98(k)(5)(A): This proposed revision amends text to eliminate the ambiguous term “affected medium,” as discussed in reference to section 66264.98(k)(1).

Amend Subsection 66264.98(k)(7)(A): This revision amends a typographical error to correct the spelling of the word “statistically. “

Amend Subsection 66264.98(n)(2): This subsection is amended to allow modification of the number of monitoring points and number of specific Appendix IX analytes required for analysis after successful completion of corrective action, based upon site-specific conditions and previous Appendix IX sampling results. The original regulation requires that all groundwater monitoring points at the point of compliance be sampled for Appendix IX constituents annually. Sampling each monitoring point at the point of compliance for all Appendix IX constituents, rather than focusing the analyses to the analytes known to be present, may be technically inappropriate after completion of corrective action, especially taking into consideration that a site should have been fully characterized by this late stage of the remediation.

An additional revision adds flexibility regarding the timeframe for resampling after detection of an Appendix IX analyte. The existing regulation requires resampling to be conducted within one month after the detection. The one month time frame is too prescriptive in some instances and does not account for site-specific hydrogeologic conditions. The regulation allows a flexible site-specific time frame to be selected if necessary.

Amend Subsection 66264.99(e)(3): This revision adds flexibility regarding the timing of groundwater sampling during evaluation monitoring. Sampling would no longer need to be conducted at the times of expected highest and lowest annual groundwater surface elevations. This revision is analogous to the revision proposed for subsection 66264.98(f) for detection monitoring.

Amend Subsection 66264.99(e)(6): Revisions to this subsection 1) allow the owner or operator to modify the number of monitoring points and specific Appendix IX analytes for annual analysis during evaluation monitoring sampling; 2) add flexibility regarding the timeframe for resampling after detection of an Appendix IX analyte to allow the resampling event to occur after one month if DTSC believes the additional time would not adversely impact the results of the resampling event ; and 3) amend text to eliminate the ambiguous term “affected medium,” as discussed in detail in reference to section 66264.98(k)(1).

This revision allows a site-specific approach based on evaluation of previous Appendix IX sampling data. Continued annual sampling for all Appendix IX analytes may not always provide significant value to an evaluation monitoring program, especially for well

characterized facilities. Current regulation requires annual Appendix IX sampling at all monitoring points in the affected medium. If a site has been well characterized, annual analysis for the entire suite of contaminants in Appendix IX may provide little benefit.

Amend Subsection 66264.100(h): This revision changes the frequency for reporting corrective action effectiveness from semi-annually (twice per year) to at least annually (once per year) and requires more frequent reporting as necessary to ensure the protection of human health or the environment. This revision is consistent with recent changes to the federal reporting requirement under the RCRA Burden Reduction Initiative, 40 CFR section 264.100(g). However, the proposed regulations are more protective than federal requirements by requiring more frequent reporting as necessary to ensure protection of human health or the environment. This allows an evaluation to determine the appropriate frequency, which is at least annual based on the phase of correction and site-specific conditions.

Proposed Revision Language for Interim Status Facilities
Chapter 15. Interim Status Standards for Owners and Operators of Hazardous Waste Transfer, Treatment, Storage, and Disposal Facilities
Article 6. Water Quality Monitoring and Response Programs for Interim Status Facilities

Add Subsections 66265.90 (b), (c), (d), and (e): These new subsections are added, consistent with the federal Post-Closure Rule of 1998 (63 Fed. Reg. 56710, October 22, 1998), 40 CFR Section 265.90, to allow the owner or operator of an interim status hazardous waste land disposal facility to replace all or part of the requirements in California Code of Regulations, title 22, chapters 15, article 6 with alternative requirements provided that a release from the regulated unit has commingled with a release from another SWMU. These changes are intended to provide the same alternatives for facilities subject to interim status standards as provided to permitted facilities in subsections 66264.90(e), (f), (g), and (h). The basis for the changes is the same.

Amend Subsection 66265.91(b): The revision to this subsection includes deletion of an obsolete deadline for establishment of a water quality monitoring program and corrects a typographical error to delete the extraneous word “initiate.”

Amend Subsection 66265.97(b)(3): This revision replaces outdated language regarding submittal of driller’s logs (i.e., old Department of Water Resources address and phone number as well as an outdated form number) with language consistent with Cal. Code Regs, title 23, section 2550.7(b)(3) and specifies when submittals must occur. These revisions are identical to those in subsection 66264.97(b)(3) for permitted facilities.

Add Subsection 66265.97(b)(8): This new subsection requires that groundwater wells for regulated units be adequately decommissioned if the wells will no longer provide useful information and DTSC has approved the decommissioning of the wells. This requirement was added to ensure that the owner/operator, as well as DTSC evaluates the usefulness of existing wells. It also allows DTSC to direct decommissioning of the well. This issue is more prevalent today now that many monitoring systems have been in existence for more than 15 years and have grown in size incrementally over the years. The subsection should also curtail poor documentation of well decommissioning. DTSC has noted a few instances in the past where groundwater wells have been poorly or falsely documented as being decommissioned.

Add Subsection 66265.97(c)(3): This new subsection allows modification or exclusion of surface water monitoring requirements for regulated units if the owner/operator

provides appropriate demonstration that these requirements are impracticable or technically inappropriate and DTSC provides written approval. These revisions are equivalent to those in subsection 66264.97(c)(3) for permitted facilities.

Amend Subsection 66265.97(d)(4): This revision is analogous to changes to subsection 66264.97(d)(4). See discussion pertaining to section 66264.97(d)(4).

Amend Subsection 66265.97(d)(5): The replacement language allows an owner/operator to modify or exclude all or some unsaturated zone monitoring requirements if these requirements are technically inappropriate or impracticable. Federal regulations (i.e., 40 CFR Parts 264/265) do not require unsaturated zone monitoring for regulated units. This revision is analogous to changes in subsection 66264.97(d)(7).

Amend Subsection 66265.97(e)(6): The revisions to this subsection add flexibility regarding the timing of background sampling events. Background sampling would no longer have to be conducted at the times of expected highest and lowest annual groundwater surface elevations. This revision is analogous to changes to subsection 66264.97(e)(6). For additional information, see discussion pertaining to subsection 66265.97(e)(15).

Amend Subsection 66265.97(e)(8)(E)(3): The revision to this subsection adds flexibility regarding the timing of a resampling event used to verify a statistically significant evidence of a release. It would allow the resampling event to occur after one month if DTSC believes the additional time would not adversely impact the sampling results and statistical evaluation. This change is identical to revision of subsection 66264.97(e)(8)(E)(3).

Amend Subsection 66265.97(e)(9)(E): This revision is a minor change that deletes reference to outdated quantitation limits related to specifying limits of accuracy and precision. This change is analogous to changes to subsection 66264.97(e)(9)(E).

Amend Subsection 66265.97(e)(13): This revision allows the modification or waiver of the requirement to conduct four specific groundwater field parameter measurements at each well every time groundwater is sampled upon written approval of DTSC. These revisions are analogous to those in subsection 66264.97(e)(13) for permitted facilities.

Amend Subsection 66265.97(e)(14): This revision amends existing data graphing procedures and to improve clarity, analogous to changes in subsection 66264.97(e)(14).

Amend Subsection 66265.97(e)(15): This revision provides flexibility regarding timing of water level measurements. Measurements are still to be conducted quarterly, but

would no longer have to be conducted at the times of expected highest and lowest annual groundwater surface elevations. This will allow quarterly water level measurement and sampling events to be conducted at other times if it is determined that the date of the event is not a critical factor or if it is more appropriate to collect the data at a time other than during the highest or lowest annual groundwater elevation. Constraints identified within Federal 40 CFR regulations (i.e., sections 265.92 and 265.93) require that groundwater be analyzed at quarterly, semi-annual, or annual frequencies depending on the constituent analyzed and the specific program enacted. A quarterly frequency is still retained in Cal Code Regs., title 22 for interim status facilities to continue to remain as stringent as the Federal regulations. The federal RCRA Burden Reduction Initiative (71 Fed. Reg. 16862, April 4, 2006) modifications that affected sampling and water level measurement frequencies only applied to permitted facilities.

Amend Subsection 66265.97(e)(17): This revision amends a typographical error to provide a space between the words “background” and “water. “

Amend Subsection 66265.98(g): This revision adds flexibility regarding the timing of groundwater sampling during detection monitoring. Quarterly sampling would no longer have to be conducted at the times of expected highest and lowest annual groundwater surface elevations. For additional information, see discussion pertaining to subsection 66265.97(e)(15).

Amend Subsection 66265.98(l)(1): This revision allows modification of the number of monitoring points to be sampled and the number of constituents of concern to be analyzed after a confirmed release. The revision also amends text to eliminate the ambiguous term “affected medium.” The revisions are analogous to changes to subsection 66264.98(k)(1).

Amend Subsection 66265.98(l)(2): This revision allows modification of the number of monitoring points to be sampled and the number of Appendix IX analytes to be analyzed after a confirmed release. The revision also amends text to eliminate the ambiguous term “affected medium.” The changes are similar to changes to subsection 66264.98(k)(2).

Amend Subsection 66265.98(l)(3): This revision adds flexibility regarding the timeframe for resampling after detection of an Appendix IX analyte that is not on the list of constituents of concern. The changes are analogous to those in subsection 66264.98(k)(3).

Amend Subsection 66265.98(l)(5)(A): This revision amends text to eliminate the ambiguous term “affected medium.” For additional information, see discussion pertaining to subsection 66264.98(k)(1).

Amend Subsection 66265.99(e): This revision corrects a minor typographical error replacing a period with a colon.

Amend Subsection 66265.99(e)(3): This revision adds flexibility regarding the timing of groundwater sampling during evaluation monitoring to assess the nature and extent of the release from the regulated unit. Sampling is still to be conducted quarterly, but would no longer have to be conducted at the times of expected highest and lowest annual groundwater surface elevations. The changes are equivalent to those in subsection 66265.98(g) for detection monitoring. For additional information, see discussion pertaining to subsection 66265.97(e)(15).

Amend Subsection 66265.99(e)(6): This revision allows modification of the number of monitoring points and number of specific Appendix IX analytes, (based on site-specific conditions and previous Appendix IX sampling results), for analysis during annual sampling. This revision also adds flexibility regarding the timeframe for resampling after detection of an Appendix IX analyte. For additional information regarding Appendix IX sampling, see discussion pertaining to subsection 66264.99(e)(6). For additional information regarding the timeframe for resampling, see discussion pertaining to subsection 66264.98(k)(3). The revision also amends text to eliminate the ambiguous term “affected medium.” For additional information, see discussion pertaining to subsection 66264.98(k)(1).