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DISCLAIMER:

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1.0 INTRODUCTION

1.1 Purpose

This guidance document is designed to provide direction to On-Scene Coordinators (OSCs), other removal program personnel, and Regional Underground Storage Tank (UST) Coordinators for the initiation and coordination of Federal-lead corrective actions in response to petroleum releases from leaking underground storage tanks. The guidance presents procedures to be followed, including required justification and the documentation necessary for undertaking a Federal-lead UST corrective action. A separate guidance document is being developed for corrective actions on Indian lands.

1.2 Background

The Superfund Amendments and Reauthorization Act (SARA) of 1986 amends Subtitle I of the Solid Waste Disposal Act (SWDA) to provide the authority for Federal response to petroleum releases from leaking USTs. The amendments also establish a \$500 million Leaking Underground Storage Tanks (LUST) Trust Fund to finance both Federal and State UST program activities. Federal-lead UST corrective actions will be performed by the same EPA emergency response and contractor personnel that conduct oil and hazardous substance removal actions.

Note: As used in the guidance, "SWDA refers to the Solid Waste Disposal Act as amended by any other legislation, including SARA, the Resource Conservation and Recovery Act of 1976 (RCRA), and the Hazardous and Solid Waste Amendments of 1984 (HSWA).

1.3 Policy

It is EPA's policy that LUST Trust Fund-financed responses at petroleum releases from underground storage tanks will be conducted by States under cooperative agreement with EPA, except in rare circumstances. Most States will have broad cooperative agreements to address emergency response and to perform cleanups; in the absence of such agreements, the Region and State are encouraged to develop site-specific cooperative agreements, under which the state will conduct corrective actions at individual sites. EPA will undertake a corrective action only in instances where there is a major public health or environmental emergency, and the State is unable to respond. In addition, the state must demonstrate that it has contacted or attempted to contact owners or operators, and the State is convinced that owners or operators are unable or unwilling to provide adequate, timely response. Federal-lead corrective action will be limited to stabilization of the immediate situation, with the expectation that further cleanup will be performed by the State under an appropriate cooperative agreement.

1.4 Definitions

For the purposes of this guidance, the following definitions apply:

Exposure Assessment - As defined in Section 9003(h)(10) of SWDA, "the term 'exposure assessment' means an assessment to determine the extent of exposure of, or potential for exposure of, individuals to petroleum from a release from an underground storage tank based on such factors as the nature and extent of contamination and the existence of or potential for pathways of human exposure (including ground or surface water contamination, air emissions, and food chain contamination), the size of the community within the likely pathways of exposure, and the comparison of expected human exposure levels to the short-term and long-term health effects associated with identified contaminants and any available recommended exposure or tolerance limits for such contaminants. Such assessment shall not delay corrective action to abate immediate hazards or reduce exposure."

Major Public Health or Environmental Emergency - To qualify for Federal response action, an UST site must be deemed a major public health or environmental emergency. (This definition is more strict than that for current hazardous substance removal actions and is intended to significantly limit the number of Federal-lead UST responses, so that only health or environmental emergencies are addressed). Such an emergency exists if the following criteria are met:

- The release poses an immediate and substantial threat of direct human, animal, or food chain exposure to petroleum; or
- The release poses an immediate threat of fire and/or explosion; or
- The release poses an immediate and substantial threat to public drinking water supplies; or
- The release poses an immediate threat to human health or substantial amounts of property, or poses an immediate and substantial threat to natural resources.

Petroleum - As defined in Section 9001(8) of SWDA, "the term 'petroleum' means petroleum, including crude oil or any fraction thereof which is liquid at standard conditions of temperature and pressure (60 degree Fahrenheit and 14.7 pounds per square inch absolute)." This term includes, but is not limited to, gasoline, diesel fuel, and jet fuel.

Underground Storage Tank - As defined in Section 9001(1) of SWDA, "the term 'underground storage tank' means any one or combination of tanks (including underground pipes connected thereto) which is used to contain an accumulation of regulated substances, and the volume of which (including the volume of the underground pipes connected thereto) is 10 per centum or more beneath the surface of the ground. Such term does not include any:

1. farm or residential tank of 1,100 gallons or less capacity used for storing motor fuel for noncommercial purposes,
2. tank used for storing heating oil for consumptive use on the premises where stored,
3. septic tank,
4. pipeline facility (including gathering lines) regulated under -
 - i) the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. App. 1671, et seq.),
 - ii) the Hazardous Liquid Pipeline Safety Act of 1979 (49 U.S.C. App. 2001, et seq.), or
 - iii) which is an intrastate pipeline facility regulated under State laws comparable to the provisions of law referred to in clause (i) or (ii) of this subparagraph,
5. surface impoundment, pit, pond, or lagoon,
6. storm water or waste water collection system,
7. flow-through process tank,
8. liquid trap or associated gathering lines directly related to oil or gas production and gathering operations, or
9. storage tank situated in an underground area (such as a basement, cellar, mineworking, drift, shaft, or tunnel) if the storage tank is situated upon or above the surface of the floor.

The term 'underground storage tank' shall not include any pipes connected to any tank which is described in subparagraphs (A) through (I)."

Final clarification of these terms and definitions will be found in the regulations (and preamble) for underground storage tanks, scheduled for publication later in 1988.

2.0 CRITERIA FOR CORRECTIVE ACTION

2.1 Legislative Standards and Criteria

This guidance is designed to provide direction for undertaking Federal-lead corrective action at petroleum leaks from underground storage tanks. The basic criteria for a Federal response are found in Section 9003 of the amended SWDA; Subsection (c) specifies the release detection, prevention, and correction requirements for USTs to be promulgated by EPA, and Subsection (h) provides two sets of criteria for Federal-lead UST responses.

Before the effective date of the regulations promulgated under Section 9003(c) of SWDA, a corrective action may be undertaken if the Administrator (or State under cooperative agreement) deems it necessary to protect human health and the environment, as authorized in Section 9003(h)(1) of SWDA. The EPA (or the responding State) must give priority to sites where no owner or operator is able to undertake proper corrective action, and to UST releases posing the greatest threat to human health and the environment.

After the regulations become effective, a response may be conducted only if corrective action is necessary to protect human health and the environment and one or more of the following criteria, presented in Section 9003(h)(2) of SWDA, are met:

- No financially solvent tank owner or operator, capable of carrying out proper corrective action, is found;
- The situation requires prompt action to protect human health and the environment;
- Corrective action costs exceed the financial responsibility requirements established for the tank, and expenditures from the LUST Trust Fund are necessary to ensure effective action; or
- The tank owner or operator has failed, or refused, to comply with an administrative order to perform corrective action.

Priority must be given to releases posing the greatest threat to human health and the environment.

2.2 EPA Criteria

In addition to the basic policy guidelines discussed in Section 1.3, and the legislative restrictions presented in Section 2.1, EPA will undertake corrective action only if a major public health or environmental emergency exists, as defined in Section 1.4.

EPA will take only those corrective actions that stabilize the emergency situation, allowing State or other responders to implement permanent cleanup remedies. If EPA's mitigative measures require continuing post-corrective action control (operations and maintenance), the affected State will be responsible for these measures as soon as possible.

3.0 FUND UTILIZATION

In accordance with SWDA Section 9003(h), the statute that describes the Federal response under the LUST Trust Fund, and in Compliance with EPA policy for Federal-lead actions, the general activities listed in Section 3.1 may be conducted with Fund monies. See Sections 7.2 and 7.3 for more detail on allowable and non-allowable costs related to performing corrective actions.

3.1 Eligible Activities

- Site investigations or exposure assessments (see Section 1.4) to determine potential health effects of a leak, and to establish corrective action priorities.

- Corrective actions such as stabilization of the site, temporary relocation of affected residents, or provision of alternate household water supplies.
- Enforcement activities (see Section 4.4) including development, implementation, and oversight of enforcement orders directed to responsible tank owners/operators.
- Cost recovery activities to seek reimbursement of LUST Trust Fund expenditures from liable parties.

3.2 State Cost Share

Until EPA's final regulations for release detection, prevention, and correction become effective later in 1988, there is no requirement for States to cost share or match Trust Fund monies. After the effective date of the regulations, States must pay a 10 percent share of the cost of LUST Trust Fund corrective actions, as required by Section 9003(h)(7)(B) of SWDA. However, failure to pay this required cost share will not prevent EPA from conducting a response if immediate action is necessary to mitigate an imminent or substantial endangerment to human health or the environment.

4.0 APPROVAL PROCESS

Federal-lead corrective actions may be approved only if the definitions and criteria outlined in sections 1.0 and 2.0 are met. In particular, the site must pose a major public health or environmental emergency to which the owner or operator or the State is unable to respond in an adequate and timely manner. In addition, no Federal-lead corrective action will be conducted unless an appropriate request is received from a State.

The Federal-lead UST delegations of authority, as well as two approval processes (based on response time considerations), are presented below.

4.1 Delegation of Authorities

All obligations for Federal-lead UST corrective actions (with limited exceptions for emergency situations, as noted below in section 4.1.4) must be approved by the Assistant Administrator (AA), Office of Solid Waste and Emergency Response (OSWER), as provided by Delegation 8-33 (see Appendix A). This authority may be redelegated to the Office Director (OD), Office of Emergency and Remedial Response (OERR). If redelegated, the OD, OERR, must obtain the concurrence of the OD, Office of Underground Storage Tanks (OUST).

4.1.1 In accordance with Delegation 8-33, Regional Administrators (RAs) may approve emergency obligations for Federal-lead UST corrective actions of up to \$50,000 per site. This authority may be used only

1. during non-duty hours (after 5:00 p.m. EST [local time in Washington, D.C.] on weekdays, or on Saturday, Sunday, or federal holidays), or if the situation precludes contacting Headquarters prior to initiating necessary response actions, and
2. if there is risk of death, injury, or catastrophic environmental damage, due to a petroleum release from an UST. Such an emergency would be posed by imminent or actual events such as:
 - fire and/or explosion; or
 - substantial or irreversible damage to a sensitive ecosystem or significant natural resource.

RAs may redelegate this limited authority to the Division Director and OSC level, as provided in Delegation 8-33. If redelegated, the OSC's \$50,000 authority is included in the RA's \$50,000 authority; it is not in addition to that authority. This authority may be used to initiate response, and may be used to initiate project restarts should new and unforeseen emergency conditions occur which meet the above

criteria. This authority cannot be used for continuations of work in progress. The costs that are applied toward the RA's authority to obligate funds up to \$50,000, and the costs that are excluded from this limit, are similar to those defined in EPA's Superfund Removal Procedures - Revision Number Three.

4.2 Oral Request from State

When the response time demands of the situation preclude implementing the formal written approval process described below in Section 4.3, the following oral approval process may be implemented.

4.2.1 The State evaluates the site and gathers all the necessary information to support an oral request (see Appendix B). The State UST Coordinator orally transmits the request and information to the Regional Oil and Hazardous Materials (OHM) Coordinator, or other designated Regional management official.

4.2.2 The assigned OSC consults with the Regional UST Coordinator, where possible (see Section 4.4).

4.2.3 The OSC (jointly with the Regional UST Coordinator, where possible) determines if criteria for corrective action discussed in Section 2.0 are met, and if an immediate response (within hours or days) is necessary. If so, the following approval process is implemented.

4.2.4 Approval process for corrective action

4.2.4.1 During regular working hours:

1. The OSC or other Regional official, after consultation with the Regional UST Coordinator, notifies the appropriate Headquarters Emergency Response Division (ERD) Regional Coordinator of the Region's intent to request oral approval from Headquarters to initiate and UST corrective action (phone # 8-382-2188, Magnafax #755-2155, TWX #710-822-9269, E-mail #EPA 5511).
2. The OSC gets oral approval from the RA or delegatee.
3. The OSC or other Regional official provides the information set forth in Appendix B to Headquarters.
4. The ERD Regional Coordinator reviews and processes the request, and relays the request and a recommendation for approval/denial to the appropriate Headquarters official.
5. The ERD Regional Coordinator communicates the decision and the appropriate accounting information (see Section 5.0) to the OSC or other Regional official as quickly as possible, and confirms the decision in writing by the end of the next work day. The OSC must notify the Regional UST Coordinator of the decision.
6. The RA transmits a formal action memorandum (see Appendix D), along with a formal State request letter (see Appendix C) to ERD within 10 days.

4.2.4.2 During non-duty hours (after 5:00 p.m. EST on weekdays, on Saturday, Sunday, and holidays), or if the situation precludes contacting Headquarters prior to initiating necessary response actions:

1. The OSC obtains oral approval from the RA, or from his/her delegatee (see Section 4.1, or Appendix A). This authority may only be used to obligate funds up to \$50,000, for corrective actions which meet the criteria in section 4.1.1.

2. The OSC notifies the Regional UST Coordinator (see Section 4.4) and ERD Regional coordinator of this action as soon as possible.
3. The RA transmits a formal action memorandum (see Appendix D), along with a formal State request letter (see Appendix C) to ERD within 10 working days. A ceiling increase request (see Appendix E) may be incorporated within this memorandum, if needed.

4.2.4.3 During non-duty hours, if a ceiling greater than \$50K is needed:

1. The OSC telephones the National Response Center (NRC), 800-424-8802, identifies himself/herself, and asks to be put in contact with the ERD Duty officer.
2. The NRC contacts the ERD Duty Officer.
3. The ERD Duty Officer contacts the OSC and asks for the information contained in Appendix E). The ERD Duty Officer notifies the supervisory duty officer, the OD/OERR, the OD/OUST, and the AA/OSWER (if appropriate), who approves or denies the request.
4. The ERD Duty Officer communicates the decision to the OSC as quickly as possible, and confirms the decision in writing by the end of the next work day.
5. The RA sends a formal action memorandum (see Appendix D), along with the State request letter (see Appendix C) to ERD within 10 days.

4.3 Written Request from State

This approval process must be used whenever the response time demands allow. Typically, this will mean that Federal response can be delayed for several days.

4.3.1 Receive written request from State

The affected state shall perform a thorough site evaluation to clearly determine the extent of release, source, substance(s) released, and threats posed by the release. The State shall also make every reasonable attempt to locate owners or operators and complete corrective actions. The State must then prepare a formal written request for Federal-lead UST corrective action that presents all of the pertinent site information, using the State request letter format in Appendix C. The request letter should be sent to the Regional OHM Coordinator, or other designated Regional management official, from the Director of the State UST agency designated by the Governor of the affected State.

4.3.2 Notify Regional UST Coordinator

When a letter requesting UST corrective action is received from the State, the Regional UST Coordinator must be consulted and provided a copy of the letter (see Section 4.4).

4.3.3 Evaluate State request

- The OSC and Regional UST Coordinator jointly evaluate the State request to determine whether:
- Additional information is required. If the request letter (see Appendix C) is deficient, the Region should contact the State and obtain additional information, or instruct the State to resubmit the request letter incorporating the Region's comments. If necessary, the OSC may perform a perfunctory site inspection to gather needed data.
- Federal-lead UST corrective action is not justified. If the situation does not meet the criteria discussed in Section 2.0, the OSC and the Regional UST Coordinator must recommend to the OHM Coordinator that the request be denied.

- Federal-lead UST corrective action is justified. If the situation appears to meet the criteria discussed in Section 2.0, the following approval procedures should be implemented.

4.3.4 Regional role

The OSC notifies the appropriate ERD Regional Coordinator of the Region's intent to request Headquarters' approval to initiate a Federal-lead UST corrective action (phone # 8-382-2188, Magnafax #755-2155, E-mail #EPA 5511, TWX #710-822-9269). The OSC should also forward a copy of the State request letter, or a draft copy of the action memorandum to allow the ERD Regional Coordinator to expedite the Headquarters approval process.

The OSC should provide the information set forth in the State request letter (see Appendix C) by submitting an action memorandum, using the format presented in Appendix D. The action memorandum must be signed by the RA and addressed to the AA, OSWER through the OD, OERR, to the attention of the Director, ERD.

4.3.5 Headquarters role

The ERD Regional Coordinator reviews the action memorandum, gets concurrences from other offices as necessary (e.g., OUST, OGC), and sends it with a recommendation for approval/denial to the appropriate Headquarters official for final determination and signature.

The ERD Regional Coordinator then communicates the OSWER decision to the Region as quickly as possible, along with the appropriate accounting information (see Section 5.0). Written confirmation of the decision is forwarded to the OSC and the Regional UST Coordinator as soon as practicable.

4.4 Regional UST Coordinator/Enforcement

The Regional UST Coordinator is a Regionally-designated employee who acts as a liaison between emergency response personnel and Regional UST program management. The Regional UST Coordinator may have the information about a specific site, the status of a State's UST program, and the State's eligibility for a cooperative agreement under the LUST Trust Fund, that could prove useful in weighing the State's response capabilities against the characteristics and magnitude of an UST emergency. The Regional UST Coordinator should be informed as soon as possible whenever the Region receives a State request for Federal-lead UST corrective action; whenever practicable, the Regional UST Coordinator, together with the OSC, should evaluate the appropriateness of Federal-lead corrective action prior to seeking approval. The OSC should keep the Regional UST Coordinator informed of all significant events during Federal-lead UST corrective actions.

States, under cooperative agreements, will be expected to initiate and pursue enforcement action. The Regional UST Coordinator is responsible for coordinating with affected State agencies, particularly in identifying owners or operators and pursuing enforcement actions. EPA has the authority to issue several different types of administrative orders under SWDA: Section 9005 warning letters can be issued to compel tank testing and investigation to detect suspected leaks; Section 9003(h) orders can be issued to require site assessment, development of a response plan, and implementation of corrective action pursuant to the EPA-approved plan; and Section 9006(a) orders can be issued to enforce compliance with a previous order. States are expected to have or develop similar enforcement authorities. Enforcement efforts to secure response from owners or operators must not delay Federal-lead corrective action if site conditions meet the criteria in Section 4.1.4 of this guidance.

5.0 ACCOUNTING INFORMATION

The LUST Trust Fund appropriation number is 68-20X8153; the program element is FPYV2B. For all actions given prior Headquarters approval, account and Document Control numbers will be issued to the

ERD Regional Coordinator by the Headquarters Financial and Administrative Management Support Staff (FAMS). The ERD Regional Coordinator will then inform the OSC of the assigned numbers.

Each Region has approval authority up to \$50,000 per site to use in responding to certain UST emergencies (see Section 4.1.1 for more detail). For actions initiated by the Region using its \$50,000 authority, account and Document Control numbers should be issued by the Regional Financial Management Officer.

Detailed information describing Trust Fund appropriation, account number structure, activity codes, and other relevant matters has been issued by the Comptroller General to all Financial Management Officers in Comptroller Policy Announcement Number 87-13, "Interim financial Policies and Procedures Governing Use of the Leaking Underground Storage Tank (LUST) Trust Fund" (see Appendix I).

The Policy Announcement establishes policies and procedures for use of the Fund by EPA and State governments. Each site will be assigned a ten-digit account number in the Financial Management System (FMS), which enables tracking of site-specific costs for cost management and cost recovery purposes. The Policy Announcement details methods of charging time and other direct costs to the Fund.

6.0 INITIATION OF ON-SITE ACTIONS

Mechanisms available to the OSC for initiating an UST response include:

- Procurement of cleanup services;
- Procurement of technical assistance; and
- Assistance through other agencies.

6.1 Procuring Cleanup Services

For site tracking purposes, the Agency has defined the "start" of the action to be the date on which a cleanup contractor (e.g., ERCS) mobilizes on the site, not the date on which a site assessment is performed, the action is approved, or the first obligation occurs.

6.1.1 Emergency Response Cleanup Services (ERCS) Contracts

The ERCS zone contracts, supplemented by the Regional ERCS contracts, form the core of EPA's emergency response resources. These contracts provide 24-hour, immediate delivery of cleanup contractor personnel, services, and material for response to CERCLA hazardous substance releases. The contracts also include provisions for UST response. Procedures to mobilize ERCS contractors are identical to current removal program procedures, as outlined in **Superfund Removal Procedures -- Revision Number Three, ERCS Users' Manual**, and **EPA Superfund Emergency Contracting Procedures**. An Ordering Officer should fill out a Delivery Order (DO) and Procurement Request (PR) using the accounting information provided by the ERD Regional Coordinator or the Region's Financial Management Officer. Instructions for completing and processing DOs can be found in Appendix G.

6.1.2 Other commercial contracts

When the use of the ERCS contractor is inappropriate due to conflict of interest, response time considerations, or other unusual or unforeseen circumstance, other contractors may be used. For information and procedures on procuring other contractor services, OSCs should contact the appropriate Headquarters Procurement and Contracts Management Division (PCMD) Contracting Officer (CO).

6.2 Procuring Technical Assistance

6.2.1 Technical Assistance Team (TAT) contracts

The TAT contracts provide technical and management assistance to OSCs. TAT services include sampling, cleanup monitoring, documentation of site conditions and activities, project planning, health and safety planning, cost tracking, quality assurance, and related tasks. The two TAT zone contracts include provisions for UST response. Procedures for implementing these contracts are similar to current removal program procedures as outlined by **Superfund Removal Procedures - Revision Number Three** and the **TAT Contract User's Manual**, except that the Project Officer must give approval. The Region's Deputy Project Officer (DPO) should complete a Technical Direction Document (TDD) form, being sure to specify that the source of funding is the LUST Trust Fund (instructions for completing and processing TDDs can be found in Appendix H). The DPO must obtain the Headquarters Project Officer's (PO) approval of the TDD; the PO will contact the contractor Zone Program Manager (ZPM) as soon as possible to confirm approval. The ZPM will then communicate the PO's approval to the appropriate TAT Leader, who may only then implement the task requested by the TDD. Appendix H provides a detailed description of the process for activating TAT.

6.2.2 Environmental Response Team (ERT)

The EPA Environmental Response Team (ERT) provides a wide range of technical, analytical, investigative, and planning services. To obtain ERT assistance, contact the ERD Regional Coordinator.

6.3 Assistance from Other Agencies

Other Federal agencies may have personnel with specific expertise and experience that could be useful to OSCs in performing Federal-lead UST corrective actions. EPA has a Memorandum of Understanding (MOU) or site-specific Interagency Agreements (IAGs) with each of several agencies to facilitate their direct participation in hazardous substance responses using CERCLA monies. Although there is no provision for their participation in Federal-lead UST corrective actions, which are funded under SWDA, OSCs may contact other agencies to seek informal advice or assistance as appropriate. The following agencies may be particularly helpful.

6.3.1 Federal Emergency Management Agency (FEMA)

FEMA is often used to provide assistance with temporary and permanent relocation of affected residents and businesses during removal actions.

6.3.2 Agency for Toxic Substances and Disease Registry (ATSDR)

ATSDR can provide advice concerning exposure effects of certain substances, calculate risks to the public and the environment from releases and issue health advisories where appropriate, and can recommend cleanup levels. ATSDR may be able to provide assistance or guidance in performing exposure assessments (as defined in Section 1.4) at Federal-lead UST corrective action sites.

6.3.3 United States Coast Guard (USCG)

USCG is experienced in responding to a wide range of release incidents involving petroleum. USCG may have site-specific information concerning UST releases in coastal zones or affecting surface waters, and should be notified whenever Federal-lead UST corrective action is considered at such a release to determine whether response is more appropriate under the Clean Water Act (CWA).

6.4 Stabilization Standards

Federal-lead UST corrective action will generally be limited to stabilization of the emergency conditions that justified the initiation of the response occasionally; however, more complete cleanup may be appropriate. Whenever possible, further cleanup after stabilization should be conducted, as needed, by the State under an appropriate cooperative agreement with EPA.

When conducting stabilization actions, OSCs should consider relevant state standards and other applicable guidelines, as may be provided by the Regional UST Coordinator. The OSC should stabilize the site to a level that protects human health and the environment by mitigating the immediate threats.

7.0 MANAGING FEDERAL-LEAD UST CORRECTIVE ACTIONS

This section provides guidance on the roles and responsibilities of OSCs when managing UST response projects. A variety of topic is addressed, including oversight of contractors, allowable costs, cost management, ceiling increases and scope modifications, access agreements, health and safety, community relations, reporting requirements, and post-corrective action site control considerations.

OSCs have complete responsibility for directing response operations. This means that they must ensure that all on-site activities are consistent with Subtitle I of SWDA, as amended by Section 205 of SARA, and program policies and procedures; that all expenditures of funds are appropriate and reasonable; and that subsequent cost recovery actions will be supportable.

7.1 Oversight of Contractors

A major OSC role is oversight of the contractors performing response activities. Examples of oversight activities include:

- Preparation of the work report;
- Review and certification of the Contractor Cost Report (EPA Form 1900-55), which lists daily contractor costs;
- Daily monitoring of contractor personnel and equipment to verify satisfactory completion of the work;
- Determination of the overall project status.

In conducting these oversight activities, OSCs may request support from the TAT. Examples of such support are maintaining entry/exit logs of all contractor personnel and equipment, communicating oral or written messages from the OSC to the cleanup contractor, and maintaining logs related to project costs. The TAT staff may not, however, assume the OSC's responsibilities for directing site activity, verifying satisfactory completion of the work, or approving 1900-55 forms.

Compelling circumstances, such as another response incident, may require the OSC to leave the site for more than 24 hours. The OSC may designate capable persons from Federal, State, and local agencies to act as OSC representatives to supervise response operations. TAT staff, because of their non-governmental status, may not be designated OSC representatives.

Response program policy dictates the following guidelines for, and limitations on, the designation and activities of OSC representatives:

- **Federal employees** - The preferred designee would be another Federal employee because such a designee would have authority to direct, not merely oversee, contractors; to initiate activities involving expenditures of money; and to certify completion of work and costs.

Examples of appropriate Federal employees are another OSC, a non-OSC Superfund employee, or a non-Superfund employee from within the Region; an OSC or other employee from another Region; or Headquarters personnel or employees from another Federal agency such as USCG. As a practical matter, reassignment of staff from other duties may be difficult, particularly with respect to personnel outside the program, Region, or Agency. Moreover, designation of a Federal employee who does not have adequate training in program procedures and response operations could endanger the response.

- **State/local staff** - State and local officials are precluded from taking any actions involving expenditures of LUST Trusts Fund monies, unless an appropriate cooperative agreement has been executed. In practice, this means that State and local representatives may transmit and supervise the implementation of the OSC's work orders but may not provide new instructions.
- **TAT** - TAT personnel may not serve as OSC designees; they may, however, continue to provide support services at the site and monitor cleanup contractor performance in the absence of the OSC.

Because of the practical difficulties in designating an OSC representative who can assume full on-site responsibilities, OSCs are discouraged from leaving the site except in very limited circumstances. Examples of such circumstances are when EPA has an agreement with a State or local government to provide water hookups, or when the site clearly has "insignificant" activity (e.g., a pump running).

7.2 Allowable Costs

In general, EPA will expend LUST Trust Fund monies at a Federal-lead UST corrective action only to stabilize the situation and mitigate those problems that are directly responsible for creating the major public health or environmental emergency. Because of limitations on funds, long-term remediation and post-corrective action site control (operation and maintenance) activities must be performed by the State.

During an UST corrective action, the OSC is authorized to incur only those costs that qualify as appropriate uses of the LUST Trust Fund. These costs must be directly allocable to a particular response, reasonable, and necessary to accomplish the response.

This section summarizes both extramural and intramural costs that are allowable. To assist OSCs in tracking indirect costs, the Financial Management Division issues provisional EPA indirect cost rates. These rates should be used to estimate indirect costs incurred during the action.

In addition to the items specified below, an exposure assessment, as defined in Section 1.4 of this guidance, may also be performed at a Federal-lead UST corrective action. This assessment is a brief version of the detailed and complex risk assessment often performed to estimate exposure potential near RCRA and CERCLA hazardous substance sites. Although the exposure assessment is an allowable cost, it may rarely be appropriate due to time and financial restrictions imposed by the response criteria presented in Section 2.0 of this guidance. The ERD Regional Coordinator should be notified if an exposure assessment is being considered.

7.2.1 Extramural costs

- **Cleanup contractor and consulting costs**, including waste transportation and disposal, now provided principally under the ERCS contractor system and supplemented as needed by non-ERCS commercial contractors.
- **Support contractor costs**, including TAT.
- **Subcontractor costs**.
- **Other costs**, such as EPA leasing or rental of equipment; incremental costs for EPA-owned equipment; supplies, materials, and equipment (including transportation costs)

procured for the specific corrective action and full expended during the corrective action; and utilities.

- **15% contingency allowance**, for unforeseen extramural costs.

7.2.2 Intramural costs

- EPA direct costs, including the salaries, overtime, travel, and per diem of on-site EPA personnel.
- Direct costs incurred by ERT.
- Direct costs incurred by Headquarters and Regional technical and legal staff.
- EPA Regional Laboratory costs.
- Indirect costs, including EPA Regional and Headquarters management and administrative costs and fringe benefits.

7.3 Non-Allowable Costs

Corrective action costs not allowed under the LUST Trust Fund include (but are not limited to):

- State and local costs for which prior authorization was not specifically given by the OSC or addressed in a cooperative agreement (e.g., municipal services such as use of police or fire departments and state personnel who are on-scene performing tasks not specifically requested by the OSC).
- Costs for the research and development of equipment and response technologies used in conjunction with an UST corrective action (e.g., emerging alternative disposal technologies). Funding may be available, however, through other sources; contact the ERD Regional Coordinator for more information.
- Costs incurred by a contractor to provide response measures, for which that contractor is later found to be liable.

7.4 Cost Management

During Federal-lead UST corrective actions, all Regions must implement an effective system for managing response costs. This management system must ensure the efficient use of public monies, enable all response costs to be tracked against dollar ceilings, and provide the necessary information to support cost recovery actions.

Ultimate responsibility for cost management rests with the OSC. Detailed guidelines for the OSC are in the Removal Cost Management Manual. That manual identifies four components of cost management (i.e., cost projection, cost control, cost documentation, and cost recovery) which are applicable to Federal-lead UST corrective actions, and are summarized briefly below.

7.4.1 Cost projection

The key to effective cost management is through cost projection prior to the state of a response, as well as during a response. Pre-response estimates of costs form the basis for establishing a total project ceiling recorded in the action memorandum; cost projection during a response allows the OSC to anticipate the need for increases in the project ceiling. To estimate indirect costs, OSCs should use the provisional rates provided by the Headquarters Financial Management Division through the Region's Financial Management Officer.

7.4.2 Cost control

Cost control consists of cost planning and monitoring as well as verification of costs. OSCs are in the most advantageous position to control response costs if they stay informed on the availability of cost-effective resources. Thus, OSCs should: identify non-commercial support services and

response equipment available to the Region; familiarize themselves with cost-effective cleanup services in the event contracting outside the ERCS network is required; maintain information on the cost of obtaining, operating, and maintaining safety equipment; and review final UST response reports of costs at past responses.

In addition, OSCs are responsible for monitoring site work and verifying that the contractor has provided the personnel, equipment, expendables, and subcontractors for which it has charged the government. OSCs should note the strict limitations under the EPA contract management policies for delegating these responsibilities to non-Federal personnel such as TAT, or to State officials not operating under a cooperative agreement (see Section 7.1).

7.4.3 Cost documentation

Cost documentation refers to the specific set of procedures that OSCs use to maintain a record of all on-site activities and associated costs. The method of cost documentation should be consistent from day to day at a specific response but may vary from site to site and Region to Region. The method an OSC selects must ensure thorough record-keeping on the following six information items:

- Chronology of events and decisions;
- Site conditions;
- Movement of personnel and equipment (e.g., site entry and exit);
- Contractor planned and authorized work compared to actual accomplishments;
- Contractor costs (e.g., commercial cleanup contracts); and
- Other costs (e.g., TAT, ERT, Regional laboratory services, direct Headquarters and Regional intramural obligations, site access/acquisition).

The Removal Cost Management Manual provides applicable guidance on methods OSCs can use to determine each category of direct cost, and includes examples of the various types of documents OSCs can use to record information (e.g., POLREPs, entry/exit log, incident obligation log).

7.4.4 Cost recovery

Because of the possibility of a cost recovery action for any case involving the expenditure of LUST funds, OSCs have a responsibility to observe, document, and preserve critical evidence relating to the response and its costs. The cost documentation efforts described above are designed to ensure that facts concerning the release and owners or operators are recorded before response activity or the passage of time obscures or eliminates the evidence; that physical evidence essential for a trial is collected and preserved in a manner that will withstand judicial scrutiny; and that the government has maintained sufficient evidence of actual costs and substantiation of the need to incur those costs.

The essential elements of a cost recovery action are:

- Evidence of a release or threat of release of petroleum from an UST;
- Evidence that the defendant(s) is owner or operator of the UST;
- Evidence that the corrective action taken was necessary to protect human health and the environment; and
- Proof of incurred costs.

7.5 Ceiling Increases/Scope Modifications

OSCs should anticipate the need for ceiling increases or scope changes as early in the corrective action as possible so that the approval process does not interrupt the continuity of a project. The OSC should notify the appropriate ERD Regional Coordinator of such changes prior to submitting a formal request for approval; OSCs are encouraged to send a draft of the impending formal request to the ERD Regional Coordinator, to expedite concurrence and approval.

7.5.1 Ceiling increases

The initial action memorandum approving the corrective action establishes a project ceiling. This ceiling represents the total funding approved for the corrective action. OSCs cannot incur costs in excess of the initial project ceiling unless a ceiling increase is approved.

The request for a ceiling increase should contain the information shown in Appendix E. The level of detail required will vary according to site-specific circumstances. In general, the request should include information on the current site conditions, actions taken to date, costs to date, and the reasons why the ceiling increase is required (e.g., changed site conditions or increased disposal costs). It is important to explain whether the increase is 1) to perform more work, or 2) to respond to an additional threat to human health, welfare, or the environment, not previously documented, requiring additional corrective measures. If the ceiling increase is needed to complete actions previously approved, the request should detail the reasons why additional funds are required for those actions. If the ceiling increase is needed to address additional threats, the request should contain a new finding that the threats pose a major public health or environmental emergency. Ceiling increase requests must be submitted to Headquarters under the signature of the RA and must include the information outlined in Appendix E.

The RA should send the request for a ceiling increase to the AA, OSWER. In order to ensure an expeditious, smooth processing of the request, a final copy should also be sent to the ERD Regional Coordinator who is responsible for coordinating the Headquarters concurrence process.

7.5.2 Change in scope - no ceiling increase

UST corrective actions are approved by the AA, OSWER with a complete scope of work. In order to expand this scope (e.g., to address an additional threat), a formal change of scope request, specifying the additional corrective actions to be performed, must be approved by the official who approved the initial request.

The request should include information on current site conditions, actions taken to date, costs to date, and the additional proposed corrective actions as well as the additional threat.

7.6 Access Agreements

Gaining access to sites, where response actions require the use of adjoining property or property within the site boundaries owned by parties who are not owners or operators of the UST, may require obtaining access agreements or negotiating for rights-of-way with the property owners. Such agreements may be needed in order to establish a new road, to allow for the use of a private road, or to establish a command post.

7.6.1 Obtaining access

Primary responsibility for arranging for site access rests with the State. However, the OSC is ultimately responsible for obtaining site access agreements. The OSC may need to work with the State to ensure that arrangements are executed. Typically, the State will approach the property owner and the final access agreement will be drawn up either between the landowner and the

State, or directly between the landowner and the OSC or the response contractor. Property access agreements must cover the duration of the response action and any associated post-corrective action control measures. The OSC is responsible for overseeing all site access negotiations and agreements, regardless of whether they are obtained through Federal or State channels. If gaining access voluntarily is a problem, the OSC should consult the Office of Regional Counsel. The OSC should also consult the Regional Counsel to obtain legal advice on gaining access to property for which the State has no authority, such as rights-of-way for public utilities, railroads, and Federal lands.

7.6.2 Payments for property

The Agency will not, as a rule, pay property owners for rights-of-way or easements for property adjacent to the site or within site boundaries. Cases where payment becomes an issue in arranging for site access should be referred to the Regional Counsel or the ERD Regional Coordinator for assistance.

A written agreement signed by the OSC or EPA contractor with an owner/operator of an UST or a property owner who is not an owner/operator but whose property is contaminated or threatened cannot promise to compensate the owner for use of the property, to indemnify the owner for potential third party liability, or to pay for damages. Any written agreements offered by any property owner must be reviewed by Regional Counsel.

Generally, the OSC should attempt to restore the property, to the extent practicable, to its pre-response condition (e.g., regrading and reseeding a temporary site access road). The OSC may recommend fair payment to the owner as compensation, or assess the extent of any contamination and arrange for disposal, if necessary. In cases where the amount or type of compensation becomes an issue, the OSC should consult with the Regional Counsel or ERD Regional Coordinator.

7.7 Worker and Visitor Health and Site Safety

Response actions are subject to all applicable Federal, State, and local Occupational Safety and Health (OSH) laws. Standards of the Occupational Safety and Health Administration (OSHA) for the basis for the safety and health protection of workers involved in Federal UST corrective actions. Where State OSH laws exist, these laws may also apply to response actions. The safety and health requirements of other Federal agencies may also apply.

For LUST Trust Fund-financed corrective actions, all Federal, State, and contractor personnel involved are required to comply with the lead agency's overall occupational safety and health policies and with a site-specific safety plan. All visitors to the site are also subject to the same health and safety requirements.

Because response activities associated with each specific incident are unique, standard procedures will often have to be adapted or modified to meet the incident-specific requirements. For this reason, a written safety plan must be prepared for each incident, distributed, and posted in the command post. This should be done before response operations begin on the site, or as soon as possible thereafter. The plan must cover all phases of incident operations and identify key personnel and must be updated or modified as needed or as conditions change. As a minimum requirement, the safety plan should address the following:

- Establishment of the number of personnel permitted to enter the contamination zones.
- Establishment of entry and escape routes.
- Establishment of procedures to identify, locate, and alert off-site medical personnel.
- Determination of physical, chemical, and biological properties of known contaminants.
- Establishment of decontamination protocol.

- Establishment of levels of protection.
- Establishment of air-monitoring protocol.
- Establishment of general safety rules and equipment.
- Scheduling of daily safety meetings.
- Posting of key agency and emergency contacts.

OSCs are responsible for ensuring that workers and visitors are informed of on-site hazards and the provisions of the site health and safety plan. The OSC shall ensure that all individuals entering the site (e.g., EPA, TAT, contractors, press) have read the plan and understand its contents.

Throughout the response action, the OSC may call upon OSHA to advise on worker health and safety issues. When needed, the OSC may request that the National Institute of Occupational Health (NIOSH) provide assistance to OSHA in testing worker protection equipment and gathering information for guidance on safety issues. The OSC must be cognizant of on-site health and safety activities and is responsible for monitoring requirements and applicable Federal and State laws and regulations. However, OSCs are directly responsible only for their own staff; each government agency and private employer is responsible for the health and safety of its own employees and for ensuring compliance with OSHA requirements, applicable State OSH laws, and Agency health and safety programs. The Agency will not assume responsibility for other government or contractor personnel.

OSHA has authority for enforcing compliance with Federal OSH regulations. Response actions are subject to OSHA inspections. Where State OSH laws exist, State inspections may take place. If the OSC discovers an infraction of safety requirements, the OSC must remind all site personnel and visitors of the requirements. Should the infraction continue, the OSC may call in OSHA or state OSH inspectors to review practices to ensure compliance.

7.8 Community Relations and Public Information

Community relations is a communication network between response officials and the community. The objectives of community relations are: to identify community concerns about the site; to encourage citizens to express concerns and provide information; to provide information to the community on health and environmental effects of the release and proposed response action; and to incorporate citizen comments and concerns (including those of the owners or operators) into the decision-making process.

Community relations activities will be important at Federal-lead UST corrective action sites because a major public health or environmental emergency exists. However, the time and extent of Federal involvement may not warrant complex community relations plans. The EPA's **Community Relations Policy** (May 1983) and **Community Relations in Superfund: A Handbook (March 1986)** can be used as applicable guidance for developing and implementing community relations activities. Although no specific activities are currently required at Federal-lead UST corrective actions, a community relations profile should be prepared for any action that lasts longer than five days. The profile should provide notice to owners/operators that the record is available for review. The profile explains how program and community relations staff intend to plan for and implement community relations activities at the site. It should contain a brief outline of the nature of community concerns, the key site issues, the objectives of community relations activities, and the communications activities considered for the site.

Some petroleum releases may require short-term corrective action lasting no longer than a few days. These kinds of actions may not involve substantial community relations planning because of the nature of the emergency and the quick response time required. At these sites, the focus of community relations is to provide information about the site and its risks to the community; information can be channeled through the media and local officials.

7.9 Record-Keeping Requirements

OSCs must ensure that they document and record all decisions and determinations they make prior to and during responses. OSCs must also include in the files any significant comments received from the owners/operators and their response to these comments. Structured site and Regional files are the sole repositories for site records. Care must be taken to ensure their completeness and long-term security. Both site management and financial management records are critical when cost recovery is involved. Complete and precise OSC records of oral and written communication with owners and operators, contractors, and participating Federal, State, and local agencies must be maintained should litigation arise at some later time.

7.9.1 Pre-response records

Prior to the initiation of an UST response (when time allows), the OSC must maintain documentation regarding decisions and determinations relating to issues such as:

- The appropriateness of a Federal-lead UST corrective action;
- Contact with, and comments received from, the owner or operator;
- Contact with, and comments received from, the State;
- Planning response actions;
- Developing contractual arrangements; and
- Complying with relevant environmental statutes.

7.9.2 UST response records

During the course of a LUST Trust Fund-financed corrective action, the OSC is responsible for generating and maintaining site-specific documents such as action memoranda and daily and periodic cost control reports. It is critical that the OSC maintain a log of on-site activities and record all communications with the contractor, the owners or operators, and participating Federal, State, and local agencies. The **Removal Cost Management Manual** outlines the OSC's cost control record-keeping responsibilities. The **ERCS Contract User's Manual** and the **TAT Contract User's Manual** prescribe guidance for contractor-related record-keeping. Any cost control record-keeping requirements in conjunction with Federal, State, and local agencies may be prescribed as necessary.

7.10 Reporting Requirements

The OSC is responsible for documenting and reporting all response activities taken at a site. Reporting requirements include preparing and submitting to ERD a series of POLREPs and a final UST response report. POLREPs consist of initial, progress, and final reports. This section provides guidance on when the various reports should be submitted and the types of information each report should contain. All site information developed by the OSC must be made available to the Regional UST Coordinator, who will coordinate with the State to ensure that an effective, final resolution to a release will be accomplished by the State.

7.10.1 Pollution reports (POLREPs)

POLREPs provide factual operational data surrounding the incident and a current accounting of the total funds allocated in an incident. POLREPs should also detail measures to ensure that the affected community is properly and fully informed of all response activities. The Regions should bear in mind that POLREPs are a method of alerting Headquarters that critical events may be pending and that requests/action are about to be initiated. However, all requests for Headquarters decisions must be formally submitted in accordance with Section 4.0 of this guidance. To properly assist Headquarters management, routine POLREPs are sent to ERD at (202) 755-2155 (Telefax), 710-822-9269 (TWX) or EPA 5511 (E-Mail).

7.10.1.1 Initial POLREP

The OSC should prepare and send to Headquarters and the Regional UST Coordinator an initial POLREP for each new Federal-lead UST corrective action. This report should give the start date, describe the incident (including the outcome of any site evaluation), give the status of actions (including enforcement), and describe future plans.

7.10.1.2 Progress reports

Routine progress reports should be submitted to ERD and the Regional UST Coordinator a minimum of once a week and daily, where practicable, when events are rapidly occurring. Progress POLREPs should identify the following:

1. Situation — present status of ongoing response activities;
2. Actions Taken — activities undertaken since the last POLREP;
3. Future Plans — planned actions by the OSC;
4. Project Costs — estimated funds obligated thus far, including a breakdown of the cost categories as noted in the following example:

Extramural	Current Ceiling	Obligations To Date
Cleanup contractors	\$20,000	\$10,000
TAT	5,000	2,000
15% Contingency	3,750	N/A
Intramural (both HQ and Region)		
Direct	3,000	1,500
Indirect (estimate based on provisional rates)	6,000	3,000
TOTAL PROJECT CEILING	\$37,750	\$16,500

5. Any other pertinent information such as status of efforts to obtain cleanup by responsible parties.

Also, POLREPs should be provided to ERD and Regional UST Coordinator on all major unanticipated developments of interest at approved corrective actions (e.g., fires, explosions, and all accidents even if no damage or injury has been caused) not included in other progress reports. In addition to reporting incidents to ERD via POLREPs, a corrective action accident report (see Appendix F) should also be completed and submitted to ERD. This form was developed to provide more detailed documentation of circumstances surrounding accidents during the course of response actions. The information it contains is vital should litigation occur.

7.10.1.3 Final POLREP

When a Federal-lead UST corrective action has been completed, a final POLREP (e.g., POLREP #15 and FINAL) should be submitted that describes the final actions taken at the release, results achieved, detailed final costs and date of completion, the demobilization data, and future actions planned and who will perform them.

7.10.2 Final UST reports

Within 60 days after the conclusion of a Federal-lead UST corrective action, the OSC should prepare and submit to ERD a final UST report. It is necessary that ERD have these final UST reports on hand to respond to inquiries from the public, Congress, the Office of the Inspector General, and the General Accounting Office.

The final UST response report is a complete report on the response operation and the action taken. It should include a summary of events, an analysis of the effectiveness of corrective actions, a list of problems affecting the response, if applicable, and OSC recommendations. The completion date is the date on which any wastes are shipped for ultimate disposal or the site is

demobilized, whichever is later. Temporary demobilization and temporary on-site storage are not considered completions unless they are the final actions approved (i.e., off-site disposal is not approved).

7.11 Post-Corrective Action Site Control

The State or local government must assume responsibility for operations and maintenance performance and costs after the system is proven to be operational. Examples of operations and maintenance at a corrective action include running pumps or operating a ventilation system.

If the State recommends response options involving operations and maintenance in the oral request (see Appendix B) or State request letter (see Appendix C), the State must explain how it intends to assume resource and financial responsibility for these options. Some States may have cooperative agreements that provide for operations and maintenance; the Regional MUST Coordinator should be contacted for this information, as detailed in Section 4.4.

Some situations may require operations and maintenance as part of all response options. If no owner or operator agrees to assume responsibility, the State must take over these actions under an UST cooperative agreement.

APPENDIX A: Delegations

SOLID WASTE DISPOSAL ACT (SWDA)

8-33. Selection and Performance of Federal Corrective Actions at Leaking Underground Storage Tanks

AUTHORITY. Pursuant to Subtitle I of the Solid Waste Disposal Act (SWDA), to determine the necessity of and to select Federal corrective actions at leaking underground storage tanks containing petroleum, to enter property and to perform such corrective actions.

TO WHOM DELEGATED. Assistant Administrator for Solid Waste and Emergency Response and Regional Administrators.

LIMITATIONS.

- a. Regional Administrators or their delegates may exercise this authority only for requests for obligations not exceeding \$50,000, and must comply with Federal-lead UST corrective action guidance issued by the Assistant Administrator for Solid Waste and Emergency Response (AA/OSWER).
- b. If this authority is redelegated, the Director, Office of Emergency and Remedial Response, must obtain the advance concurrence of the Director, Office of Underground Storage Tanks.

REDELEGATION AUTHORITY.

- a. This authority may be redelegated by the Assistant Administrator for Solid Waste and Emergency Response to the Director, Office of Emergency and Remedial Response.
- b. Regional Administrators may redelegate this authority to Division Directors, who may then redelegate to On-Scene Coordinators.

ADDITIONAL REFERENCES

- a. Superfund Removal directors.
- b. Section 9005 (a) of SWDA.
- c. Section 9003(h) of SWDA.
- d. UST corrective action procedures.

APPENDIX B: Oral Request Information Outline

1. State official requesting assistance (should be authorized by Director of State UST agency designated by Governor).
2. Is the release from a leaking underground storage tank? (see Section 1.4 of this guidance for definition)
3. Is the released substance petroleum? (see Section 1.4 of this guidance for definition)
4. Location of release.
5. Time and date of release.
6. Name, description, and general condition of facility.
7. Is the release a long-term or chronic problem?
8. Types and amounts of petroleum substances involved, and quantities released to environment.
9. Major public health or environmental emergency conditions. (see Sections 1.4 and 2.2 of this guidance for detail)
10. Number and proximity of persons potentially affected.
11. Increased threat to human health or the environment if response is delayed or denied.
12. Ongoing efforts to respond to release.
13. State/local/owner-operator ability and willingness to provide response, with specific reasons for inability to respond (e.g., lack of authority, technical expertise, qualified staff, or funding).
14. Specific enforcement actions undertaken by the State.
15. Type of action needed to mitigate or stabilize emergency (if known)

APPENDIX C: State Request Letter Format

Federal-lead UST corrective action will not be initiated unless specifically requested by the appropriate State via the State UST Coordinator. A letter requesting Federal-lead corrective action should be signed by the Director of the State UST agency designated by the Governor and addressed to the Regional OHM Coordinator, or other designated Regional management official.

Below is a recommended format for the State to follow in preparing an UST corrective action request letter. While use of this model format is not mandatory, the letter should address all of the topics presented in the model in order to demonstrate that the incident meets the Federal-lead UST response criteria (particularly that it poses a major public health or environmental emergency and that neither the State, nor the owner or operator can provide adequate response) and that all actions in the scope of work are consistent with SWDA. Because this letter will provide much of the source material to be used by the Region in preparing an action memorandum (see Appendix D), adherence to this format is strongly encouraged.

I. HEADING

DATE: (Month/Day/Year)
SUBJECT: Request for Federal-lead UST Corrective Action
(Site, City, State)
ACTION MEMORANDUM
FROM: (Director of Designated State UST Agency)
TO: (Regional OHM Coordinator)

II. BACKGROUND

The background section should contain information on the location of the site, the nature of the incident (including the history of the site, general character of the site, and issues relevant to petroleum management), quantity and types of petroleum substances present, State and local authorities' role, the cleanup time frame, and actions to date, including previous and current actions to abate the threat.

A. Location Description

1. Describe the site's physical location.

Give distances from nearest populations and points of reference, as appropriate. Also state the population size. For example, "A school is within 1/4 of a mile and there are 1,000 residence within a mile of the site; the area is mainly suburban residential with some industrial areas."

Describe the areas adjacent to the incidents or site in terms of nearby vulnerable or sensitive populations, habitats, and natural resources. For example, "The site is adjacent to wetlands and a tributary to the river flows nearby. The area's primary drinking water aquifer underlies the site."

Describe any areas protected by statute, such as parks, historic sites, and sensitive ecosystems. This may include areas such as the New Jersey Pinelands, wetlands areas, or wild and scenic rivers.

2. Provide supporting documentation.

Providing pictures, diagrams, maps, and /or sketches is encouraged. They may be included as attachments or incorporated into the text. This documentation may help to substantiate the threat at the site.

B. Site and Incident Characteristics

1. Discuss the history of the incident or situation that poses the major public health or environmental emergency.

Describe the type of incident that has occurred (e.g., a classic release) and why it occurred. For example, "A corroded storage tank failed during refilling." Be sure to list all of the site's key problem areas (e.g., tanks, associated people lines, free product on ground water, or contaminated soils).

Describe the exact location of the incident at the site. For example, "The release occurred at a corroded tank in the south corner of the site." Include the time and date (if known) of the incident. State whether the release is new, just recently discovered, or a chronic problem that has deteriorated. Also describe when and how the incident was discovered; for example, "The town fire marshal received complaints from residents of strong gasoline fumes in their basements."

2. Discuss the general character of the site; show that it meets the definition of "underground storage tank" (see Section 1.4 of this guidance).

Describe the current use of the site (e.g., active facility, vacant lot, recreational area). Describe the previous nature and type of the facility, as well as the activities historically undertaken at the site; for example, a tank farm used for storing aviation fuels, or an oil refinery with numerous underground tanks and pipelines. State the site characteristics that qualify it as an "underground storage tank" site.

Include any pertinent information on the site owners or operators, past and present. This information should reflect whether the current or previous owners or operators contributed to the condition on the site.

3. Present all findings on the extent of the release to date.

First, note all pathways of release (e.g., surface water, ground water, air emissions/vapors, soil). Then indicate whether the release is confined to the site or has migrated off the site. Where possible, present the results of any on-site or off-site monitoring. With respect to drinking water contamination, note the number of municipal or private wells contaminated or threatened.

4. Discuss the relevant issues relating to current petroleum management practices.

Describe any existing structures, measures, or conditions that would either mitigate or accelerate the release of any materials on site (e.g., an unstable dike, a temporary containment system, adverse weather conditions, site security, fencing, condition of containers and similar situations). State whether the release is widespread and/or is migrating rapidly.

Indicate the extent to which the petroleum wastes can be treated or are amenable to alternatives to land disposal. State whether the site is to be stabilized or cleaned up, if known.

C. Quality and Types of Petroleum Substances Present

1. List all petroleum substances known to be on site at the time of the approval request.

Describe briefly the results of the sampling (e.g., "most affected residences exceed the lower explosive limit for gasoline vapors in their basements") and give estimates of quantities of the classes of petroleum substances if they are available (for example, "four inches of diesel fuel was found floating on the underlying ground water").

2. Describe the sampling methodology.

Briefly describe the sampling methodology as well as methods for maintaining consistency, reliability, and quality control. Mention who performed the data collection and the lab analysis (e.g., EPA, contractor, local health authorities).

D. State Role

Discuss the State request for Federal-lead UST response.

List and describe the reasons why the State cannot provide adequate response to mitigate the major public health or environmental emergency posed by this UST petroleum release. Be detailed; indicate whether the State cannot respond due to a lack of authority, expertise, or resources. Estimate the resources required for response and specify which resources the State lacks, and why. Discuss why a site-specific cooperative agreement under the LUST Trust Fund would be an inappropriate response mechanism for this site or incident.

E. Actions to Date

1. Discuss any previous actions to abate the threat.

Describe any Federal, State, local, owner or operator, or privately sponsored activities that have been performed. Give the dates, costs, and effectiveness of such actions. Actions to abate the threat may include issuance of an advisory from the locality advising residents not to drink their water, or the provision of bottled water.

2. Discuss any current actions to abate the threat.

Any Federal, State, local, owner or operator, or privately-sponsored activities that are currently being conducted should be described. This information should include estimated costs and completion dates of these activities.

III. MAJOR PUBLIC HEALTH OR ENVIRONMENTAL EMERGENCY

Strict criteria must be met to justify Federal response to a petroleum release from an underground storage tank. These criteria require that neither the State nor the owner or operator be able to provide adequate response. In addition, the release must pose a major public health or environmental emergency, as indicated by:

- An immediate and substantial threat of direct human, animal, or food chain exposure to petroleum; or
- An immediate threat of fire and/or explosion; or
- An immediate and substantial threat to public drinking water supplies; or
- an immediate threat to human health or substantial amounts of property, or an immediate and substantial threat to natural resources.

The State should ensure that their request letter discusses how the releases meets these criteria. Sections A and B below provide some specific examples of the types of material to include that demonstrate a major public health or environmental emergency.

A. Threats to Public Health and Welfare

Describe the threats to public health and welfare.

List all of the threats, starting with the most serious, that adversely affect human health or welfare (e.g., drinking water contamination, fire/explosion). Identify any human exposure that already has occurred, the kind of exposure (e.g., inhalation, ingestion, dermal contact) and the exposure pathway (e.g., water supply, indoor air pollution). Describe any reports of illness, injury, or death that appear to be linked to the exposure. Be as specific as possible about the number of individuals exposed, the proximity of sensitive populations (e.g., hospitals, schools), the geographic area affected, and whether exposure was acute or chronic. Also, describe any anticipated exposure and whether it is imminent, especially with regard to public drinking water supplies.

Compare the amounts of concentrations of substances shown to background levels or health standards as appropriate. If a health advisory is given, or if an exposure assessment has been performed, include it as an attachment to the letter, and reference it in the discussion;

B. Threats to the Environment

Describe the threats to the environment.

List all the threats, starting with the most serious, that adversely affect the environment (e.g., damage to sensitive ecosystem, animals, ground water). Identify any natural resource or environmental damage that already has occurred and the extent or exposure (e.g., acute or chronic). Indicate whether there have been reports of deaths of flora or fauna (e.g., fish kills). If so, state how much environmental damage has occurred (e.g., 20,000 acres of wetland contaminated, one million fish killed).

discuss all actual and potential impacts on the affected area. Describe any anticipated exposure and whether is it imminent. Indicate whether the release threatens endangered species, critical wetlands, or other resources protected under law.

IV. ENFORCEMENT

The purpose of this section is to meet the statutory requirement that priority be given to cases where the owner or operator is unable or unwilling to undertake necessary action. This information should be referenced here as "see attachment" and placed on a separate page entitled "Enforcement Sensitive." This section includes information on the enforcement strategy (summarized), the status of notice letters and /or negotiations, the available enforcement authority, owners or operators, previous enforcement actions, the probability of recovering costs, and the recommended enforcement strategy. This section also should contain information on the potential for a non-Federal response. This information is required before Federal corrective action is started, unless the release meets the conditions in Section 4.1.1.

A. Enforcement Strategy

1. Briefly summarize the enforcement strategy.

Summarize the enforcement strategy for notifying, negotiating with, and litigating against owners or operators. Indicate whether the State or Federal enforcement attorneys are actively pursuing informal negotiations, are actively pursuing litigation, or have decided to postpone or not pursue litigation. For example, "no enforcement actions currently underway," or "the owner or operator has agreed to conduct a cleanup." Describe what actions are planned (e.g., negotiations or administrative orders).

2. Briefly summarize the enforcement actions.

Indicate if litigation is proceeding or is contemplated. Cite under what statutory authority the action will be or is being taken (e.g., SWDA Section 9003 (h)).

B. Status of Enforcement Actions

1. Owners or operators

Note the names of owners or operators. Indicate whether the owner or operator has taken action; if so, describe the action and explain why it was inadequate.

Describe any efforts being undertaken to obtain additional owner/operator response. Describe the attempts that have been made to locate owners or operators (e.g., oral inquiries both on and off site). Include whether the owner or operator has been notified (e.g., contacted in person or by telephone, written follow-up).

Give the dates that notice letters were sent and a summary of the responses of the recipients (e.g., the owner agreed to clean up the site, or denied involvement at the site). If negotiations are underway, describe the activities under discussion.

2. Provide information on the status of notice letters and/or negotiations.

Describe any previous State or Federal enforcement actions taken to date. These actions may include notice letters or demand letters.

3. State the probability of recovering costs.

Estimate the solvency of the owner or operator. Evaluate the ability to obtain the necessary actions in a timely fashion through litigation. This should be included if it explains why actions are being requested of EPA when owners and operators are financially able to undertake these actions.

V. EXPECTED CHANGE IN THE SITUATION SHOULD NO ACTION BE TAKEN OR SHOULD ACTION BE DELAYED

Describe any expected changes in the situation should no action be taken or should action be delayed. Include a description of the worst case that could possibly occur should no action be taken. These changes may include:

- Spread of contamination. For example, the ground water contaminant plume may spread through a larger area.
- Change in nature of contamination. For example, gasoline vapors may seep into structures, producing the added threat of fire/explosion.
- Increased threat to human health and the environment if action is delayed or denied. For example, the contaminant plume may soon reach drinking water wells.

- Impact on future response actions if action is delayed or denied. for example, the tanks will deteriorate further, leaking additional petroleum into the ground..

VI. IMPORTANT POLICY ISSUES (only as necessary and applicable)

Include a separate section on important policy issues that are significant to this request. These issues may include;

- Cost sharing (State cost sharing is applicable after regulations promulgated under SWDA Section 9003 (c) become effective).
- The division of responsibilities among Federal and/or State agencies.
- Owners and operators
- Off-site disposal availability.
- Special coordination and similar issues.
- concurrent CERCLA action or the presence of hazardous materials on site.
- Contiguous sites (if multiple locations are recommended for consideration as one site, give justification for such consideration).

Issues should be fully explained, including a discussion on the efforts being made to resolve the issue and /or decisions that must be made before a resolution is reached.

VII. STATE REQUEST FOR EPA ACTION

The State should specify the corrective actions it is requesting that EPA perform. These might include.

- Recovery of free material;
- Temporary water supply; or
- Temporary relocation of residents.

APPENDIX D: Action Memorandum Format

The Region should prepare an action memorandum based on the State letter requesting Federal-lead UST corrective action (see Appendix C). The action memorandum should address all of the topics 1 in Appendix C, along with the additional items presented below. If the State request letter adequately follows the format suggested in Appendix C, then the Region's action memorandum may simply consist of the following sections with a copy of the State letter referenced and attached. If the State letter is deficient, the Region must ensure that the action memorandum addresses and corrects all of the deficiencies, including all of the information requested in Appendix C and in the additional sections described below. In any case, a copy of the State request letter should always be attached to the action memorandum for reference.

1. HEADING

DATE: (Month/Day/Year)
SUBJECT: Request for Federal-lead UST Corrective Action
(Site, City, State)
ACTION MEMORANDUM
FROM: (Regional Administrator)
TO: (see Appendix A)

II. PROPOSED ACTIONS AND COSTS

OSCs should consider cost as one of many factors when proposing UST corrective actions. However, there are no statutory or regulatory requirements for cost-effectiveness. The purpose of this section is to provide guidelines for presenting information on proposed and alternative actions, estimated costs, and the project schedule.

A. Proposed Actions

1. Describe the proposed actions.

Describe the specific tasks involved and the results sought by the corrective actions as they pertain to the threat (s) discussed in Appendix C. For example, "The primary objective of the proposed action is the mitigation of the threat to public health by provision of alternate of the threat to public health by provision of alternate potable water supplies to the affected homes."

Indicate whether any further information is needed before all response actions can be identified (e.g., sampling to address ground water or drinking water contamination).

State why the proposed actions are appropriate for this situation and explain the rationale for choosing the proposed option. Describe the technical feasibility and probable effectiveness of the proposed action. Address response time requirements, intermedia relationships, considerations, and environmental impacts.

Describe the procedures to be undertaken in the proposed actions. For example, "corrective action will include ventilation of affected structures and provision of bottled water to impacted residents." Describe any impediments to the proposed action (e.g., lack of public acceptance of problems with access).

2. Describe the project schedule.

Give the time frame needed to stabilize or clean up the site and include how quickly response can begin. Give the estimated period of performance. Indicate whether postcorrective action site control (operation and maintenance) will be required, and how the State intends to perform it.

3. State the estimated costs.

Estimate the total project ceiling with an itemized breakout of the following cost categories that comprise that ceiling: extramural costs, which include cleanup contractor costs, TAT costs, and a 15% contingency allowance; and EPA intramural costs, both direct and indirect. For example:

Extramural	Estimated Costs
Cleanup contractors	\$20,000
TAT	5,000
15% contingency	3,750
Intramural (both HQ and Region)	
Direct	3,000
Indirect (estimate based on provisional rates)	6,000
TOTAL PROJECT CEILING	\$37,750

If LUST Trust Fund monies have been obligated for past actions, then indicate the obligations (in both Procurement Requests and Delivery Orders).

B. Alternative Actions

Briefly describe the alternative actions, explaining the decision rationale used to select the proposed corrective action plan.

Describe what other actions were considered (e.g., providing hookups to city water instead of providing bottled water). Briefly describe the technical feasibility and probable effectiveness of each option. Address response time requirements, intermedia relationships, temporary vs. long-term solutions, institutional considerations, environmental impacts, and estimated costs of each option. State any impediments to the options (e.g., public acceptance or access to the site). State why the selected alternative was chosen.

III. RECOMMENDATION

The purpose of this section is to briefly present the Region's recommendations, rationale, and projected costs for the action. For example, "Because conditions at [site name] meet the criteria for Federal-lead UST response, I recommend your approval of the proposed UST corrective action. The estimated total project costs are \$37,750 of which \$20,000 are for extramural cleanup contractor costs. This site meets the criteria for a cleanup contractor costs. This site meets the criteria for a major public health (and/or environmental) emergency, and no State, local, or other agency, owner or operator, or other party can or will provide adequate and timely response."

Approve [Name and Title] _____ Date: _____

Disapprove [Name and Title] _____ Date: _____

Concur [Name and Title] _____ Date: _____

Attachment [s]

APPENDIX E: Ceiling Increase Request Format

The following action memorandum format is recommended for requesting approval for ceiling increases. The purpose of this format is to provide the OSC with a blueprint that can be easily followed when substantiating the need for exceeding the current ceiling on Federal-lead UST corrective action cost.

1. HEADING

DATE: (Month/Day/Year)
SUBJECT: Request for Federal-lead UST Corrective Action
(Site, City, State)
ACTION MEMORANDUM
FROM: (Regional Administrator)
TO: (see Appendix A)

II. ISSUE

Briefly explain why the ceiling increase is being requested. Indicate what the new project ceiling will be if the ceiling increase is approved. For example, "A ceiling increase of \$16,000 for a new total of \$54,550 is being requested to continue a Federal-lead UST corrective action at this site."

III. BACKGROUND

The primary purpose of this section is to identify the key characteristics of the release in order to lay the foundation for demonstrating that a major public health or environmental emergency exists. These characteristics include site location and pre-release use, the type of release, and its scope. In compiling this information, the OSC should consider the availability of pictures, diagrams, maps, and/or sketches that may assist in describing the site.

A. Incident/Response History

Discuss the background/history of the site, including the following: current conditions at the site; who initiated actions and when; the date Federal-lead UST corrective actions were approved and by whom; approved actions; and actions taken to date (e.g., ventilation of structures, provision of bottled water).

B. Site Conditions

Briefly describe the site conditions and the reasons for a ceiling increase request. State whether the additional funds are needed due to increased costs for previously approved actions, or to expand the scope of work beyond that approved in the original action memorandum. If the ceiling increase is needed to complete previously approved actions, explain the need for additional funding (e.g., disposal costs higher than anticipated). If the ceiling increase is needed to expand the scope of work, discuss how the site conditions meet the criterion of presenting a major public health or environmental emergency; also explain why neither the owner nor operator is able to conduct the corrective action. Include a description of a worst-case scenario should the ceiling increase not be granted.

Discuss the present status of the UST corrective action (e.g., gasoline release contained and soil awaiting excavation).

Include any information that may help substantiate the need for a ceiling increase. Attach any enforcement status information, ATSDR health advice memoranda, and other pertinent information such as pictures, drawings, and other materials to the back of this action memorandum.

IV. PROPOSED ACTIONS

Describe the proposed actions to be undertaken if a ceiling increase is approved. Briefly describe the actions that are required to complete the response; for example, "bottled water will be provided until water main hookups are completed." Indicate the objective of the proposed actions or the threats these actions are to abate, minimize, or limit.

V. SUMMARY OF COSTS

Provide a summary of costs, including a breakdown of costs for both the current ceiling and the proposed ceiling. Detail the estimated total project ceiling with an itemized breakdown of the following cost categories that comprise the ceiling: extramural costs, including cleanup contractor costs, TAT costs, and a 15% contingency allowance; and EPA intramural costs, both direct and indirect. For example, the project ceiling should be broken down as follows:

Extramural	Current Ceiling	Proposed Ceiling
Cleanup contractors	\$20,000	\$30,000
TAT	5,000	7,000
15% contingency	3,750	5,550
Intramural (both HA and Region)		
Direct	3,000	4,000
Indirect (estimated based on provisional rates)	6,000	8,000
TOTAL PROJECT CEILING	\$37,750	\$54,550

VI. RECOMMENDATION

The purpose of this section is to briefly present the Region's recommendations, rationale, and the project costs. For example, "To eliminate the major health emergency posed to the nearby public and the environment consistent with the Federal-lead UST response criteria, I recommend you approve this \$16,800 ceiling increase request." Briefly summarize what the additional funds will be used for. Briefly state how the approval would increase the current total project ceiling. For example, "Your approval would raise the extramural cleanup contractor ceiling to \$30,000 and bring the total project ceiling from \$37,750 to \$54,550. You may indicate your approval or disapproval by signing below."

Approve [Name and Title]: _____ Date: _____

Disapprove [Name and Title]: _____ Date: _____

Concur [Name and Title]: _____ Date: _____

Attachment [s]

APPENDIX F: Federal-lead UST Corrective Action Accident Report Format

Date of Report:_____

Prepared By:_____

Preparer's Phone #:_____

1. Date and Time of Incident:

2. Site name and Location:

3. OSC:

4. Description of Incident:

5. Factors Leading Up to Incident:

6. Site Work Related to Incident (OSC Orders, TAT oversight, Foreman's Orders):

7. Weather Conditions During Incident (Temperature, Humidity, Wind Direction and Speed, Precipitation):

8a. Injuries (Person, Role of Person On Site, Description of Injury):

8b. Exposure (Person Exposed, Substances Involved, Type of Exposure - Inhalation, Ingestion, Dermal):

8c. Medical Treatment (Paramedic, Physician, Hospital, Length of Stay, Estimated Cost):

9. Property Damage (Owner, Location, Description of Damages, Estimated Cost):

10a. Other Persons on Site:

10b. Other Person's Roles/Activities On Site on Day of Incident:

APPENDIX G: Delivery Order Preparation and Processing

To activate the ERCS contractor and initiate cleanup at a Federal-lead UST corrective action, a Delivery Order (DO) must be prepared and issued. All DOs will be issued by Ordering Officers (e.g., Regional Deputy Project Officers (DPOs), Headquarters Contracting Officers (COs), or EPA on-Scene Coordinators (OSCs); new warrants are being issued enabling OSCs to order services at UST cleanups) for individual corrective actions. These DOs will be issued on a fixed rate, indefinite quantity basis, with time and material provisions.

This appendix on DO preparation and processing describes procedures which address:

- Oral Delivery Orders;
- Delivery Order completion and processing; and
- Delivery order modifications.

The procedures described in this appendix are applicable to both the ERCS zone contracts and the separate ERCS Regional contracts.

A. Oral Delivery Orders

As indicated, DOs can be issued orally to the ERCS contractors. This flexibility is designed to enhance response capabilities under the ERCS contract network. However, any oral order must be confirmed by a written DO within 48 hours.

When the ERCS contractor is contacted by telephone for purposes of orally issuing a DO, the Ordering Officer should simultaneously complete a Delivery order form (see Exhibit G-1) noting:

- Date and time of the order (all references to time specified in the DO should reflect the local time of the location where services are to be provided);
- contractor representative contacted (should be a person authorized to commit the contractor) and telephone number;
- Response location;
- Date and time the contractor is required on site;
- Date and time the contractor agrees to be on site; and
- Brief narrative of the services (e.g., personnel, equipment, and materials and level of protection (e.g., health and safety) required.

Some of these items can be completed before the call is made to the contractor. For example, the response location or the level of safety protection required may be known ahead of time and could be completed in advance.

By completing the Delivery Order form during (or for some items directly before) the discussion with the contractor, the Ordering Officer will:

- Provide the contractor clear direction on the services needed;
- Document personnel, equipment, and materials expected on site;
- Establish the OSC-Response Manager site management relationship, and
- Facilitate completion of the written DO issued to the contractor at the site.

The information recorded during issuance of the oral Delivery Order will be important should there be any dispute concerning the contractor's ability to provide the services within the required response time.

B. Delivery Order Completion and Processing Instructions

To formally initiate services performed by the ERCS contractor to conduct UST corrective actions, Ordering Officers must prepare written Delivery Orders. The DO Specifies the services to be performed by the ERCS contractor in executing a specific corrective action. Each DO establishes a ceiling amount that constitutes the maximum amount for which the government shall be liable. Instructions for the completion and processing of DOs are outlined below.

1. Delivery Order completion.

Delivery Order preparation is the responsibility of the Federal Ordering Officer. A standard format is used for the DO; all items in the DO should be completed as explained below and illustrated by the sample in Exhibit G-1.

- Date of Order (Box 1): Enter the date of issuance of the DO to the contractor.
- Contract Number (Box 2): Enter the contract number (e.g., 68-01_____) of the ERCS contract under which services are being ordered. The final four digits of this number vary; call the CO to obtain the current contract number.
- Order Number (Box 3): Enter a nine (9) digit DO number which sequentially consists of :
 - Last four digits of the contract number (see Box 2 above);
 - EPA Region (e.g., 01, 02, ...10); and
 - Three digit number representing the sequence of the DO being issued in the Region or Agency.
- Time of Initial Order (Box 4): Enter the time of issuance of the DO. All references to time on the DO should reflect the local time at the site where the services are to be provided.
- Delivery Order Ceiling Amount (Box 5) : Enter the total estimated cost of contractor personnel, equipment, and materials for which the order is being placed. The ceiling amount represents the amount obligated by the government for the corrective action. The OSC's/Ordering Officer's authority to obligate the government for UST response is limited to \$50,000. All initial DOs or Order modifications for amounts greater than the initial \$50,000 must be obligated by the CO. **Under no circumstances may the ERCS contractor develop the cost estimate used here.** This is the sole responsibility of the Federal Ordering Officer who may, however, with Project Officer approval, seek the assistance of the Technical Assistance Team (TAT) contractor or EPA's Environmental Response Team (ERT) in developing the estimate.
- Accounting and Appropriation Data (Box 6): Accounting and appropriation data consist of four numbers, which should be entered as follows for UST actions:
 - Appropriation Number: **68-20X8153** (does not change).
 - Account Number and Document Control Number (DCN):
- Represented by ten(10) and six (6) character numbers, respectively. These numbers will be obtained by the ERD Regional Coordinator from the Headquarters Financial and Administrative Management Support Staff (FAMS) for all actions given prior Headquarters approval. If the Region's \$50,000 allocation is being used (i.e., the emergency criteria in section 4.1.1 have been met), the Region should use its own numbering system developed by the Regional Financial management Officer.
 - Object Class Code: **24.35** (for all EPA program contracts; does not change).
- Issued To: Contractor (Box 7A): Self-explanatory.
- Program Manager (Box 7B): Enter the name and phone number of the contractor representative authorized to receive the DO and commit contractor resources to provide the services and supplies required to complete the Statement of Work.
- Response Manager (Box 7C): Enter the name and phone number of the contractor representative designated by the Program Manager as the single point of contact for on-scene coordination and

responsible for management and execution of cleanup activities as specified by the OSC or other designated Federal officials.

- EPA Region/USCG District (Box 8A): Self-explanatory.
- EPA Region/USCG District (Box 8B): Enter the number for the EPA Region; the USCG District does not apply for Federal-lead UST corrective action.
- Zone (Box 8C) : Enter the number of the ERCS zone where the site is located:
 - Zone 1 - Regions I-III
 - Zone 2 - Region IV
 - Zone 3 - Region V
 - Zone 4 - Regions VI - X
- On-Scene Coordinator (Box 8D) : Self-explanatory. Response Location (Box 9) : Enter the location of the release of site where services are to be performed by the contractor.
- Contractor Required on Site (Box 10): Enter the date and time contractor personnel, equipment, and materials are required on site to implement the corrective action.
- Required Work Completion Date (Box 11): Enter the anticipated date by which contractor services are to be completed. Estimates are acceptable and dates may be revised through modifications issued by the CO.
- Statement of Work (Box 12) : This block contains the description of the services to be performed by the ERCS contractor. The Statement of Work should not be so narrow as to restrict the contractor's effort nor so broad as to permit the contractor to explore areas having little relationship to the desired work. The block should either contain, or refer to attachments that contain:
 - Statement of Work, including a task breakdown and schedule;
 - Site-specific institutional requirements of clearance that must be obtained by the contractor (e.g., permits for transportation and disposal of wastes or right-of-way clearances); and
 - Any plans, including a site operations plan, health and safety plan, or quality assurance plan developed for the specific corrective action.
- Ordering Officer (Box 13): Self-explanatory.

2. Delivery Order processing.

The completed DO is signed by the Ordering Officer and issued to the contractor Program Manager or designee (e.g., on-site Response Manager). The contractor is required to acknowledge receipt of the DO in writing within one week or one half of the time specified for performance of the order, whichever is less, following receipt. The acknowledgement of receipt of the DO must be submitted to the Ordering Officer, with a copy forwarded to the CO.

It is the ordering officer's responsibility to make sure that the contractor submits an acknowledgement of receipt each time a DO is issued. The acknowledgement of receipt each time a DO is issued. The acknowledgement of receipt will help preclude misunderstandings between the Ordering Officer and the ERCS contractor over the terms and conditions of the DO. It will also serve as documented evidence when potential contractual actions are required to enforce the terms of a work order.

C. Delivery Order Modifications

During the course of an UST corrective action, it may become necessary to modify the Statement of Work, completion date, or ceiling amount specified in the DO. All such changes must be authorized in a written amendment of the DO using Standard Form 30 (See Exhibit G-2). If increased funding is required for a project, the existing DO should be amended; a new DO should not be issued.

Requests for amendments should be prepared by the Ordering Officer of the OSC and forwarded to the CO for approval. In most cases, requests and approvals can be handled over the telephone. The CO will prepare and sign the amendment and issue it to the contractor. Minor changes, such as adjustments in quantities of labor and equipment which will not result in an increase to the DO ceiling, can be provided directly to the contractor by the OSC. Such changes, however, should be noted in the written site documentation kept by the OSC, and should be forwarded in writing to the contractor and the CO.

Exhibit G-1

DELIVERY ORDER FOR RESPONSE CLEANUP SERVICES (This Delivery Order is subject to all terms and conditions of the contract listed in Block No.2)		
1. DATE OF ORDER 01/06/87	2. CONTRACT NO. 68-01-	3. ORDER NO. 03
4. TIME OF INITIAL ORDER 8:00 AM EST	5. DELIVERY ORDER CEILING AMOUNT \$20,000 (Obligated Amount)	
	6. ACCOUNTING AND APPROPRIATION DATA Appropriation # 68-20x153 Document Control # Account # Object Class 25.35	
7a. ISSUED TO: CONTRACTOR (Name, Address and Zip Code) UST Cleanups, Inc. 2200 Mudtrack Lane Rochester, NY 14609	8a. ISSUED BY: ORDERING OFFICER (Name, Address and Zip Code) Vincent Bradford Environmental Protection Agency 841 Chestnut Street Philadelphia, PA 19107	
7b. PROGRAM MANAGER (Name and Phone No.) Joseph Davidson (716) 482-2811	8b. EPA REGION/USCG DISTRICT 03	8c. ZONE 1
7c. RESPONSE MANAGER (Name and Phone No.) Fred Davidson (716) 522-3093	8d. ON-SCENE COORDINATOR (Name and Phone No.) Janet Smith (215) 597-0807	
9. RESPONSE LOCATION (Site Name and/or Address and Zip Code) ABC Service Station 2927 North 2nd Street Arlington, VA 22201	10. CONTRACTOR REQUIRED ON SITE (Date and Time) 01/07/87 7:30 AM EST	
	11. REQUIRED WORK COMPLETION DATE 01 /13/87	
12. STATEMENT OF WORK The Contractor shall furnish the necessary personnel, materials, services, facilities and otherwise do all things necessary for or incident to the performance of the work set forth below: <ol style="list-style-type: none"> 1. Establish a security perimeter around the site by installing high-visibility fence and installing warning signs as directed by OSC. 2. Drain two 10,000-gallon tanks of diesel oil and transport to a recycling facility in compliance with RCRA. 3. Excavate grossly contaminated soil and securely store on site. 4. Provide and install non-sparking ventilation equipment for enclosed structures, as necessary. 5. Collect samples of soil and diesel oil as directed by OSC. 		
13. ORDERING OFFICER Vincent Bradford, OSC 01/06/87		

Exhibit G-2

AMENDMENT OF SOLICITATION/MODIFICATION OF CONTRACT			
1. CONTRACT		PAGE OF PAGE	
2. AMENDMENT MODIFICATION	3. EFFECTIVE DATE	4. REQUISITION /PURCHASE REQ NO.	5. PROJECT NO. (if applicable)
6. ISSUED BY	CODE_____	7. ADMINISTERED BY (if other than item 6)	CODE_____
8. NAME AND ADDRESS OF CONTRACTOR (No., County, State and ZIP Code)		(-)	9A. AMENDMENT OF SOLICITATION NO.
			9B. DATED (SEE ITEM 11)
			10A. MODIFICATION OF CONTRACT/ORDER NO.
			10B. DATED (SEE ITEM 13)
CODE	FACILITY CODE		
11. THIS ITEM ONLY APPLIES TO AMENDMENTS OF SOLICITATIONS			
<p><input type="checkbox"/> The above numbered solicitation is amended as set forth in item 14. The hour and date specified for receipt of Offers <input type="checkbox"/> is extended <input type="checkbox"/> is not extended.</p> <p>Offers must acknowledge receipt of this amendment prior to the hour and date specified in the solicitation are as amended by one of the following methods:</p> <p>(a) By completing items 8 and 15 and returning _____ copies of the amendment; (b) By acknowledging receipt of this amendment on such copy of the offer submitted; or (c) By letter or telegram which includes a reference to the solicitation and amendment numbers. FAILURE OF YOUR ACKNOWLEDGMENT TO BE RECEIVED AT THE PLACE DESIGNATED FOR THE RECEIPT OF OFFERS PRIOR TO THE HOUR AND DATE SPECIFIED MAY RESULT IN REJECTION OF YOUR OFFER. If by virtue of this amendment you desire to change an offer already submitted, such change may be made by telegram or letter provided each telegram or letter makes reference to the solicitation and this amendment and is received prior to the opening hour and date specified.</p>			
12. ACCOUNTING AND APPROPRIATION DATA (if required)			
13. THIS ITEM APPLIES ONLY TO MODIFICATIONS OF CONTRACTS/ORDERS. IT MODIFIES THE CONTRACT/ORDER NO. AS DESCRIBED IN ITEM 14			

(V)	A. THIS CHANGE ORDER IS ISSUED PURSUANT TO: (specify authority) THE CHANGES SET FORTH IN ITEM 14 ARE MADE IN THE CONTRACT ORDER NO. IN ITEM 10A		
	B. THE ABOVE NUMBERED CONTRACT/ORDER IS MODIFIED TO REFLECT THE ADMINISTRATIVE CHANGES (such as changes in pering office appropriation date, etc.) SET FORTH IN ITEM 14. PURSUANT TO THE AUTHORITY OF FAR 43.103(B).		
	C. THIS SUPPLEMENTAL AGREEMENT IS ENTERED INTO PURSUANT TO AUTHORITY OF:		
	D. OTHER (specify type of modification and authority)		
E. IMPORTANT: Contractor <input type="checkbox"/> is not. <input type="checkbox"/> is required to sign this document and return _____ copies to the issuing office.			
14. DESCRIPTION OF AMENDMENT/MODIFICATION (Organized by UCF mention readings, including contract subject matter where feasible.) Except as provide herein, all terms are conditions of the document referenced in item 9A or 10A, as heretofore changed, remains unchanged and in full forces and effect.			
15A. NAME AND TITLE OF SIGNER (type or print)		16A. NAME AND TITLE OF CONTRACTING OFFICER (type or print)	
15B. CONTRACTOR/OFFEROR _____ <i>(Signature of person authorized to sign)</i>	15C. DATE SIGNED 	16B. UNITED STATES OF AMERICA BY _____ <i>(Signature of Contracting Officer)</i>	16C. DATE SIGNED

APPENDIX H: Technical Direction Document Preparation and Processing

When the need arises for technical services during a Federal-lead UST corrective action, a Technical Direction Document (TDD) should be issued to activate the Technical Assistance Team (TAT) contractor. This appendix presents a detailed description of the process, including an explanation of the TDD form used to document the initiation of services and a description of EPA and contractor roles and responsibilities in managing and implementing the process. The following are addressed:

- TDD completion and processing;
- TDD amendments; and
- Special Project TDDs.

The procedures described in this appendix apply to both TAT zone contracts; however, the specific instructions on completing the TDD form directly relate to the sample TDD forms used in TAT zone 1 (EPA Regions I-V) and in TAT zone 2 (EPA Regions VI-X).

A. TDD Completion and Processing Instructions

When a need for TAT contractor services arises, the Headquarters Project Officer (PO), or Regional Deputy Project Officer (DPO) with PO concurrence, prepares and issues a written TDD, which serves as the principal mechanism for initiating these services. Where practicable, the DPO should confer with the Regional UST Coordinator prior to issuance of the TDD. An oral TDD may be issued, but **must always be followed by a written TDD within five (5) calendar days**. The TDD includes background data, the scope of work to be performed, a schedule of deliverables, and estimate of time and costs required to perform the work, and other related information.

Only the DPO or PO is authorized to prepare and issue TDDs to the contractor TAT leader. **The TAT may not act on an UST corrective action without the specific concurrence of the PO.** Each DPO can issue TDDs only to the TAT leader assigned to that particular DPO's Region. For example, the Region I DPO can issue TDDs only to the TAT leader assigned to Region I. TDDs can also be issued by the PO to the appropriate TAT contractor Zone Program Manager (ZPM) for special ZPM efforts within the contract Statement of Work (SOW).

1. TDD Completion.

A sample TDD form that has been used in TAT zone 1 is shown in Exhibit H-1; Exhibit H-2 shows a TDD form used in TAT zone 2. Each of the elements on the TDD should be completed by the DPO as explained below.

- Cost Center (Box 1A): Enter the number of the TAT Region that is being issued the TDD; in the sample, 07 is entered to indicate Region VII.
- Account Number (Box 1B): Leave blank; to be filled in by the TAT contractor.
- TDD Number (Box 2) : Enter this serial number which identifies the TAT Region in which the TDD is issued, the calendar year and month, and the sequence number of the TDD issued that month. For example, the number 07-8701-03 is interpreted as follows: 07 refers to the TAT location in Region VII; 87 refers to the calendar year in which the TDD is issued; 01 is the month the TDD is issued; and 03 indicates that this is the third TDD issued in the month of January. If the TDD amends an earlier TDD, check the "Amendment" blank.
- Priority (Box 3A) : Check the box corresponding to the priority of the request. The priority should reflect whether an immediate action is required (high priority), an action is to be taken

within a definite time period (medium priority), or an action is to be taken within a flexible time period (low priority).

- Key EPA Contact (Box 3B) : Enter the name and telephone number of the EPA person directly involved with overseeing and managing contractor performance of the task. This will typically be the OSC.
- Estimate of Total Hours (Box 4A) : Enter an estimate of the technical labor hours needed to accomplish the TDD assignment. The estimate should be based on best engineering judgment considering knowledge of the project or task requirements, data needs, and previous experience on similar project.
- Estimate of Total Costs (Box 4A) : Enter an estimate of the total cost including direct labor, travel, expenses, and subcontracting.
- Overtime Approved (Box 4B) : The DPO must specify whether overtime hours are allowable for the task outlined in the TDD by checking the appropriate box.
- EPA Site Name (Box 5A) : Self-explanatory; if not applicable enter N/A.
- SSID No. (Box 5B) : UST sites must be numbered to allow cost recovery; see page 2 of Attachment I to the Comptroller's Policy Announcement No. 87-13 (Appendix I of this guidance). Contact the Regional Financial Management Officer and ERD Regional Coordinator for more information on assigning a site-specific ID number.
- City/Count/State (Box 5C) : Enter the location of the UST site; if not known, this can be entered by the contractor. If not applicable enter N/A.
- Source of Funds (Box 6) : Check the UST box.
- Complete Date (Box 7) : Enter the date specified by the DPO for the TAT contractor submittal of the completed TDD assignment. **Completion dates must not be left open.**
- Reference Info (Box 8) : This item allows the DPO to provide the TAT contractor with any reference materials or supplemental information necessary to expedite TDD completion. At the same time, accountable control of such information is maintained. Check the most applicable box.
- Type of Activity (Box 9) : Check the UST box.
- General Task Description (Box 10) : In this section, enter a description of the task requirements that indicates the following:
 - The type of support desired;
 - The level of intensity required (the depth to which certain issues should be pursued); and
 - Any other pertinent information.

The task description must clearly delineate the goals and objectives of the activity and the desired products and/or deliverables. Ambiguous phrases such as "assist OSC" are not sufficient. Where no interim task objectives are present, continuation of the general task description can be made into Box 12. Where interim task objectives are present, continuation of the general task description should be made on a separate sheet of paper that can be attached to the TDD.

- Desired Report Form (Box 111) : The DPO should indicate the type of end product desired for the TDD assignment. Additional information can be provided in Box 12 or by attaching additional sheets to the TDD.
- Specific Elements (Box 12) : In this section, elaborate on the general task description and define interim task objectives. This section should provide the TAT Leader with a clear understanding of the objectives, expected results, and required deliverables and/or reports. If more space is needed, the continuation of the description of specific task elements should be made on a separate sheet of paper that can be attached to the TDD.
- Interim Deadlines (Box 13) : Denote completion dates, where applicable, for the interim task objectives that are specified on corresponding lines in Box 12.
- Signatures and Dates (Boxes 14 - 17) : These sections are self-explanatory. The TDDs are to be issued and signed by the PO (or DPO with PO concurrence) and received and signed by the contractor TAT Leader. If the TAT :Leader judges the TDD to be out of scope, or for other

reasons unacceptable, the appropriate box must be checked to show the action. This is necessary to bring the matter to the attention of the DPO, PO, Regional UST Coordinator, and Headquarters Contracting Officer (CO). An appropriate explanation can be noted on the right-hand margin of the form.

- Distribution: copies of the TDD should be distributed as specified on the bottom of the form, plus an additional copy to the Regional UST Coordinator.

The DPO should keep in mind three important points while preparing a TDD. First, the DPO must be as specific as possible in descending the scope of work to be performed by the TAT. Second, the DPO must clearly indicate contractor reporting requirements. And, finally, it is extremely important that the DPO include in the TDD estimates for technical hours and costs needed to accomplish the assignment.

Although exact tasks and response activities, particularly those involving emergency situations, may be somewhat difficult to define, it is very important to the extent possible to provide specific guidance to the contractor on the expected work scope (see Exhibit H-q, Boxes 4A and 10 -13). The task description should be as detailed as available information permits so that there is a clear understanding by the TAT contractor of the activity objective, yet allow some flexibility for alternative and innovative actions by the contractor as conditions warrant. Examples of candidate tasks which could be performed for different types of response, corrective action, or prevention work can be extracted directly from the TAT contract Statement of Work (SOW).

Care must be taken by the DPO and TAT Leader to ensure that all tasks requested and performed are within the bounds of the TAT contract SOW. Particular attention must be given to ensure that TAT TDDs do not involve personal services. For example, the DPO must not direct the TAT to provide clerical support, travel arrangements, or other personal services for EPA staff. The DPO is also forbidden from specifying an individual TAT member to perform a task. Specific TAT staffing decisions are the responsibility of the TAT contractor.

The tasks include in any one activity will depend upon the project-specific conditions. It may prove useful for the Region to develop standardized work scopes for an activity and to use this scope (modified as necessary for a specific situation) as an attachment to the TDD.

In addition, the TDD reporting requirements (Box 11) must be spelled out such that the work product provides the degree of detail desired by the DPO and therefore facilitates accomplishment of the activity objectives. The DPO may wish to develop standard report outlines for various types of activities (i.e., facility inspection reports) and to attach these to the TDD as appropriate.

Finally, the DPO is responsible for ensuring that an estimate of technical hours and costs needed to accomplish the TDD assignment is included in the TDD. These estimates may be used in three important ways to ensure that the TAT performs efficiently. First, these estimates can serve as the basis for individual TDDs. The actual hours and costs can then be compared with the estimates. Any large differences between the figures may be indicative of problems and should be reviewed by the DPO. Second, the estimated hours, used in combination with the estimated completion date, can help to identify the need for overtime to complete the task. Since the contract limits the overtime which may be charged, overtime must be monitored. The third use for the estimate of technical hours is to provide the basis for comparison of total estimated hours for all active TDDs with the total technical hours available. Total technical hours available can be computed from the information in the contract. The difference between the two figures will tell the DPO to what extent available contractor resources are being utilized. The TAT contractor can also provide this information on a regular basis (e.g., biweekly).

2. TDD processing.

After the TDD is completed, it is signed by the DPO or the DPO's designee and forwarded to the contractor TAT Leader. (When the DPO plans to be out of the office and unavailable to perform contract management functions, the DPO must submit a written request, or telephone the PO and CO, for approval to appoint a temporary assistant DPO; this request must be for a discrete period of time.) The PO must also be notified by the DPO for concurrence with the TDD. The PO will convey concurrence to the ZPM, who will communicate this concurrence to the TAT leader as soon as possible. The contractor TAT Leader can take one of three actions on the TDD:

- If the TDD is acceptable to the contractor TAT Leader as issued by the DPO, the TAT Leader signs the TDD and proceeds with performance of the assigned activities. In general, the TAT contractor should be willing to accept any assignment within the bounds of the TAT contract SOW. However, as stated earlier, conducting personal services for EPA staff is not allowed.
- The TAT leader can accept the TDD with exceptions. In this case, the exceptions are to be noted on the form and a copy is returned to the DPO. The DPO and TAT Leader are to resolve these exceptions prior to the contractor commencing work. If necessary, a revised TDD should be issued reflecting resolution of any exceptions. If the issue cannot be resolved on this level, the DPO should consult with the PO in Headquarters for guidance. If necessary, the PO will consult with the contractor ZPM to try to resolve the situation. If it is resolved, the DPO may issue a revised TDD reflecting the issue resolution and the contractor will proceed with task performance. If the PO and contractor ZPM cannot resolve the issue, the matter is referred to the CO for final resolution. Where possible, and with concurrence of the DPO, the contractor should begin work on the acceptable work elements of the TDD, pending resolution of the points at issue.
- If the contractor TAT Leader rejects the TDD, it is returned to the DPO with an explanation of the reasons for rejection. The DPO and TAT Leader are to confer to resolve the situation. If a resolution is reached, a revised TDD can be issued, if necessary, and the contractor proceeds with the task. If the DPO and the TAT Leader cannot resolve the problem, the DPO should contact the PO for guidance as explained above.

When the TDD is acceptable to both the TAT Leader and the DPO, it should be signed and dated. Appropriate copies should be placed in the contractor's and EPA's central TDD files. The DPO should then send copies of the TDD to the PO, CO, and the Regional UST Coordinator.

B. TDD Amendments

In the event that an issued TDD needs revision, the DPO must issue a TDD amendment containing the appropriate changes. Events that require TDD amendments may include, for example, an original underestimation of a project's magnitude or an acceleration of a project's period of performance. The original TDD's number will be used, with a check in the "Amendment" blank (Box 2). The revised TDD should include the material contained in the original TDD and the revised information so as to be capable of standing alone. Amendments are to be processed in the same manner as described above.

C. Special Project TDDs

Funding has been obligated for the performance of special projects under the TAT contracts. All TAT Special Projects TDDs for Federal-lead UST corrective actions must be signed and issued by the appropriate PO, after conferring with the Regional UST Coordinator. If a special project is required, the PO may request that the ZPM prepare and submit a work plan and cost estimate for completing the TDD. The TAT contractor's work plan should include a detailed technical approach, schedule for completion,

and cost breakdown. It should be sufficiently detailed to provide a base for guiding work, measuring progress, and controlling budgets. The contractor work plan should address the elements specified below:

- Objectives and scope of the proposed activity and its relationship to other ongoing or planned activities.
- Technical approach for the activity, anticipated problems, and proposed solutions.
- Detailed breakdown of tasks to be performed.
- Description of work to be performed under each task, including objectives and scope, information sources, and methods to be used.
- Analysis of resources (level) expected for each task.
- Anticipated total labor cost for each task.
- Identification and tabulation of total direct costs for each major work element.
- Schedule, including critical path and milestones.
- Listing and schedule of deliverables.
- Safety and contingency measures.
- Safety and contingency measures.

Upon review of the plan, the PO will approve and issue the TDD.

Exhibit H-1

TECHNICAL DIRECTION DOCUMENT (TDD)				
1. COST CENTER:	TAT – CONTRACT 68-01-7367 TECHNICAL DIRECTION DOCUMENT (TDD) OHM EMERGENCY RESPONSE AND SPILL PREVENTION PROGRAM ROY F. WESTON INC.			2. NO: 2A. TYPE:
3. PRIORITY <input type="checkbox"/> HIGH(1) <input type="checkbox"/> MEDIUM(2) <input type="checkbox"/> LOW(3)	4. SOURCE OF FUNDS.	5. EPA SITE ID: 5A. EPA NAME:	6. COMPLETION DATE: 7. OVERTIME APPROVED: <input type="checkbox"/> YES <input type="checkbox"/> NO	8. REFERENCE INFO: <input type="checkbox"/> YES <input type="checkbox"/> NO <input type="checkbox"/> ATTACHED <input type="checkbox"/> PICK UP
9. GENERAL TASK DESCRIPTION:				
9A. ESTIMATED COST: \$			ESTIMATED HOURS:	
10. SPECIFIED ELEMENTS:			11. INTERIM DEADLINES:	
2D. DESIRED REPORT FORM: OTHER (SPECIFY):		<input type="checkbox"/> FORMAL REPORT	<input type="checkbox"/> LETTER REPORT	<input type="checkbox"/> FORMAL BRIEF
3. COMMENTS				
AUTHORIZING DPO: _____ (SIGNATURE)			15. DATE:	
RECEIVED BY: <input type="checkbox"/> ACCEPTED / <input type="checkbox"/> ACCEPTED WITH EXCEPTIONS / <input type="checkbox"/> REJECTED _____ (SIGNATURE)			17. DATE	
DESCRIPTOR:				

Exhibit H-2

TECHNICAL DIRECTION DOCUMENT (TDD)				
1. Cost Center:	TAT ZONE II CONTRACT CONTRACT NO. 68-01-7368 TECHNICAL DIRECTION DOCUMENT (TDD) ECOLOGY AND ENVIRONMENT, INC.			2. No: Amendment _____
3. Priority <input type="checkbox"/> High <input type="checkbox"/> Medium <input type="checkbox"/> Low	4A. Estimate of Total Hours:	5A. EPA Site Name:		7. Completion Date:
		5B. SSID No.:	5C. City/County/State:	8. Reference Info: <input type="checkbox"/> Yes <input type="checkbox"/> Attached <input type="checkbox"/> No <input type="checkbox"/> Pick-up
3B. Key EPA Contact: Name: Phone:	4B. Overtime Approved: <input type="checkbox"/> Yes <input type="checkbox"/> No	6. Source of Funds: <input type="checkbox"/> CERCLA <input type="checkbox"/> 311 <input type="checkbox"/> UST	<input type="checkbox"/> Other	8A. Subtask Code:
9. Type of Activity:				
CWA-311		CERCLA		AS SPECIFIED ABOVE
<input type="checkbox"/> SPCC <input type="checkbox"/> On-Scene Monitoring <input type="checkbox"/> Spill Clean-up Funded		<input type="checkbox"/> Site Assessment <input type="checkbox"/> Removal Funded <input type="checkbox"/> Removal PRP (AO/CO) <input type="checkbox"/> On-Site Monitoring		<input type="checkbox"/> Special Project <input type="checkbox"/> Analytical Project <input type="checkbox"/> TITLE III <input type="checkbox"/> UST <input type="checkbox"/> FEMA
				<input type="checkbox"/> Quality Assurance <input type="checkbox"/> Training <input type="checkbox"/> Program Management <input type="checkbox"/> Technical Assistance <input type="checkbox"/> Information Management
10. General Task Description:			11. Desired Report form: <input type="checkbox"/> Formal Report <input type="checkbox"/> Letter Report <input type="checkbox"/> Formal Briefing <input type="checkbox"/> Other (Specify)	
12. Specific Elements:			13. Interim Deadlines:	
14. Authorizing DPO: _____ (Signature)			15. Date:	
16. Received by: <input type="checkbox"/> Accepted / <input type="checkbox"/> Accepted with Exceptions / <input type="checkbox"/> Rejected _____ (TATL Signature)			17. DATE	

**APPENDIX I: Interim Financial Procedures Governing Use of the LUST Trust Fund
Comptroller's Policy Announcement No. 87-13**

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

WASHINGTON, D.C. 20460

JUN 3 1987

**COMPTRROLLER POLICY ANNOUNCEMENT
NO. 87-13**

OFFICE OF
ADMINISTRATION AND RESOURCES MANAGEMENT

MEMORANDUM

SUBJECT: Interim Financial Policies and Procedures
Governing Use of the Leaking Underground
Storage Tank (LUST) Trust Fund

FROM: David P. Ryan
Comptroller

TO: Assistant Regional Administrators
Management Division Directors
Senior Budget Officers
Director, Office of Underground Storage Tanks
Regional Comptrollers
Financial Management Officers

This memorandum provides interim Agency financial policies and procedures governing the use of the Leaking Underground Storage Tank (LUST) Trust Fund. In addition, this Policy Announcement clearly establishes the Agency's policy that States, with Cooperative Agreements, and EPA are responsible for pursuing cost recovery from responsible owner/operators. Until such time as more detailed policies and procedures are developed, you should adhere to the guidance provided in this Policy Announcement.

BACKGROUND

The recently funded LUST Trust Fund program was authorized by the Superfund Amendments and Reauthorization Act of 1986. Its purpose is the cleanup of petroleum (gasoline, diesel and aviation fuels) releases from underground storage tanks. The program is funded by an excise tax of 1/10 of one cent per gallon on motor fuels. The taxing authority was effective on January 1, 1987 and is expected to generate \$500 million over five years. The new LUST Trust Fund, which is a cleanup program, is distinctly different from the existing UST regulatory and grant program, which is a "prevention" effort. UST activity is funded under the S&E and AC&C appropriations.

The Agency's intent is that States play the primary role in implementing this new legislation. Cooperative Agreements between individual States and EPA will enable States to draw on Trust Fund resources for cleanups and certain associated program and directly-related administrative expenses. Consolidated Letter of Credit procedures will be utilized with each State, allowing the drawdown of monies as costs are incurred.

States are expected to make a reasonable effort to pursue cost recovery from responsible owners/operators for sites that are State-lead cleanup. EPA will conduct cost recovery efforts, where reasonable, in those instances of direct Federal response actions. Although expected to be rare, EPA's direct Federal response would be

called for in situations which pose an imminent threat to human health and the environment. EPA would be required to act in those life-threatening instances where; 1) there is no State Cooperative Agreement in place; 2) the State is unable to respond; 3) there is no identifiable owner/operator; or 4) the owner/operator refuses to act. Since cost recovery provisions are inherent in the legislation, both EPA and the States must have an accounting structure and system that is capable of tracking site-specific costs. This policy Announcement establishes the system structure and documentation requirements to support the cost recovery process.

In addition to funding the State/EPA Cooperative Agreements, the Trust Fund also provides resources for administration of the Fund, including the cost of work years, enforcement actions, Federal response to emergencies, and cost recovery in connection with enforcement actions and cleanups.

POLICIES AND PROCEDURES

To ensure that all charges applicable to the new appropriation are recorded against the proper account number, and that the necessary documentation will be available in the event of subsequent cost recovery cases, we are establishing the following account structures and interim policies and procedures relative to the LUST Trust Fund.

Appropriation, Account Structure and Activity Codes

All offices that receive Advices of Allowance funded by the LUST Trust Fund, appropriation 68-20X8153, should charge their applicable personnel compensation and benefits (PC&B) and other operating expenses to the appropriate program element and attendant account number.

The Financial Management System (FMS) 10-digit account number structure for LUST will allow tracking of costs by major activity type and on a site-specific basis in those rare instances where a direct Federal response is initiated. The account structure identifies Cooperative Agreements by State and major activity within State. There will be no site-specific tracking of State-lead cleanups in the FMS since States are responsible for pursuing cost recovery on their responses. Attachment I contains the LUST Trust Fund account number structure and should be followed closely when establishing account numbers.

LUST activity codes and definitions are provided in attachment II. All State Cooperative Agreements will initially be obligated under activity code "G". Each time a State requests funds on a Letter of Credit drawdown, they must provide an activity code breakout based on the three major activity codes identified in Attachment II. The Regional Financial Management Office will make appropriate adjustments to distribute the Cooperative Agreement payments, from activity code "G:", to the various activity codes as each funding request is recorded in the FMS.

Establishing Account Numbers

Each allowance holder is responsible for establishing the appropriate account number(s) in the FMS for LUST Trust Fund activity within their program area. Regional Financial Management Offices will use the Collection of Account Number (CAN) process for entering their account numbers. Headquarters allowance holders should contact Scott Culver in the Financial Reports and Analysis Branch (FRAB) on 475-8725 to establish LUST Trust Fund account numbers. FRAB is responsible for verifying the accuracy and authorized use of the various account numbers. To ensure proper accountability, allowance holders should establish a central point of contact with their offices for controlling issuance and use of the Trust Fund account numbers.

Site-specific identifiers for LUST Federal responses will be

assigned in the Regions based on the procedures currently used to assign Superfund site numbers. There is no restriction on using site identifiers for LUST that have been previously assigned to a Superfund site, since they are distinguished by different appropriations and program element symbols.

Charging Methods

The following methods must be used when charging costs to the LUST Trust Fund Appropriation. The allowance holder must have adequate FTE ceiling and dollars prior to charging any costs to a LUST Trust Fund account number.

A. Timekeeping Procedure for Employees Performing LUST Trust Fund Work.

General. Allowance holders engaging in work activities to carry out the provisions of the LUST program are provided LUST FTE ceilings and dollar allowance. The allowance holder, or designee, is responsible for the complete and accurate charging of personnel time to LUST. In addition, specific documentation must be maintained to support all charges to the Trust Fund. The standard Agency Payroll Distribution Timesheet (EPA Form 2560-28) serves as 1) documentation of payroll charges to a LUST Trust Fund account number, and 2) the source documentation for entry of payroll labor distribution data into the payroll system. Supervisors are responsible for assuring that timesheets are properly prepared and submitted to their employees' timekeeper for submission to the servicing Financial Management Office to permit timely entry into the payroll labor cost distribution system.

Employee Account Number Identification.

Employees who are expected to work more than 50% of their time on LUST will be assigned a LUST fixed account number. Employees expected to work less than 50% of their time on LUST will be assigned a regular, non-LUST, fixed account number. A fixed account number will be assigned to each employee by the allowance holder, or designee, through the supervisor. Salaries and benefits for an employee will be charged to that employee's fixed account number unless the timesheet indicates that another account number should be charged for all or part of the employee's time for that pay period.

Timesheet Requirements for LUST Trust Fund Work.

Whenever an employee charges a LUST account number, a timesheet must be maintained unless the employee has a LUST fixed account number and all of the employee's work was related to that fixed account number. Employees who do not have a LUST fixed account number, and want to charge costs to LUST, must fill out daily timesheets accounting for all hours in that pay period. Detailed instructions for completing the timesheet can be found on the reverse of the timesheet form. The special instructions on the timesheet for Superfund site-specific charges apply to site-specific LUST Trust Fund charges also. All employees who perform site-specific LUST Trust Fund work must use a site-specific account number containing the appropriate site and activity codes on their timesheet. These codes are contained in the last three digits of the account number (four digits for Headquarters staff) assigned to each site.

B. Other Costs Requirements for LUST Trust Fund Work.

Other costs, such as travel, printing, supplies, equipment, and contracts, should be charged, where applicable, to the appropriate LUST Trust Fund account number. Particular attention should be paid to any Federal-lead contractual effort to ensure that costs applicable to the LUST Trust Fund are charged accordingly, including identification to specific sites for direct Federal response actions.

C. Allocation of Costs for LUST Trust Fund Work.

The previous two sections addressed "direct" charging of costs for LUST Trust Fund work. However, in some instances, Agency costs cannot be identified as benefiting solely one or another appropriation. For

example, a work assignment under an Agency contract may benefit both the Superfund and LUST programs. As an alternative, these costs may be "allocated" among the benefiting appropriations.

FTEs and PC&B Costs. An office that wants to allocate their FTEs and PC&B costs to more than one appropriation must receive Office of the Comptroller's approval of the method they wish to use to allocate these costs. We will be issuing a Policy Announcement shortly detailing procedures to follow. In the interim, please contact the Fiscal Policies and Procedures Branch of assistance.

Travel. If it is not practical to segment travel to identify costs benefiting one or another appropriation, travel costs should be charged to the program that benefits predominately from that travel.

Equipment and Supplies. Purchase of equipment, supplies, or equipment rentals should be allocated where necessary in accordance with the criteria defined in the Financial Management Manual, Chapter 17, Section 6. Essentially, purchases less than \$25,000 per item may be charged to the program that predominately benefits. Purchases of \$25,000, or greater should be divided based on the estimated proportion of use in support of each program.

Multiple Apportion Funded Contracts. If any task or sub-task under a contract is funded from more than one appropriation, and the costs of that activity cannot be directly charged, the Project Officer must request the Director, Financial Management Division's approval of the proposed method for allocating those costs.

Cost Recovery

The Superfund Amendments and authorization Act of 1986 clearly states that the owner of operator is liable for cost incurred by EPA or a State with respect to the release of petroleum from an underground storage tank. Therefore, EPA will pursue cost recovery on Federal-lead cleanups and the States are expected to do so on State-lead cleanups.

Pending guidance on LUST fiscal systems and cost recoveries, States must comply with the cost recovery requirements as specified in the Cooperative Agreements. For Federal-lead actions, charging and documentation requirements are the same as for Superfund. All costs identifiable to a specific site should be charged to a site-specific account number. Records for LUST cost recovery actions will be maintained in accordance with existing Superfund requirements. Detailed guidance on the LUST cost recovery process is being developed and will identify both State and Financial Management Office requirements.

State Cooperative Agreements

The major thrust of this new Trust Fund program will be through the EPA/State Cooperative Agreements negotiated by the Regional UST Coordinators. State officials are expected to be closer to the local situation and generally know more than Federal officials about the underground storage tanks and site conditions in their respective jurisdictions.

The agency's intent is that these initial Cooperative Agreements be negotiated and proved quickly in order to facilitate early distribution of Trust Fund resources. Such early action will ensure rapid program development, initiation of cleanups or other corrective action and enforcement activity.

Effective Date

These interim policies and procedures are effective immediately. They will remain in effect until more detailed guidance is developed. At that time, you will notified that this Policy Announcement is

superseded.

Inquires

If you have any questions regarding this Policy Announcement, please contact Fiscal Policies and Procedures Branch staff, Doug Barrett on 382-5658 or Liz Milstead on 382-4205.

Attachments

cc: Headquarters Allowances Holders
Hazardous Waste Management Division Directors
J. Richard Bashar
Alvin Pesachowitz
John J. Sandy
Vincette L. Goerl
Tony Musick
John Elliott
Carole Ansheles
FMD Branch Chiefs

Attachment I

LUST Trust Fund Account Number Structure

The LUST Trust Fund 10-digit account number consists of the following :

A. **First Position - Source of funds Code.**

The first position of the account number is an alpha-numeric field representing the appropriate year. For 1987, the first position is "7".

B. **Second, Third and Fourth Positions - Program Element.**

The second, third and fourth positions of the account number consist of the first three characters of the six-digit program element number.

C. **Fifth and Sixth Positions - Allowance Holder.**

The fifth and sixth positions represent the allowance holder, i.e., "88" for the Office of Underground Storage Tanks; "01" for Region I.

D. **Seventh position - Regional Identifier/Responsibility Center and State Identifier.**

The seventh position of the account number is a multi-purpose field and its use depends on whether the account number is for a Regional allowance, (i.e., allowance Holders 01 through 10) or a Headquarters allowance, (i.e., Allowance Holders 11 - 88).

- **Headquarters Allowance Holders** - The use of the seventh position by Headquarters allowance holders depends on whether the account number is site-specific or nonsite-specific. For site-specific numbers this field is used to identify the Region where the site is located and therefore must have a numeric character 0-9 (0 for Region 10). For nonsite-specific account numbers the seventh position represents the Responsibility Center (i.e., Division, Branch, Project, etc).
- **Regional Allowance Holders** - The use of the seventh position by Regional Allowance Holders depends on whether the account number is for funding an EPA. State Cooperative Agreement or some other type of charge. For cooperative Agreements this position is used to identify the State that the agreement is with. Page 3 of this attachment provides the codes used to identify the States. For all charges other than Cooperative Agreements, this field represents the Responsibility Center.

E. **Eight Position - Activity Code.**

The eighth position of the account number consists of an alpha-numeric character which represents the major activities under the LUST Trust Fund. See Attachment II for a listing of the LUST activity codes and their definitions.

F. **Ninth and Tenth Positions - Non-Site/Site Identifier.**

The ninth and tenth positions are reserved for site identification. The site identifier is an alpha-numeric code. The codes to be assigned follow a set pattern: Series one consists of 01 - 99; Series two is A1 - A9, B1- B9, etc.; Series three is 1A - aZ, 2A - 2Z, etc.; series four is AA - Az, BA - BZ, etc. Exceptions: Do not use the letters "I" or "O" in any series, since they are easily confused with "ones" and "zeros." The identifier "00" indicates non-site specific costs and is also used when obligating State Cooperative Agreements. Site-specific numbers will established only for direct Federal response.

EXAMPLE

LUST TRUST FUND ACCOUNT NUMBER	TEN-DIGIT ACCOUNT NUMBER 7 FPY 01 1 G 00
FISCAL YEAR	7
LUST PROGRAM ELEMENT	FPY
ALLOWANCE HOLDER	01
REGIONAL/RESPONSIBILITY CTR/STATE IDENTIFIER	1
ACTIVITY CODE	G
NON-SITE/SITE IDENTIFIER	00

NOTE: this is an example of a Region I account number for a State Cooperative Agreement with Connecticut.

OTHER EXAMPLES:

1. 7FPY011700 State LOC Drawdown for Activity Code 7
2. 7FPY01C700 Regional Charge Non-site specific
3. 7FPY88B700 Headquarters Charge Non-site specific
4. 7FPY881E01 Headquarters Site-specific charge for a Region I site
5. 7FPY01CE01 Regional Site-specific Charge

State Codes for Use in 7th Position
of Account Number on LUST
State Cooperative Agreements

Region I	Region II	Region III	Region IV	Region V
CT... 1 ME... 2 MA... 3 NH... 4 RI... 5 VT... 6	NJ... 1 NY... 2 PR... 3 VI... 4	DE... 1 DC... 2 MD... 3 PA... 4 VA... 5 WV... 6	AL... 1 FL... 2 GA... 3 KY... 4 MS... 5 NC... 6 SC... 7 TN... 8	IL... 1 IN... 2 MI... 3 MN... 4 OH... 5 WI... 6
Region VI	Region VII	Region VIII	Region IX	Region X
AR... 1 LA... 2 NM... 3 OK... 4 TX... 5	IA... 1 KS... 2 MO... 3 NB... 4	CO... 1 MT... 2 ND... 3 SD... 4 UT... 5 WY... 6	AZ... 1 CA... 2 HI... 3 NV... 4 SA... 5 GU... 6 PL... 7 CQ... 8	AK... 1 ID... 2 OR... 3 WA... 4

Attachment II

LEAKING UNDERGROUND STORAGE TANK TRUST FUND ACTIVITY CODES

"7" - General Support and Management (Extramural and Intramural)

Includes all intramural support and management costs which benefit the overall LUST Trust Fund program's management. Also includes extramural costs associated with general management, administrative support, program guidance and implementation, training, general community relations support, report and proposal writing, contingency planning, and contractor support.

"E" - Site Cleanup Actions (Extramural and Intramural)

Includes all costs associated with site responses taken to prevent or mitigate threats to public health, welfare, or the environment posed by a release (or suspected release) or petroleum from an underground storage tank, including emergency responses, site investigations, exposure assessments, the planning and design or corrective actions, and the conduct, management and oversight of long-term remedial corrective actions.

For site-specific Federal lead actions and technical assistance, includes all costs (extramural and intramural) associated with the Environmental Response Team (ERT), the Technical Assistance Team (TAT), ERCS, EERU, laboratory analysis costs, and ESD laboratory quality assurance.

"4" - Enforcement (Extramural and Intramural)

Includes all activities necessary to identify a potentially responsible party (PRP), such as PRP searches, title searches, and financial assessments. Also includes activities involved in issuance of letters, notices and orders to PRP's to provide information, test tanks, correct leaks and conduct cleanups associated with petroleum releases from an underground storage tank. Includes oversight of responsible party cleanups, whether taken in response to an enforcement action (e.g., letters, notices, orders, orders on consent, consent decrees, judicial decrees, etc.) or not. Includes all activities associated with the development and support of cost recovery cases.

"G" - State Cooperative Agreements (Extramural)

Used solely for recording **initial** obligation of LUST Trust Fund State Cooperative Agreements in the financial Management System. Each time the individual States request funds on a Letter of Credit drawdown, they will provide an activity code breakout based on the three codes defined above. The respective Regional Financial Management Office will process appropriate adjustments to distribute the costs to the correct activity code.