


State Water Resources Control Board

TO: Greg Vlasek
Assistant Secretary for
Local Program Coordination and Emergency Response Office
California Environmental Protection Agency

FROM: 
Annalisa Kihara, P.E.
UST & Site Cleanup Section Chief
State Water Resources Control Board

DATE: May 31, 2019

SUBJECT: **STATE WATER RESOURCES CONTROL BOARD REVIEW OF REVISED**
IMPERIAL COUNTY FIRE DEPARTMENT CERTIFIED UNIFIED PROGRAM
AGENCY APPLICATION DATED MAY 2019

Thank you for the opportunity to review and provide comments on the revised application from the Imperial County Fire Department to become the Certified Unified Program Agency (CUPA) for Imperial County dated May 2019. Enclosure 1 includes the State Water Resources Control Board (State Water Board) comments in two sections. Section 1 includes items that are in need of revision, and Section 2, items which have been revised to the State Water Board's satisfaction.

If you have questions regarding the State Water Board's review please contact Ms. Laura Fisher at (916) 341-5870 or laura.fisher@waterboards.ca.gov.

Enclosure (1)

- 1) State Water Resources Control Board Review of Revised Imperial County Fire Department Certified Unified Program Agency Application (May 2019)

cc: Laura S. Fisher, Chief
UST Leak Prevention & Office of Tank
Tester Licensing
State Water Resources Control Board

**State Water Resources Control Board Review of Revised
Imperial County Fire Department Certified Unified Program
Agency Application (May 2019)**

Items in Need of Revision

Imperial County Fire Department Certified Unified Program Agency Application Review			
Section Number	Item Number	Page Number	Description
Attachment 3			<p>Consolidated Permit</p> <p>Revised Application (May 2019)</p> <p>Review of revised Consolidated Permit finds the addition of California Environmental Reporting System (CERS) identification number, tank identification number, permit conditions, and Underground Storage Tank (UST) monitoring requirements. However, the permit conditions and UST monitoring requirements are not consistent with California Code of Regulations. Examples include and are not limited to referencing Health and Safety Code and California Code of Regulation citations for operating requirements and UST monitoring requirements for tank(s) and piping. State Water Resources Control Board (State Water Board) recommends the applicant reach out to neighboring Certified Unified Program Agencies (CUPAs) to get examples of permits to operate. State Water Board can also provide example permits to operate upon request.</p> <p>Original Application (August 2018)</p> <p>Comment</p> <p>The consolidated permit does not capture all UST Program elements. The missing elements are identified as CERS identification number, tank identification number, permit conditions, and UST monitoring requirements.</p> <p>Response</p> <p>The consolidated permit conflicts with California Health and Safety Code, chapter 6.7 and California Code of Regulations, title 23. The consolidated permit shall capture all UST Program elements.</p>
7	B(3)	14	<p>UST Program Citations</p> <p>Revised Application (May 2019)</p> <p>Review of revised CUPA Application finds the applicant partially correcting UST Program citations. Page 14 indicates the code citations for the UST Program implementation fall under Health and Safety Code, Division 20, Chapter 6.75 and California Code</p>

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			<p>of Regulations, Title 23, Chapter 18. The correct UST Program citations are noted below in the State Water Board previous response. Revision is necessary to correctly identify UST Program citations.</p> <p>Original Application (August 2018)</p> <p>Comment</p> <p>Application does not correctly reference citations for the UST Program. The application references California Health and Safety Code, chapter 6.75 and California Code of Regulations, title 23, chapter 18. Citations are incomplete and require revision.</p> <p>Response</p> <p>California Health and Safety Code, chapter 6.7 and California Code of Regulations, title 23 code citations are not correctly cited. Therefore, revision is necessary. The following citations are to be referenced in the application:</p> <ol style="list-style-type: none"> 1. Health and Safety Code, division 20, chapter 6.7; 2. Health and Safety Code, division 20, chapter 6.75; 3. California Code of Regulations, title 23, division 3, chapter 16; and 4. California Code of Regulations, title 23, division 3, chapter 18.
11		56	<p>UST Red Tag Procedures</p> <p>Revised Application (May 2019)</p> <p>Review of revised CUPA Application finds the applicant did not revise the Inspection and Enforcement Plan to address the recent amendments to Health and Safety Code regarding the red tag enforcement option. As it is currently written, the red tag enforcement option is less stringent than Health and Safety Code requirements.</p> <p>Original Application (August 2018)</p> <p>Comment</p> <p>Application states a UST, which has a red tag affixed to a fill pipe, may not deposit or allow for the deposit of petroleum.</p> <p>Response</p>

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			Red Tag procedures do not capture amendments to California Health and Safety Code, division 20, chapter 6.7, section 25292.3. Revise Red Tag procedures to correctly capture recent legislative amendments.
12	C(3)	63	<p>Estimated Revenue – Fiscal Year (FY) 2019/2020</p> <p>Revised Application (May 2019)</p> <p>Review of revised CUPA Application finds the applicant did not identify what the fees for Tank Repair covers. Proper assessment of fees requires identification of services included.</p> <p>Original Application (August 2018)</p> <p>Comment</p> <p>Proposed fee schedule includes a fee for Tank Repair (\$1500.00).</p> <p>Response</p> <p>The Tank Repair fee does not identify what services are included (i.e. permit, inspection). To assess proper fees, identify services included with the Tank Repair fee.</p>

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Items Which Have Been Revised to State Water Board Satisfaction

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Section Number	Item Number	Page Number	Description
Attachments	2	Multiple Pages	<p>Draft Ordinance</p> <p>Revised Application (May 2019)</p> <p>Review of revised Draft Ordinance finds the repeating sections of the Draft Ordinance have been removed. State Water Board finds this acceptable.</p> <p>Original Application (August 2018)</p> <p>Comment</p> <p>Review of the Draft Ordinance, sections 2018-1 through 2018-66 repeat on pages 79 through 104, and on pages 105 through 129 respectively.</p> <p>Response</p> <p>Remove repetitive sections.</p> <hr/> <p>Revised Application (May 2019)</p> <p>Review of revised Draft Ordinance finds proper exclusion of USTs from this requirement. The Draft Ordinance is now consistent with Health and Safety Code and California Code of Regulations. State Water Board finds this acceptable.</p> <p>Original Application (August 2018)</p> <p>Comment</p> <p>Draft Ordinance section 2018-07 reads, "The Fire Chief or a designee appointed by the Fire Chief (i.e. Fire Marshal) has the discretion to exempt an applicant from any specific requirement, except with regard to underground storage facilities; or to impose reasonable additional or different requirements in order to better secure the purpose and general obligation of this chapter for protection of public health, safety and welfare."</p>

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			<p>Response</p> <p>The Draft Ordinance authorizes the CUPA to impose "reasonable additional or different requirements" to USTs. This language should be either stricken or revised to clarify except with regard to USTs.</p> <hr/> <p>Revised Application (May 2019)</p> <p>Review of revised Draft Ordinance finds clarification that USTs installed after January 1, 1984 shall be designed and constructed to provide primary and secondary levels of containment of hazardous materials. The Draft Ordinance is now consistent with Health and Safety Code and California Code of Regulations. State Water Board finds this acceptable.</p> <p>Original Application (August 2018)</p> <p>Comment</p> <p>Draft Ordinance section 2018-08(c) "New Storage Facilities" indicates primary and secondary containment is required unless exempted by the applicant.</p> <p>Response</p> <p>The Draft Ordinance conflicts with California Health and Safety Code, chapter 6.7 and California Code of Regulations, title 23. California Health and Safety Code, chapter 6.7 and California Code of Regulations, title 23 for USTs constructed after January 1984 require primary and secondary containment. Further, the applicant is not authorized by California Health and Safety Code, chapter 6.7 and California Code of Regulations, title 23 to exempt primary and secondary containment.</p> <hr/> <p>Revised Application (May 2019)</p> <p>Review of revised Draft Ordinance finds the definition of product tight to match Health and Safety Code. The Draft Ordinance is now consistent with Health and Safety Code definitions. State Water Board finds this acceptable.</p>
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			<p>Original Application (August 2018)</p> <p>Comment</p> <p>Draft Ordinance section 2018-08(c)(1) "New Storage Facilities" indicates all primary containment must be product tight.</p> <p>Response</p> <p>The Draft Ordinance correctly defines primary containment for USTs installed between January 1984 and June 30, 2003. However, the Draft Ordinance does not accurately capture the definition of "product tight" as defined by California Health and Safety Code, chapter 6.7 for new USTs installed on or after July 1, 2003. Revise Draft Ordinance to correctly define UST construction requirements.</p> <hr/> <p>Revised Application (May 2019)</p> <p>Review of revised Draft Ordinance finds language to clarify USTs require the installation of overfill prevention devices. The Draft Ordinance is now consistent with Health and Safety Code and California Code of Regulations. State Water Board finds this acceptable.</p> <p>Original Application (August 2018)</p> <p>Comment</p> <p>Draft Ordinance section 2018-08(d) "New Storage Facilities" indicates overfill requirements are for aboveground storage tanks.</p> <p>Response</p> <p>The Draft Ordinance is not consistent with California Health and Safety Code, chapter 6.7 and California Code of Regulations, title 23. USTs are required to have overfill prevention devices installed. The Draft Ordinance indicates only aboveground storage tanks require the installation of overfill prevention devices. Revise Draft Ordinance to similarly require the installation of overfill prevention devices for USTs.</p> <hr/> <p>Revised Application (May 2019)</p> <p>Review of revised Draft Ordinance finds revised language clarifying "new" and "existing" USTs require the installation of spill containers. Further, the revision also includes language regarding capacity, corrosion protection, and the installation of</p>
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			<p>a drain valve or have a means to keep the spill container empty. The Draft Ordinance is now consistent with Health and Safety Code and California Code of Regulations. State Water Board finds this acceptable.</p> <p>Original Application (August 2018)</p> <p>Comment</p> <p>Draft Ordinance section 2018-08(g) "New Storage Facilities" indicates spill containers are required to be installed.</p> <p>Response</p> <p>The Draft Ordinance conflicts with California Health and Safety Code, chapter 6.7 and California Code of Regulations, title 23. "Existing" and "new" USTs as defined in California Code of Regulations, title 23 require spill container installation. Revise the Draft Ordinance to similarly require the installation of spill containers for USTs.</p> <p>With the revision, it is recommended the Draft Ordinance also include language capturing the following; capacity of spill containers (5-gallon capacity), corrosion protection, and the installation of a drain valve or have a means to keep the spill container empty.</p> <hr/> <p>Revised Application (May 2019)</p> <p>Review of revised Draft Ordinance finds revised language clarifying "existing Storage Facilities" are USTs installed prior to January 1, 1984. The Draft Ordinance is now consistent with California Code of Regulations. State Water Board finds this acceptable.</p> <p>Original Application (August 2018)</p> <p>Comment</p> <p>Draft Ordinance section 2018-9 "Existing Storage Facilities" is defined as USTs in existence as of the effective date of the Ordinance.</p> <p>Response</p> <p>The Draft Ordinance conflicts with California Health and Safety Code, chapter 6.7 and California Code of Regulations, title 23. "Existing" and "new" USTs are defined in California Code of Regulations, title 23. California Health and Safety Code,</p>
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			<p>chapter 6.7 contains construction requirements for four (4) eras of UST construction. Existing USTs are USTs installed prior to January 1, 1984. Requiring an "existing" UST to meet construction requirements of "new" USTs will result in an owner/operator having to complete additional construction requirements. Revise the Draft Ordinance to be consistent with California Health and Safety Code, chapter 6.7 and California Code of Regulations, title 23.</p> <hr/> <p>Revised Application (May 2019)</p> <p>Review of revised Draft Ordinance finds revised language clarifying that "new" and "existing" USTs require the submittal of a monitoring plan. The Draft Ordinance is now consistent with California Code of Regulations. State Water Board finds this acceptable.</p> <p>Original Application (August 2018)</p> <p>Comment</p> <p>Draft Ordinance section 2018-9(a) "Existing Storage Facilities" contains language that a monitoring plan is required for a "facility."</p> <p>Response</p> <p>The Draft Ordinance conflicts with California Health and Safety Code, chapter 6.7 and California Code of Regulations, title 23. USTs regardless of "existing" or "new" status are required to have a monitoring plan. Further, a monitoring plan is for each UST. Revise the Draft Ordinance to correctly require a monitoring plan for all USTs.</p> <hr/> <p>Revised Application (May 2019)</p> <p>Review of revised Draft Ordinance finds revised language clarifying every permittee must test, monitor and inspect USTs "in accordance with California Health and Safety Code, chapter 6.7, and California Code of Regulations, title 23, as amended." The Draft Ordinance is now consistent with Health and Safety Code and California Code of Regulations. State Water Board finds this acceptable.</p>
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			<p>Original Application (August 2018)</p> <p>Comment</p> <p>Draft Ordinance section 2018-11(b) "Monitoring" indicates monitoring, testing, and inspections must be in accordance with hazardous material business plan or hazardous materials/waste registration.</p> <p>Response</p> <p>The Draft Ordinance conflicts with California Health and Safety Code, chapter 6.7 and California Code of Regulations, title 23. A UST and or UST system is not monitored, tested, or inspected in accordance with a hazardous material business plan or hazardous materials/waste registration. Revise the Draft Ordinance to correctly identify Monitoring, testing, and inspecting in accordance with California Health and Safety Code, chapter 6.7 and California Code of Regulations, title 23.</p> <hr/> <p>Revised Application (May 2019)</p> <p>Review of revised Draft Ordinance finds revised language clarifying every permittee must conduct monthly inspections "in accordance with California Health and Safety Code, chapter 6.7, and California Code of Regulations, title 23, as amended." The Draft Ordinance is now consistent with Health and Safety Code and California Code of Regulations. State Water Board finds this acceptable.</p> <p>Original Application (August 2018)</p> <p>Comment</p> <p>Draft Ordinance section 2018-11(c) "Monitoring" indicates at a minimum, the permittee must conduct monthly inspections of the electronic monitoring panel, ensuring it is in working order and must maintain records to demonstrate compliance is adequate.</p> <p>Response</p> <p>The Draft Ordinance conflicts with California Health and Safety Code, chapter 6.7 and California Code of Regulations, title 23. The Draft Ordinance does not accurately capture monthly minimum inspection requirements for an owner/operator. The</p>
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			<p>Draft Ordinance shall correctly capture monthly minimum inspection requirements.</p> <hr/> <p>Revised Application (May 2019)</p> <p>Review of revised Draft Ordinance finds revised language clarifying secondary containment tests must be reported on the forms required by California Code of Regulations. The Draft Ordinance is now consistent with California Code of Regulations. State Water Board finds this acceptable.</p> <p>Original Application (August 2018)</p> <p>Comment</p> <p>Draft Ordinance section 2018-12(f) "Maintenance, Repair or Replacement" indicates secondary containment testing results may be reported in an alternate format approved by the Director.</p> <p>Response</p> <p>The Draft Ordinance conflicts with California Health and Safety Code, chapter 6.7 and California Code of Regulations, title 23. Testing and maintenance shall be submitted on forms required by California Code of Regulations, title 23. Revise the Draft Ordinance to correctly capture the reporting format.</p> <hr/> <p>Revised Application (May 2019)</p> <p>Review of revised Draft Ordinance finds revised language clarifying annual monitoring certification code citation as 2638. The Draft Ordinance is now consistent with California Code of Regulations. State Water Board finds this acceptable.</p> <p>Original Application (August 2018)</p> <p>Comment</p> <p>Draft Ordinance section 2018-12(g) "Maintenance, Repair or Replacement" contains an incorrect code citation for conducting annual monitoring certifications. It incorrectly cites 2637(b) and 2637(b)(5).</p> <p>Response</p> <p>The Draft Ordinance is inconsistent with California Health and Safety Code, chapter 6.7 and California Code of Regulations,</p>
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			<p>title 23. Revise the Draft Ordinance to reflect the correct code citation of California Code of Regulations, title 23, section 2638.</p> <hr/> <p>Revised Application (May 2019)</p> <p>Review of revised Draft Ordinance finds revised language clarifying that the written plan must be submitted to CERS. The Draft Ordinance is now consistent with California Code of Regulations. State Water Board finds this acceptable.</p> <p>Original Application (August 2018)</p> <p>Comment</p> <p>Draft Ordinance section 2018-18 "Hazardous Materials Disclosure" indicates filing a written plan to be approved by the Director.</p> <p>Response</p> <p>The Draft Ordinance conflicts with California Health and Safety Code, chapter 6.7 and California Code of Regulations, title 23. California Code of Regulations, title 23 requires the submittal of information to CERS. Revise the Draft Ordinance to correctly capture the reporting requirements of information to CERS.</p> <hr/> <p>Revised Application (May 2019)</p> <p>Review of revised Draft Ordinance finds revised language clarifying that the Colorado River Regional Water Quality Control Board and the State Water Board have the authority to order and direct the cleanup of an unauthorized release. The Draft Ordinance is now consistent with Health and Safety Code and California Code of Regulations. State Water Board finds this acceptable.</p> <p>Original Application (August 2018)</p> <p>Comment</p> <p>Draft Ordinance section 2018-22 "Cleanup Responsibility" indicates the applicant has authority to order or direct cleanup of an "unauthorized release."</p> <p>Response</p> <p>The Draft Ordinance conflicts with California Health and Safety Code, chapter 6.7. Authority to order or direct the cleanup of</p>
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			<p>an "unauthorized release" is reserved for Local Oversight Programs, Regional Water Quality Control Boards, and the State Water Resources Control Board. Revision is necessary to accurately identify authority for cleanup.</p> <hr/> <p>Revised Application (May 2019)</p> <p>Review of revised Draft Ordinance finds revised language clarifying, "All records shall be maintained by the permittee in accordance with California Health and Safety Code, chapter 6.7, and California Code of Regulations, title 23, as amended." The Draft Ordinance is now consistent with Health and Safety Code and California Code of Regulations. State Water Board finds this acceptable.</p> <p>Original Application (August 2018)</p> <p>Comment</p> <p>Draft Ordinance section 2018-28 "Maintenance of Records" indicates permittee must maintain records for three (3) years.</p> <p>Response</p> <p>The Draft Ordinance conflicts with California Health and Safety Code, chapter 6.7 and California Code of Regulations, title 23. Regulations identify specific requirements on the types of documents which need to be maintained by an owner/operator. In addition to the types of documents maintained, California Code of Regulations, title 23 identifies the length of time for said documents. Revise the Draft Ordinance to correctly identify the records maintenance requirements.</p> <hr/> <p>Revised Application (May 2019)</p> <p>Review of revised Draft Ordinance finds revised language clarifying the permit application must be submitted through CERS. The Draft Ordinance is now consistent with Health and Safety Code and California Code of Regulations. State Water Board finds this acceptable.</p>
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			<p>Original Application (August 2018)</p> <p>Comment</p> <p>Draft Ordinance section 2018-31 "Application for Permit" indicates submitting required information on forms.</p> <p>Response</p> <p>The Draft Ordinance conflicts with California Health and Safety Code, chapter 6.7 and California Code of Regulations, title 23. The Draft Ordinance conflicts with the requirements to provide information which is captured by CERS. Revise the Draft Ordinance to correctly capture reporting requirements.</p> <hr/> <p>Revised Application (May 2019)</p> <p>Review of revised Draft Ordinance finds revised language clarifying that temporary permits are for aboveground storage tanks only. The Draft Ordinance is now consistent with Health and Safety Code and California Code of Regulations. State Water Board finds this acceptable.</p> <p>Original Application (August 2018)</p> <p>Comment</p> <p>Draft Ordinance section 2018-32 "Temporary Storage Permit" indicates a permit may be issued for temporary storage of hazardous materials.</p> <p>Response</p> <p>The Draft Ordinance conflicts with California Health and Safety Code, chapter 6.7 and California Code of Regulations, title 23. California Health and Safety Code, chapter 6.7 and California Code of Regulations, title 23 does not provide a means to issue a temporary storage permit. Revise the Draft Ordinance to correctly identify types of Unified Program permits that may utilize a temporary storage permit or identify this provision does not apply to USTs.</p> <hr/> <p>Revised Application (May 2019)</p> <p>Review of revised Draft Ordinance finds revised language clarifying permit renewal applications must be made at least 30 days prior to expiration date of the permit to operate. The Draft Ordinance is now consistent with Health and Safety Code</p>
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			<p>and California Code of Regulations. State Water Board finds this acceptable.</p> <p>Original Application (August 2018)</p> <p>Comment</p> <p>Draft Ordinance section 2018-36 "Renewal" of permits indicates a permit to operate is effective if a timely permit for renewal application has been submitted regardless if permit is expired.</p> <p>Response</p> <p>The Draft Ordinance conflicts with California Health and Safety Code, chapter 6.7 and California Code of Regulations, title 23. California Health and Safety Code, chapter 6.7 and California Code of Regulations, title 23 requires the issuance of a permit prior to or upon expiration date of current permit to operate. Revise the Draft Ordinance to correctly identify permit issuance for renewed permits to operate or strike language allowing a permittee to operate with an expired permit.</p> <hr/> <p>Revised Application (May 2019)</p> <p>Review of revised Draft Ordinance finds revised language clarifying the UST permit application must be submitted through CERS. The Draft Ordinance is now consistent with Health and Safety Code and California Code of Regulations. State Water Board finds this acceptable.</p> <p>Original Application (August 2018)</p> <p>Comment</p> <p>Draft Ordinance section 2018-59 "Underground Storage Tank Permit" indicates submitting an application on forms.</p> <p>Response</p> <p>The Draft Ordinance conflicts with California Health and Safety Code, chapter 6.7 and California Code of Regulations, title 23. The Draft Ordinance cannot require an owner/operator to provide information which is captured by CERS. Revise Draft Ordinance to correctly capture reporting requirements.</p> <hr/>
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			<p>Revised Application (May 2019)</p> <p>Review of revised Draft Ordinance finds the removal of language referencing a participating agency. The Draft Ordinance is consistent with Unified Program application as there will be no participating agency. State Water Board finds this acceptable.</p> <p>Original Application (August 2018)</p> <p>Comment</p> <p>Draft Ordinance section 2018-59(a) and 2018-59(b) "Underground Storage Tank Permit" references a participating agency.</p> <p>Response</p> <p>The Draft Ordinance contains conflicting information regarding a participating agency. Applicant indicates no participating agencies being utilized. Revise Draft Ordinance section removing reference to participating agency.</p>
			<p>Consolidated Permit – Sample</p> <p>Revised Application (May 2019)</p> <p>Review of revised Consolidated Permit finds the permit no longer states, "THIS PERMIT IS VALID UNTIL REVOKED OR CANCELED BUT IS NOT TRANSFERABLE." The Consolidated Permit is now consistent with Health and Safety Code and California Code of Regulations. State Water Board finds this acceptable.</p> <p>Original Application (August 2018)</p> <p>Comment</p> <p>The consolidated permit expiration date conflicts with the following statement found on the permit, "THIS PERMIT IS VALID UNTIL REVOKED OR CANCELED BUT IS NOT TRANSFERABLE."</p> <p>Response</p> <p>The consolidated permit shall correctly identify the expiration date.</p>

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<p>Attachment 4</p>		<p>CERS User Guide</p> <p>Revised Application (May 2019)</p> <p>Review of revised CERS User Guide finds the UST Program being added to the CERS User Guide. Further, revised language finds UST information is required to be submitted to CERS and clarifying which documents are required to be submitted to CERS. The CERS User Guide is now consistent with Health and Safety Code and California Code of Regulations. State Water Board finds this acceptable.</p> <p>Original Application (August 2018)</p> <p>Comment</p> <p>Applicant's CERS User Guide does not contain language for the UST Program.</p> <p>Response</p> <p>Recommend adding the UST Program to the CERS User Guide. Included in the UST information, please identify which documentation/information is required to be reported to CERS by an owner/operator.</p>
<p>Attachment 5</p>		<p>Reporting and Auditing Requirements</p> <p>Revised Application (May 2019)</p> <p>Review of revised CUPA Application finds revised language clarifying UST reports will be "prepared and submitted pursuant to laws and regulations..." The revised CUPA Application is now consistent with Health and Safety Code and California Code of Regulations. State Water Board finds this acceptable.</p> <p>Original Application (August 2018)</p> <p>Comment</p> <p>Language for Report 6 indicates the report may be mailed to the State Water Board.</p> <p>Response</p> <p>Language for submitting Report 6 conflicts with California Health and Safety Code, chapter 6.7 and California Code of Regulations, title 23. California Code of Regulations, title 23 require Report 6 information to be sent to the State Water Board using a local information management system, a local</p>

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			reporting portal, or CERS. Language shall correctly identify reporting Report 6.
2	C	7	<p>Demographics – UST Program</p> <p>Revised Application (May 2019)</p> <p>Review of revised Draft Ordinance finds revisions to the Draft Ordinance acceptable. The applicant is noted as generalizing Health and Safety Code and California Code of Regulations in most instances, correcting improper citations, removing the duplicate Draft Ordinance, and clarifying requirements. State Water Board finds this acceptable.</p> <p>Original Application (August 2018)</p> <p>Comment</p> <p>References “...updating the existing UST ordinance which will replace the two existing ordinances once certified.”</p> <p>Response</p> <p>The Draft Ordinance in Attachment 2 conflicts with California Health and Safety Code, chapter 6.7 and California Code of Regulations, title 23. Please see Comments and Responses to the Draft Ordinance above.</p>
6		13	<p>Structure of the Imperial County CUPA</p> <p>Revised Application (May 2019)</p> <p>Review of revised CUPA Application finds revised language clarifying the structure of Imperial County Fire Department Unified Program. The application indicates the seven (7) positions are new and will be for the implementation of the Unified Program. The existing Imperial County Fire Department inspection personnel will continue conducting Fire Code inspections. Further, the organization chart shows the Fire Prevention section separate from the Unified Program. State Water Board is satisfied with the revisions.</p> <p>Original Application (August 2018)</p> <p>Comment</p> <p>The organization chart provided in the application indicates four (4) CUPA inspectors, one (1) supervisor, one (1) Office Technician/Accountant, and one (1) Office Technician will implement the Unified Program.</p>

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			<p>The application and CERS indicate there are 990 regulated businesses in the County of Imperial. Page 9 indicates the applicant already conducting 700 fire code inspections annually. Language suggests the applicant will be completing Unified Program inspections in addition to fire code inspections.</p> <p>Response</p> <p>It is not clear if the four (4) CUPA inspectors will be included in inspecting the 990 regulated businesses in addition to the 700 fire code inspections. This influences staff adequacy and causes concern with staffing resources.</p>
9	A	15	<p>UPA Program Element Implementation</p> <p>Revised Application (May 2019)</p> <p>Review of revised CUPA Application finds revised language clarifying inspections will gradually transition from the current CUPA to the applicant upon certification. Further, the application indicates during the transition, training of new inspection personnel will be conducted, and ICC UST Inspector certification will be obtained. However, the application indicates inspectors with will have their ICC UST Inspector certification within 8-months of certification. Taking into consideration the transition of CUPA Programs and the hiring process, the timeline is acceptable.</p> <p>Original Application (August 2018)</p> <p>Comment</p> <p>The applicant states intention to fully implement all Unified Program elements within 12 to 24 months.</p> <p>The application indicates during the transition from the Imperial County CUPA-DTSC to Imperial County Fire Department, inspections will continue to be performed by DTSC.</p> <p>Response</p> <p>The applicant is not clear when inspection personnel will obtain required International Code Council (ICC) Inspector Certification. Please identify when personnel will obtain ICC UST Inspector Certification.</p>

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10	H	21	<p>Permit Cycles</p> <p>Revised Application (May 2019)</p> <p>Review of revised CUPA Application finds revised language in the Inspection and Enforcement Plan clarifying that the permit cycle is for all Unified Program elements. The revised CUPA Application is now consistent with Health and Safety Code and California Code of Regulations. State Water Board finds this acceptable.</p> <p>Original Application (August 2018)</p> <p>Comment</p> <p>Application indicates a permit to operate expires five (5) years after issuance (permit cycle).</p> <p>Response</p> <p>It is not clear if the permit cycle is for all Unified Programs or just the UST Program. Please clarify the permit cycle and revise language accordingly.</p>
10	I	21	<p>Other Permit Procedures – Permit Modification</p> <p>Revised Application (May 2019)</p> <p>Review of revised CUPA Application finds revised language in the Inspection and Enforcement Plan clarifying that permits to operate may be modified. The application also indicates modified permits to operate will retain the original expiration date. The revised CUPA Application is now consistent with Health and Safety Code and California Code of Regulations. State Water Board finds this acceptable.</p> <p>Original Application (August 2018)</p> <p>Comment</p> <p>Application indicates a permit may be modified.</p> <p>Response</p> <p>The application does not clearly identify which types of permits may be modified. Please clarify what types of permits may be modified and revise language accordingly.</p>

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11		21	<p>Inspection and Enforcement Plan – UST Program</p> <p>Revised Application (May 2019)</p> <p>Review of revised CUPA Application finds the Inspection and Enforcement Plan containing correct UST Program implementation code citations. The revised Inspection and Enforcement Plan is now consistent with Health and Safety Code and California Code of Regulations. State Water Board finds this acceptable.</p> <p>Original Application (August 2018)</p> <p>Comment</p> <p>Application does not correctly reference citations for the UST Program. The application references California Health and Safety Code, chapter 6.75 and California Code of Regulations, title 23, chapter 18. Citations are incomplete and require revision.</p> <p>Response</p> <p>California Health and Safety Code, chapter 6.7 and California Code of Regulations, title 23 citations are not correctly cited. Therefore, revision is necessary. The following citations are to be referenced in the application:</p> <ol style="list-style-type: none"> 1. Health and Safety Code, division 20, chapter 6.7; 2. Health and Safety Code, division 20, chapter 6.75; 3. California Code of Regulations, title 23, division 3, chapter 16; and 4. California Code of Regulations, title 23, division 3, chapter 18.
11	C(4)	28	<p>Program Specific Inspection Checklists</p> <p>Revised Application (May 2019)</p> <p>Review of revised CUPA Application finds revised language in the Inspection and Enforcement Plan clarifying the intent to utilize inspection checklists based on the most current CERS violation library. Further, the application indicates developing a checklist for UST installations, removals, etc. upon certification. State Water Board finds this approach acceptable.</p>

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			<p>Original Application (August 2018)</p> <p>Comment</p> <p>Application indicates utilizing the most current CERS violation library and CUPA Forum Board checklists as part of conducting annual compliance inspections.</p> <p>Response</p> <p>Application does not clearly identify if inspection checklists for activities such as UST installation, UST closure, and UST temporary closure are going to be used. Please identify if the applicant proposes to use inspection checklists for activities such as UST installation, UST closure, and UST temporary closure.</p>
11	C(9)(d)	29	<p>Typical Compliance Timeline – Notice to Comply (NTC) – UST Program</p> <p>Revised Application (May 2019)</p> <p>Review of revised CUPA Application finds no revised language in the Inspection and Enforcement Plan regarding “Typical Compliance Timeline.” However, review of the revised Inspection and Enforcement Plan finds a section regarding significant violations on page 38, which captures the seven (7) day requirement for return to compliance. State Water Board finds this acceptable.</p> <p>Original Application (August 2018)</p> <p>Comment</p> <p>Application correctly captures 60-day and 30-day requirements for return to compliance for cited violations.</p> <p>Response</p> <p>Suggest adding language to identify a timeline for correcting significant violations found in California Code of Regulations, title 23, division 3, chapter 16, section 2717.1(b) – 7-days to correct cited significant violation.</p>
11	D(3)(a)	30	<p>UST Inspections</p> <p>Revised Application (May 2019)</p> <p>Review of revised CUPA Application finds revised language in the Inspection and Enforcement Plan clarifying that inspection personnel will witness annual monitoring certifications at which</p>

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			<p>time observing functionality of leak detection equipment. State Water Board finds this acceptable.</p> <p>Review also finds no additional language per the State Water Board suggestion, regarding conducting inspections when an annual monitoring certification has not been witnessed. Because Health and Safety Code and California Code of Regulations does not require an Inspection and Enforcement Plan to contain steps for conducting an inspection when a monitoring certification is not witnessed, State Water Board highly recommends the applicant at some point in time, create a policy or procedure to address this topic.</p> <p>Original Application (August 2018)</p> <p>Comment</p> <p>Application indicates inspection personnel, shall verify functionality of leak detection equipment during the annual compliance inspection.</p> <p>Response</p> <p>Please note inspection personnel witness functionality testing, not verify functionality of leak detection equipment. This is done in conjunction with UST Service Technicians with appropriate manufacturer certifications and training. Language is not consistent with California Health and Safety Code, chapter 6.7 and California Code of Regulations, title 23. Revise language to correctly identify how a UST inspection is completed.</p> <p>Application language does not identify how inspection personnel are to conduct an inspection when an annual monitoring certification is not witnessed. Suggest adding language capturing how to conduct an annual compliance inspection when an annual monitoring certification cannot be witnessed. Language should include but not be limited to scheduling site visit, arranging to have UST system opened up during walkthrough for visual inspection, reviewing annual monitoring certification for failures, ensuring failures are repaired and re-tested, review of on-site documentation including CERS, report writing, etc.</p>
12		59	<p>Fee Accountability Program</p> <p>Revised Application (May 2019)</p> <p>Review of revised CUPA Application finds the number of staff to implement the Unified Program has been corrected. The</p>

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			<p>number of staff matches the organization chart. State Water Board finds this acceptable.</p> <p>Original Application (August 2018)</p> <p>Comment</p> <p>Application indicates 9.0 full time staff members. Five (5) inspection personnel, one (1) Unified Program supervisor, and the remaining support by indirect administrative support. However, Page 12, Organization Chart, indicates four (4) inspection personnel, one (1) supervisor, one (1) Office Technician/Accountant, and one (1) Office Technician.</p> <p>Response</p> <p>Application language and organization charts are not consistent. Revise to accurately reflect staffing numbers.</p>
12	A	61	<p>Staff Resource Adequacy</p> <p>Revised Application (May 2019)</p> <p>Review of revised CUPA Application finds revised language clarifying the permitting activities in addition to revising the number of permits issued each year. The permitting activities include permit modifications, new applications, etc. The number of permitting activities has decreased from 35 to 16. Permits have also been clarified to indicate permits to operate are on the same cycle, even in the event of a permit to operate is modified for a reason such as the closure of one (1) UST and two (2) others remain permitted. State Water Board finds this acceptable.</p> <p>Original Application (August 2018)</p> <p>Comment</p> <p>Applicant indicates three (3) hours for permitting activities for 35 permits each year, and that the permit is effective for five (5) years.</p> <p>Response</p> <p>CERS indicates approximately 80 regulated UST facilities in the Imperial County jurisdiction. It's not clear how 35 permits per year was derived at a 5-year permit cycle. If necessary, revise to accurately reflect correct number of permits issued annually. Further, clarification is needed to understand if all permits will be on the same permit cycle. Please identify if all permits to</p>

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			operate will be on the same permit cycle, i.e. 2019 - 2024, or something different. Revision may be necessary dependent on clarification.
12	C(3)	61	<p>Estimated Revenue – FY 2019/2020</p> <p>Revised Application (May 2019)</p> <p>Review of revised CUPA Application finds revised language clarifying the number of hours for permitting/inspection activities. The number of hours has increased from eight (8) to 16 hours. The number of hours the fees cover is in line with other CUPA's. State Water Board finds this acceptable.</p> <p>When reviewing the fee schedule for other activities such as closure and installation, the fees assessed are in line with other CUPA's. State Water Board finds this acceptable.</p> <p>Original Application (August 2018)</p> <p>Comment</p> <p>The proposed fee schedule in the application is as follows:</p> <ul style="list-style-type: none"> • First Tank fee - \$1380 • Each Additional Tank fee - \$260.00 <p>In accordance with the first tank fee of \$1380.00 and each additional tank fee of \$260.00, a 3-tank system hourly rate is calculated at \$237.50 per hour. That equates to 8 hours of service. However, the applicant proposed fee schedule indicates an hourly rate of \$115.00. That's a discrepancy of \$122.50.</p> <p>Response</p> <p>It is not clear what the applicant hourly rate is, as conflicting information is provided in the application. To assess proper fees, confirm the applicants proposed hourly rate and/or make corrections for consistency and clarity.</p> <p>(Please note Health and Safety Code, division 20, chapter 6.7, section 25287...establish the amount of fees at a level sufficient to pay the necessary and reasonable costs incurred by the local agency in administering this chapter...)</p>

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13	B(3)	64	<p>Methods for Determining Fees</p> <p>Revised Application (May 2019)</p> <p>Review of revised CUPA Application finds no language regarding volume with respect to fee calculations. State Water Board finds this acceptable.</p> <p>Original Application (August 2018)</p> <p>Comment</p> <p>Application indicates UST fees are scaled according to volume and the number of hours necessary to inspect a facility.</p> <p>Fees identified in applicants proposed fee schedule do not indicate volume being taken into consideration.</p> <p>Response</p> <p>Application language and fee schedule conflict with each other. The application and fee schedule require consistency.</p>
Title Page		1	<p>Applicant Information</p> <p>Revised Application (May 2019)</p> <p>Review of revised CUPA Application finds revised language clarifying the Imperial County Fire Department as the agency to implement the Unified Program. This was further clarified on April 23, 2019, when the Imperial County Board of Supervisors approved the Imperial County Fire Department as the agency to implement the Unified Program. State Water Board finds this acceptable.</p> <p>Original Application (August 2018)</p> <p>Comment</p> <p>Application does not clearly or consistently identify the name of the applicant. For example, on Page 13, The Imperial County Board of Supervisors designates the Imperial County Fire Department and Office of Emergency Services as the implementing agency. However, throughout the application, the following names are used to identify the implementing agency; Imperial County Fire Department, ICFD, ICFD EHS, the Department, Department Staff, designated officer, and the CUPA.</p>

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			<p>Response</p> <p>Applicant should clearly state and be consistent with use of the applicant name.</p>
None	None	None	<p>Additional Comment</p> <p>Revised Application (May 2019)</p> <p>Review of revised CUPA Application and the applicant's response letter to State Water Board comments, finds the applicant in agreement with State Water Board comments. Applicant indicates upon certification; the Imperial County Fire Department will develop policies and procedures in concert with the State Water Board. State Water Board finds this acceptable.</p> <p>Original Application (August 2018)</p> <p>Comment</p> <p>In addition to the information provided above, State Water Board finds it necessary that the applicant fully develop policies and procedures such as an Inspection and Enforcement Plan, Data Management Procedures, Permitting Procedures, and Inspection Procedures for specific programs. These policies and procedures will aide the applicant with effective program implementation. State Water Board will provide copies of procedures from successfully operating CUPAs that can be provided to the applicant to assist with program development and implementation upon request.</p>
None	None	None	<p>Additional Comment</p> <p>Revised Application (May 2019)</p> <p>Review of revised Draft Ordinance finds revised language adding section 2018-17. The language added references closure of USTs by December 31, 2025. The Draft Ordinance is now consistent with Health and Safety Code. State Water Board finds this acceptable.</p> <p>Original Application (August 2018)</p> <p>Comment</p> <p>Draft Ordinance does not address closure of single-wall USTs by December 31, 2015.</p>

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			Recommend the applicant revise the Draft Ordinance to include language requiring the closure of single-wall USTs including single-wall product pipe with the exception of single-wall safe suction product pipe by December 31, 2025.
None	None	None	<p>Additional Comment</p> <p>Revised Application (May 2019)</p> <p>Review of revised CUPA Application and the applicant's response letter to State Water Board comments, finds the applicant in agreement with State Water Board comments. Applicant indicates it will provide State Water Board the opportunity to review and provide input on the transition plan. State Water Board finds this acceptable.</p> <p>Original Application (August 2018)</p> <p>Comment</p> <p>State Water Board requests to review and provide input on transition plan as referenced in the application.</p>
None	None	None	<p>Additional Comment</p> <p>Revised Application (May 2019)</p> <p>Review of revised Draft Ordinance finds revised language generalizing Health and Safety Code and California Code of Regulations per State Water Board recommendations. State Water Board finds this acceptable.</p> <p>Original Application (August 2018)</p> <p>Comment</p> <p>Draft Ordinance has a great level of specificity referencing California Health and Safety Code, chapter 6.7 and California Code of Regulations, title 23. Each time an amendment is made to California Health and Safety Code, chapter 6.7 and California Code of Regulations, title 23, a revision may be necessary in the ordinance to be consistent. Therefore, State Water Board highly recommends the reference of general division, chapter, and article of authority for California Health and Safety Code, chapter 6.7 and California Code of Regulations, title 23 rather than specific sections.</p>

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None	None	None	<p>Additional Comment</p> <p>Revised Application (May 2019)</p> <p>Review of revised CUPA Application finds revised language clarifying the name of the database being developed to implement the Unified Program. The application also clarifies that all inspection and enforcement data will be entered into CERS at least quarterly and this information will be tracked and maintained in the proprietary database. State Water Board finds this acceptable.</p> <p>Original Application (August 2018)</p> <p>Comment</p> <p>Review of application finds one (1) reference addressing the type of database proposed for use in the Unified Program. The proposed database is identified on Page 55 and references a proprietary Departmental database.</p> <p>It is not clear if the applicant will be using a local portal or CERS for reporting purposes. Revise application to include information on meeting electronic reporting requirements.</p>
None	None	None	<p>Additional Comment</p> <p>Revised Application (May 2019)</p> <p>Review of revised CUPA Application finds revised language clarifying resources to implement the Unified Program. These resources include the Self-Audit Reports of the current CUPA, CERS, and consultation with CUPA managers regarding the ratio of facilities to inspectors. Further, the application also indicates that a final assessment of regulated businesses per program element will be reviewed within the first year of certification. State Water Board finds this acceptable.</p> <p>Original Application (August 2018)</p> <p>Comment</p> <p>The applicant did not provide adequate documentation or analysis which concludes staffing and budget resources are sufficient. Additional details are necessary to determine if current proposed staffing and budget allows for full implementation of each Unified Program element.</p>

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None	None	None	<p>Additional Comment</p> <p>Revised Application (May 2019)</p> <p>Review of revised CUPA Application finds revised language clarifying the transition of the Unified Program. The transition is to occur within 12 months of certification. The revised CUPA Application is now consistent with California Code of Regulations. State Water Board finds this acceptable.</p> <p>Original Application (August 2018)</p> <p>Comment</p> <p>Applicant indicates full implementation of the Unified Program between 12 and 24 months. This is not consistent with California Code of Regulations, title 27, section 15170(a)(15) whereby full implementation should occur within 12 months of certification.</p>
None	None	None	<p>Additional Comment</p> <p>Revised Application (May 2019)</p> <p>Review of revised CUPA Application and Draft Ordinance, and the applicant's response letter to State Water Board comments, finds the applicant in agreement with State Water Board comments. Applicant indicates it will commit to providing State Water Board with sufficient time to review and comment on the Draft Ordinance prior to adoption by the Imperial County Board of Supervisors. State Water Board finds this acceptable.</p> <p>Original Application (August 2018)</p> <p>Comment</p> <p>Review of the Draft Ordinance finds a number of revisions are necessary before the Imperial County Board of Supervisors adoption due to several inconsistencies and conflicts with California Health and Safety Code, chapter 6.7 and California Code of Regulations, title 23. Therefore, once revisions have been completed, State Water Board requests the applicant provide Draft Ordinance for review prior to adoption by Imperial County Board of Supervisors. The State Water Board believes that this additional review is necessary as there are multiple concerns for the current version of the Draft Ordinance.</p>