

United States  
Environmental Protection  
Agency

Office of  
Solid Waste and  
Emergency Response

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<b>DIRECTIVE NUMBER:</b>	9610.16
<b>TITLE:</b>	Guidance On Federal Field Citation Enforcement
<b>DATE:</b>	October 6, 1993
<b>ORIGINATING OFFICE:</b>	OSWER

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October 6, 1993

**MEMORANDUM**

SUBJECT: UST Federal Field Citation Enforcement

FROM: David Ziegele, Director  
Office of Underground Storage Tanks

TO: Waste Management Division Directors,  
Regions 1-3 and 5-9  
Water Division Directors, Regions 4 and 10  
Regional Counsel, Regions 1-10

The Office of Underground Storage Tanks (OUST) is today issuing as OSWER Directive 9610.16 revised guidance for UST federal field citation enforcement. This guidance replaces OSWER Directive 9610.14, issued on April 9, 1992. During the past year and one-half five additional regions have instituted field citation programs, bringing the total number to eight. The additional experience gained during this period has let EPA to revise its federal field citation program.

In February of this year a conference on federal field citations, sponsored by OUST, the Office of Enforcement (OE), and the Office of General Counsel (OGC), was held in Denver, CO. Attending from the regions were the UST regional program managers, staff and attorneys. The purpose of the conference was to review the federal field citation program and, based upon the experience to date, revise and expand it as appropriate. The Denver conference produced a list of recommendations for revision of the program. OUST has coordinated this effort, getting significant input from the regions, OE and OGC. Two drafts of this document have been circulated for review during these past few months.

Attached is the revised UST federal field citation guidance. The major changes to the document are listed in an attachment to this memo entitled, Revisions to Guidance for Federal Field Citation Enforcement, October 1993. These changes broaden the scope of the program by expanding its coverage to include "environmentally sensitive" areas and by significantly increasing the number of violations that are "citable" with field citations. In addition, this guidance includes procedures for issuance of field citations in approved and codified states, contains a substitute citation form for use in approved states, and specifies the limited circumstances in which EPA may issue citations in such states. (If EPA issues field citations in states which have been approved but not yet codified, the regional inspector should use the substitute citation form marked "For Approved States", writing down the comparable federal violations cited in addition to the state violations cited.)

This guidance does not contain new information on the issuance of field citations at federal facilities. A section for this purpose has been reserved. In the interim, if a region decides to issue a field citation at a federal facility, it should carry no penalty. Additional topics discussed at Denver which have not been incorporated into this document include the tracking of field citations which have been issued, and the

deputizing of state or local government inspectors to issue citations.

This revised UST federal field citation guidance has received formal concurrence (copies attached) from the Office of Enforcement and the Office of General Counsel. Special thanks to all those who have participated in the extended process to improve this guidance. Please contact Jerry Parker of my staff (703 308-8884) with any questions or comments.

Attachments

cc: UST/LUST Regional Branch Chiefs  
UST/LUST Regional Program Managers  
Regional UST Attorneys  
Susan O'Keefe, OE  
Lisa K. Friedman, OGC  
Milton Robinson, OE  
Sheila Igoe, OGC  
OUST Management Team (w/o attachments)  
OUST Desk Officers (w/o attachments)

October 5, 1993

**MEMORANDUM**

SUBJECT: Guidance for Federal Field Citation Enforcement  
FROM: David Ziegele, Director  
Office of Underground Storage Tanks  
TO: Susan O'Keefe, Acting Enforcement Counsel for  
RCRA Enforcement  
RCRA Enforcement Division

Attached is the revised Guidance for Federal Field Citation Enforcement. This guidance has been put together with the assistance of your staff attorney. If your office accepts this document in its current form please indicate your concurrence below.

Thank you for your office's continuing participation in this project.

/x/ ----- (concur)	/s/ ----- Susan O'Keefe Acting Enforcement Counsel for RCRA Enforcement	/d/ ----- (date)
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October 5, 1993

**MEMORANDUM**

SUBJECT: Guidance for Federal Field Citation Enforcement  
FROM: David Ziegele, Director  
Office of Underground Storage Tanks  
TO: Lisa K. Friedman, Associate General Counsel  
Solid Waste and Emergency Response

Attached is the revised **Guidance for Federal Field Citation Enforcement**. This guidance has been put together with the assistance of your staff attorney. If your office accepts this document in its current form please indicate your concurrence below.

Thank you for your office's continuing participation in this project.

/x/ ----- (concur)	/s/ ----- Lisa K. Friedman Associate General Counsel	/d/ ----- (date)
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## **REVISIONS TO GUIDANCE FOR FEDERAL FIELD CITATION ENFORCEMENT OCTOBER 1993**

The "Guidance for Federal Field Citation Enforcement" (OSWER Directive 9610.14) was issued in April 1992. Since then, several regions have implemented field citation programs and a national conference was convened to review experiences and consider improvements. Based on extensive discussions with regional staff and attorneys, the Office of General Counsel (OGC), and the Office of Enforcement (OE), a number of revisions have been made. The revised document:

- Discusses in greater detail the relation of field citations to the overall enforcement effort, and the advantages of issuing field citations in certain circumstances.
- Explains that field citations are an appropriate response to UST violations in environmentally sensitive areas.
- Emphasizes that if a region wishes to issue warnings as part of its enforcement program, the warning may not be in the form of a field citation without a penalty.
- Discusses the differences between issuing field citations in states that have received state program approval and those that have not, namely, regions must cite state regulations in approved states. The document also provides a model citation for use in approved states.
- Contains a discussion of procedures and criteria for extending the deadline for compliance with the terms of a field citation in limited circumstances.
- Explains procedures to follow if settlement forms and penalties are to be sent to different addresses.
- Discusses the need for regional standard operating procedures (SOP) and suggests a number of basic elements that should be included in the SOP.
- Adds a number of violations and penalty amounts to the list of applicable violations, including violations involving hazardous substance USTs where thresholds on the number of tanks and total hazardous substance capacity at the facility are not exceeded.
- Outlines basic procedures for issuing field citations on Indian lands, and reserves a section to explain procedures for issuing field citations at federal facilities.
- Encourages regions to engage in outreach activities in order to inform the regulated community and the public about the field citation program.
- Explains how the federal field citation program is related to the future development and implementation of state and local field citation programs.
- Adds language to the settlement agreement stating that, by signing, the owner or operator waives any objections to EPA's jurisdiction.

In addition, some sections of the guidance have been re-ordered and edited to improve readability and ensure the logical organization of the document. Finally, outdated information on the development of the field citation program has been replaced with more current information.

**GUIDANCE FOR FEDERAL FIELD CITATION ENFORCEMENT**  
**U.S. ENVIRONMENTAL PROTECTION AGENCY**  
**OFFICE OF UNDERGROUND STORAGE TANKS**  
**October 1993**

## **I. Federal Enforcement**

### **Overview**

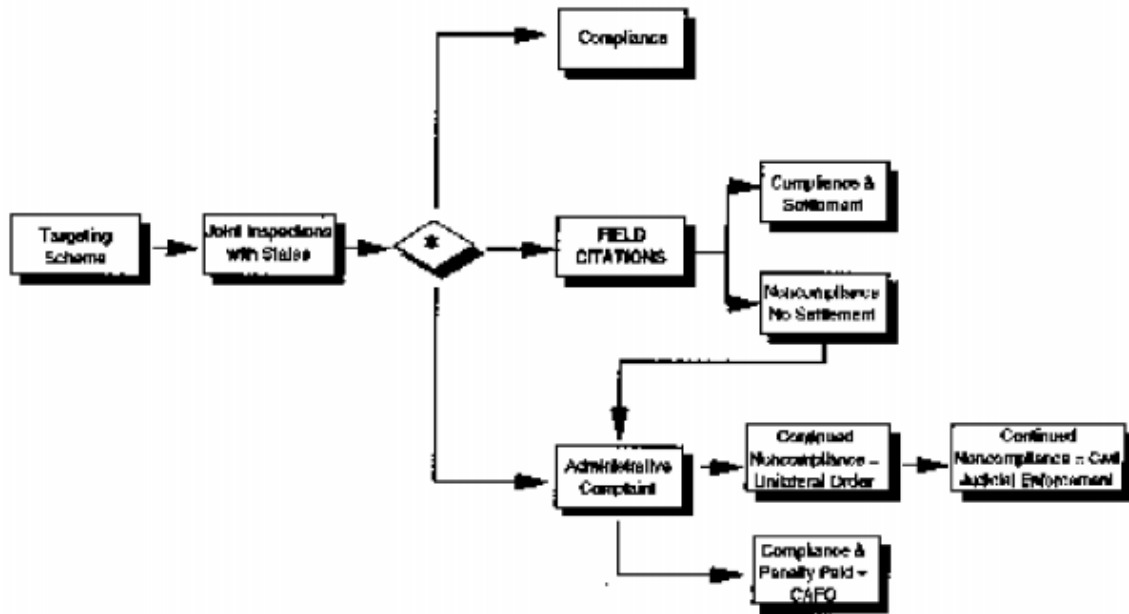
The Office of Underground Storage Tanks' (OUST) program implementation approach is to build UST programs at the state level since states will be primarily responsible for the enforcement of UST regulations. Regions perform compliance inspections at UST sites or take enforcement actions, generally in conjunction with or in the place of a state when the state lacks enforcement resources, and on Indian Lands or at federal facilities.

One enforcement option is the use of field citations, "traffic ticket"-styled citations issued on-site by inspectors, generally carrying a penalty. Field citations are currently being used by a number of environmental programs on the federal, state, and local levels, including UST programs. In the experience of many state and local UST enforcement programs, field citations are extremely useful in addressing many prevalent, clear-cut violations that are relatively easy to correct. Addressing these violations using established enforcement methods, such as formal administrative proceedings under 40 CFR Part 22, requires a greater commitment of staff time and resources, which may be difficult to obtain or which must compete with time and resources that staff directs toward releases or violations that are not appropriately addressed by the field citation program. When a citation program is properly designed, violators issued citations for clear-cut violations have greater incentive to correct problems and pay penalties than to contest. Thus, in appropriate circumstances, field citation enforcement is less resource-intensive than traditional methods of UST enforcement. Resources are saved as citations are issued on the spot, and preparation of formal legal documents and procedures, such as administrative appeals, are minimized.

While field citations were developed to expedite the enforcement process, they also encourage owners and operators to come into compliance in an effective and resource-efficient manner. By removing the incentive to expend their time and resources litigating the large penalties typical of more formal enforcement actions, owners and operators who receive field citations should see a clear advantage in focusing their energy and economic resources on achieving compliance. Thus, field citations are a critical component of OUST's efforts to achieve high rates of compliance among regulated entities with minimal expenditure of public and private resources.

This guidance is intended to help the regions establish and operate field citation programs, but should not be construed to mandate the use of field citations in place of other existing enforcement mechanisms. When an inspection is conducted, there are in essence three potential outcomes: (1) compliance (no enforcement action taken), (2) non-compliance followed by issuance of warnings or field citations, or (3) non-compliance followed by more traditional enforcement. (Of course, in theory there is a fourth outcome, where there is non-compliance and no action is taken. However, this outcome is neither common nor desirable.) Field citations therefore are not separate from more formal enforcement mechanisms; they are complementary aspects of the enforcement program (Figure 1).

**Figure 1. The Role Of Field Citations In Federal UST Enforcement (Idealized and Simplified Process)**



\* Refer to guidance for appropriate situations to be addressed by field citations.

Field citations and more formal enforcement are procedurally distinct, but they share an identical objective: increasing the rate of regulated community compliance. Each should be chosen when the appropriate conditions for its use exist. For example, field citations should be chosen when the violation is clear-cut, easily verifiable, easily correctable, and on the list of citable violations. Generally, field citations should only be issued to first-time violators. More formal enforcement must be pursued for all other violations. If a field citation is ignored, or the owner or operator otherwise refuses to settle, more formal enforcement should be pursued.

UST program staff and legal counsel from several regions participated in a workgroup effort to develop procedures for federal enforcement using field citations. This guidance document is a result of that effort. It attempts to serve the workgroup participants' interest in using field citations in a variety of circumstances and addresses concerns that an enforcement program be fairly and uniformly applied across regions. Some key components of the field citation program are identical from region to region. However, the flexibility provided in this guidance and the relationship between field citations and existing enforcement capabilities should provide considerable room for accommodating local needs. On this score, it is important to emphasize that field citation enforcement will not supplant existing enforcement options. Discretion to exercise existing options for warnings and other enforcement tools remains unchanged by the introduction of field citations, which should blend into regional enforcement choices. Also, regions will continue to select which violations or facilities to target, within the parameters of this guidance, based on local needs and subject to previously issued enforcement guidance. Finally, the availability of federal field citations should not diminish the regions' efforts to assist states and localities in building strong UST enforcement programs.



In February 1993, OUST, the Office of Enforcement, and the Office of General Counsel held a conference to review the federal field citation program, assess its effectiveness, identify potential improvements, and provide valuable "how-to" information to those regions in the process of developing field citation programs. After presentation of data from the regions that had implemented field citation programs, reports, and general discussion, the conference addressed a number of issues, including implementation of regional programs, regional targeting and tracking procedures, standard operating procedures, use of field citations at federal facilities and on Indian lands, and legal issues associated with field citations.

One goal of the conference was to publicize the considerable success of field citations in those regions where they had been used, and thus encourage all regions to initiate development of their own field citation programs. Similarly, this guidance document has been revised as a result of input from participants at the conference in order to reflect recent program experience and facilitate development of regional field citation programs. The Office of General Counsel and the Office of Enforcement have endorsed the use of field citations and have reviewed and concurred with all changes to the document.

## **II. Regional Program Elements**

Guidance for regions is presented in the following sections. The guidance should be considered in the context of the region's overall enforcement strategy and priorities.

### **Selecting Appropriate Violations**

This guidance provides a framework for allowing regions to address certain violations with field citations. The guidance is intended to ensure that each region develops its list of appropriate violations judiciously and implements its program reasonably by providing a list of violations appropriate for field citations and guidelines for selection among violations. Each region should select violations to be cited from the attached list of violations. Regions may not include in their list violations not included in the attached list. Consistency among regions will be further assured by training. The following criteria are generally appropriate for selecting the violations to be cited:

- Select violations which are clear-cut and easily verifiable.
- Select violations which are easily correctable.
- Select first-time violators only.

Determining which violations are appropriate for a field citation program requires considerable discretion. Experience shows that field citation programs work most effectively in achieving compliance if the violations are clear-cut and the inspectors exercise little discretion in citing the violations. Established field citation programs have found that easily identifiable violations (e.g., "either they have it or they don't") require the least amount of inspector judgment in the field, making it easier to provide clear guidance to inspectors and facilitate consistency among inspectors. On the other hand, the regions may believe that certain violations, while clear-cut, are very serious in terms of environmental harm threatened and require a more formal enforcement response. The list of violations appropriate for the field citation program, which accompanies this guidance, relieves the regions of some of the burden of making these decisions. However, it is the responsibility of each region to designate which of these violations will be appropriate candidates for its field citation program given specific regional needs and resources, and list

the violations in the region's Standard Operating Procedures or use the attached list verbatim (see section below on Regional Standard Operating Procedures). In selecting a preferred approach, a region may choose to target a certain prevalent or high priority violation or violations, e.g., the leak detection requirements. This may be a good strategy for a region to use if a state program lacks enforcement authority or regulations in a certain program area and the region needs to fill a key gap in coverage or send an important message to violators. However, if a region enforces in the place of the state, the region may find it advantageous to include all appropriate violations in the field citation enforcement program, as long as they meet the above-referenced criteria.

### **Guidance for When to Use Citations**

This guidance establishes procedures for issuing citations, and describes some appropriate circumstances for inspectors to issue citations. Since the inspector is the one who must implement the program in the field, the regions must clearly establish the extent of discretion allowed to inspectors in determining whether to issue field citations within the general parameters set forth here. Field citations provide an additional enforcement tool, and inspectors must be instructed in how to respond when they find violations which are addressed appropriately with field citations.

The proper use of field citations must be measured against the backdrop of the regions' existing authority to issue warnings or pursue other existing enforcement measures for all violations of UST requirements. Although the primary objective of any enforcement program is to achieve compliance, formal enforcement mechanisms, such as those found in 40 CFR Part 22, normally will be more appropriate in particular circumstances. These circumstances include, among others, instances involving repeat violations or where payment of a more significant penalty may be more effective in achieving EPA's enforcement goals.

This guidance is intended to provide a framework for the inspector's discretionary use of the field citation enforcement option. Therefore, the guidance is phrased in terms of the action an inspector would take in the typical case, but leaves room for exception if the circumstances in the inspector's judgment so warrant.

The following discussion outlines the three basic enforcement options available to address violations of UST requirements:

#### **1. Warnings**

Although warnings can be useful as a first step in the enforcement process, regional inspectors generally should consider issuing citations in all cases where violations which the region has determined are appropriately addressed with a field citation are discovered. Field citations are designed to uniformly address certain violations and promote a quick resolution of the violation with the assessment of a small penalty. Therefore, when a region inspects a facility, inspectors should consider issuing a field citation rather than a warning for a violation or violations which the region has determined may be an appropriate candidate for its field citation program. In order to keep the field citation program distinct from existing enforcement programs, if a warning is issued, it may not be in the form of a field citation without a penalty.

## 2. Citations

There are several situations in which inspectors will typically issue citations:

- Inspectors may issue citations for as many violations as are identified at a site. However, if the number of violations found at a site exceeds "x" (a number set by each region), the inspector should forego issuing a field citation and use more formal, existing enforcement methods instead.

Once a region has selected its list of violations appropriate for the field citation program and trained inspectors in procedures for issuing field citations, inspectors may routinely issue field citations for all appropriate violations found at a facility. Each region will have the discretion to place an upper limit on the number of violations that may be cited at one site. The threshold should be set below the point beyond which the number of violations, regardless of the nature of those violations, suggests that a facility was seriously out of compliance and requires a more formal enforcement response. At this point, a more formal enforcement response is likely to be more effective than the use of field citations. As a general matter, a suggested threshold is between three and ten violations.

This guidance does not suggest any predetermined cap on the cumulative dollar amount of penalties that may be set out in a field citation. However, there is a natural cap to the extent that each region will be foregoing issuing field citations if the number of citable violations at a site exceeds a number fixed by the region (see preceding section). The region may want to consider the practical effect that the total cumulative penalty amount proposed in a field citation may have on settlement incentives. This amount should be below the point above which a violator no longer has an incentive to correct the violations and pay the penalty instead of resisting compliance.

- During joint inspections, regional inspectors should usually not cite for violations that are cited by the state inspector where state penalties are at least equivalent.

As states are the primary enforcers in the program, regions usually will take enforcement actions only in the circumstances noted in the first paragraph of this guidance document. Therefore, it is likely that during joint inspections regional inspectors will defer to the state program's regulations or authorities and not cite for violations that state inspectors cite. Generally, this will be the case where state penalties are at least equivalent with federal penalties. On the other hand, there may be cases where a field citation would serve an important federal enforcement objective, for example, sending a signal to the regulated community about an enforcement initiative. In these cases, a field citation or other federal enforcement measure might reinforce the state's message.

- Inspectors will usually issue citations to first-time violators only. If upon follow-up inspection a cited violation has not been corrected, the inspector should generally use Part 22 procedures, or, if a later inspection uncovers a different violation, the inspector should not use a field citation.

Limiting the use of field citations to first-time violators makes sense if it appears to the inspector that the citation and penalty will convince a violator to bring a facility into compliance and to keep it in compliance. The inspector should be guided by the goal of the field citation program, which is to achieve rapid and resource-efficient compliance, rather than to penalize owners and operators for regulatory violations. When conducting inspections, it is critical that the inspector

fully conduct the inspection and thoroughly complete the inspection report. If a field citation is not issued because the number of violations is above the threshold for field citations, or the field citation settlement form is not returned, the Agency may choose to pursue standard enforcement based on the inspection report. Therefore, while field citations may expedite the correction and penalty phases of enforcement, the quality and effort applied to the underlying inspection should not be abbreviated.

### **3. Standard Enforcement**

If an inspector discovers not only violations that are appropriate for the field citation program, but other violations as well, the inspector should address all of the violations at the site using more formal, existing enforcement methods or refer the case to the state for appropriate action. As used in this guidance, more formal enforcement typically refers to the procedures for issuing administrative complaints/compliance orders (including those assessing civil penalties) and conducting the administrative enforcement process governed by 40 CFR Part 22, the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation or Suspension of Permits ("Part 22" or "CROP"). CROP outlines the major steps in the administrative adjudication process and presents the various authorities and duties of Agency officials in the process. More formal enforcement methods also include issuance of corrective action orders pursuant to 40 CFR Part 24 or civil judicial enforcement of the UST requirements.

In selecting those violations which are appropriate for field citations, the regions will, in effect, also be identifying violations which, because of their potential for environmental harm or other characteristics (i.e., not clear-cut), should be addressed using the more formal, existing enforcement mechanisms. The more formal enforcement methods may also be the appropriate response in some circumstances where field citations would otherwise be appropriate (for example, if the total number of individual violations which are appropriate for a field citation surpasses the threshold for multiple violations or are repeated). Another case where a clear-cut violation might be addressed by more formal enforcement is the case of a clear-cut but not easily correctable violation. In these cases, a field citation may not serve the goal of encouraging compliance and might appear to treat the violator mildly compared to penalties applicable under the penalty policy. In general, the regions will need to assess how to maximize resources while bringing as many facilities into compliance as possible.

This guidance is phrased so that inspectors will know what action to take in the typical case. When in the exercise of their enforcement discretion they determine that deviation from this guidance will result in more effective compliance or a more efficient use of enforcement resources, inspectors are not bound to follow this guidance. This approach is consistent with the guidance found in other EPA penalty policies and procedures.

### **Guidance for Penalty Amounts**

In order to ensure that penalty amounts applied by different regions for the same violations are consistent, standard penalty amounts have been set by this guidance. These penalties are in the amounts of either \$50, \$150, or \$300. Consistency among regions is important to achieve fairness in the treatment of the regulated community in selecting regional penalty amounts. In the case of multiple violations, penalties should be totaled. In general, field citation programs set penalty amounts according to the severity of each violation or category of violations. Penalties should be assessed per facility rather than per tank.

The size of the penalties attached to violations is important to the success of a field citation program. Penalties that are relatively high (e.g., greater than \$500 per violation) may discourage owners and operators from agreeing to settle. On the other hand, penalties need to be high enough to catch the attention of owners and operators. In general, the field citation program should operate optimally when the penalties are geared primarily to achieving compliance rather than to penalizing violators.

### **Form of the Citation**

While each region will have considerable discretion in tailoring its field citation program within the boundaries set forth in this guidance, the regions must use the approved field citation form or obtain approval for any region-specific citation form from OUST in writing, after first having obtained approval of Regional Counsel. OUST will obtain concurrence for any proposed change from both the Office of General Counsel and the Office of Enforcement before authorizing such a change.<sup>1</sup> This approach will ensure that the field citations used are legally supportable and designed to accommodate the program elements described in this guidance. In addition, use of a standard citation form will promote uniformity across regions in the issuance of field citations.

The field citation form developed by OUST is entitled "Expedited Enforcement Compliance Order and Settlement Agreement". There are two versions of the field citation form. The first version was designed for use in states that have not yet received state program approval; it instructs inspectors to cite for violations of the federal regulations. The second version of the form was designed for use in states that have received state program approval; it instructs inspectors to cite for violations of the state regulations. Otherwise, the two versions of the citation and the instructions for their use are identical. Because inspectors in approved states still rely upon federal authorities for enforcement, the references to federal authorities which appear on the second version still apply. A copy of each citation form and the instructions for its use are attached at the end of this guidance.

Regions should specify in their SOP and on the citation form the location where the citation form and penalty payment should be sent. Citation forms and penalties are often sent to different addresses. Generally, penalties should be sent to the same location where enforcement monies are normally sent within the region. The inspector should clearly explain this distinction to the violator if the locations to which payment and the citation form should be sent are not the same.

### **Procedures For Issuance of Citations, Follow-up, and Extensions**

The field citation represents the issuance of an order pursuant to RCRA " 9006 to address violations listed in RCRA " 9006(d), coupled with a short-form settlement agreement. Each region, as it determines is appropriate, must delegate to individual inspectors the authority necessary to issue the citation form. The violator is given an opportunity to resolve the enforcement action expeditiously by correcting the violation and settling for a lesser penalty amount than might be assessed according to the penalty policy if formal administrative proceedings were initiated. The lower penalty amount reflects the time and expense saved by the Agency over that normally incurred in utilizing more formal enforcement methods. If the violator does not accept the settlement agreement within the time provided in the field citation, the

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<sup>1</sup> OUST approved an alternate citation form which provides for issuance of a Notice of Violation prior to issuance of a compliance order and settlement agreement.

compliance order is automatically withdrawn. The Agency's policy is then to pursue other enforcement options for the violations cited.

Thus, the violator has only two options: accept the field citation or risk more formal enforcement proceedings. If a violator refuses to accept the terms of the field citation or if it is determined that a violator has not fully complied with the terms of a signed settlement agreement, follow-up enforcement should be initiated by EPA. Such follow-up enforcement should be more stringent than the field citation settlement terms in order to achieve compliance and ensure the integrity of the field citation program. Follow-up enforcement is particularly crucial in environmentally sensitive areas, as these areas are most likely to suffer severe adverse impacts from prolonged violations that increase the likelihood of a release.

While it is essential that the regions take steps to conduct follow-up inspections in those cases where the violator does not settle and come into compliance, some program of follow-up inspections is also important for monitoring those violators who do accept the settlement offer, pay the fine and certify that they have achieved compliance. The regions should institute follow-up inspections at a subset of those facilities that have reported a return to compliance as a result of a field citation, as appropriate, to assure that owners and operators are taking the compliance actions that they claim to be taking. In addition, these inspections can be used to determine whether the compliance actions are completed within the 30-day period. Without proper follow-up, the region cannot be sure the field citation program is achieving its goal of assuring compliance through cost-effective means.

There might be circumstances where a 30-day extension of the 30-day period provided to pay the fine and correct the violations would be appropriate. The region should condition the grant of a 30-day extension on the following: (1) the owner or operator files a formal request for the extension, (2) the owner or operator demonstrates that there are factors beyond the control of the owner or operator that necessitate an extension, and (3) the region believes that compliance will be achieved within the period of the extension. The circumstances justifying the extension will typically involve unusual difficulties in obtaining parts or securing and scheduling contractors to install equipment within the initial 30-day period, or delays in securing loan approval to finance repairs. Merely neglecting to seek expert assistance or equipment in a timely fashion should not in itself justify an extension. The region should document the reasoning for granting any extension in the file.

In certain circumstances, the region might also consider extending the 30-day extension for cases in which a force majeure event occurs. "Force majeure," for the purpose of this guidance, is defined as any event arising from causes beyond the control of the owner/operator or of any entity controlled by the owner/operator (including, but not limited to, the owner/operator's contractors and subcontractors) that delays or prevents the performance of any obligation under the field citation, despite the owner/operator's best efforts to fulfill the obligation. The owner/operator's "best efforts to fulfill the obligation" include using best efforts to anticipate any potential force majeure event, and best efforts to address the effects of any potential force majeure event (1) as it is occurring and (2) following the force majeure event, such that the delay is minimized to the greatest extent possible.

Examples of force majeure events include extreme weather conditions that render scheduled excavation of tanks or piping impossible, or an act of God, such as flooding or an earthquake that disrupts normal commerce. Events not constituting force majeure include, but are not limited to, financial inability to perform any actions required by the field citation and unanticipated or increased costs or expenses

associated with the implementation of the field citation. The owner or operator should, nevertheless, provide written justification for the second extension and the region should document its reason for granting the extension for the file.

### **Regional Standard Operating Procedures**

Each region should develop a set of Standard Operating Procedures (SOP) for the use of field citations. The SOP generally should include information on what training is required for inspectors; what procedures are required for issuing the citation and conducting follow-up activities; how to handle requests for extensions; and what steps to follow when the terms of the field citation are not met. Training requirements may include a list of required and advisable courses to be completed by each inspector prior to certification. When providing guidelines for determining violations and penalties, the SOP should include a list of citable violations and their associated penalties, or the regions must use the attached list verbatim. If a region is using field citations in approved states, the region must include in its SOP a list of state violations and penalties that corresponds to the attached list of federal violations and penalty amounts eligible for field citations. Procedures for issuing the citation and follow-up should explain what information the inspector needs to convey to the owner or operator, and set forth the steps to be followed from issuance of the citation through settlement and case closure. The SOP should also indicate the criteria to consider when determining if a 30-day extension will be granted for paying the fine and/or coming into compliance, and separate criteria for determining whether an additional extension for a period to be determined by the region under unusual circumstances is justified. Finally, the SOP should indicate what steps, if any, should be completed before initiation of standard enforcement procedures when the terms of the field citation are not met.

A number of additional topics may be included in the regional SOP, such as regional caps on the maximum number of citable violations and penalty amount; procedures for setting up and maintaining a file system; policies for interaction with other government agencies; procedures for targeting, notifying, and entering facilities; tips on document identification and handling; and requirements for background information. It is up to the region to decide what will be included in the SOP; the goal should be to include sufficient information and guidance to allow effective and legally defensible implementation of the program in accordance with the requirements outlined in this guidance.

### **Issuance of Field Citations at Hazardous Substance Tanks**

Issuance of federal field citations is an appropriate response to violations involving hazardous substance UST systems, as long as the violations also could be addressed with field citations at a petroleum UST site. Field citations may be issued for such violations if certain conditions are met. Specifically, the facility where the UST system is located should have no more than twelve tanks, and total hazardous substance UST capacity at the facility should be less than 40,000 gallons. If the site exceeds either of these recommended thresholds, more formal enforcement methods should be selected. The two thresholds reflect the greater danger to human health and the environment potentially posed by violations that increase the likelihood of releases from hazardous substance tanks.

## **Issuance of Field Citations on Indian Lands**

If a region wishes to issue field citations against tribally owned or operated facilities, it should coordinate with the Senior Legal Advisor of the Office of Federal Activities, within the Office of Enforcement, before taking action. The Senior Advisor coordinates policy and management issues and legal issues in consultation with the Office of General Counsel, and will be responsible for coordinating Headquarters and regional review of the proposed enforcement action. (For further information, refer to the October 21, 1992 Office of Enforcement Memorandum from Thomas L. McCall, Jr. to Deputy Regional Administrators, Enforcement Counsels, and Regional Counsels.)

## **Issuance of Field Citations at Federal Facilities**

[Reserved.]

## **Hearing Requirements**

Subtitle I of RCRA provides for an opportunity for a hearing where an order is issued -- the hearing process is outlined in Part 22. As described above, the field citation has been designed as a compliance order and short-form settlement agreement.

The field citation compliance order is not an adjudicatory proceeding under 40 CFR Part 22. The violator has no right to a hearing under Part 22, since those procedures have not been invoked through issuance of a field citation. Violators who accept the terms of the settlement offer will have expressly waived their rights to a public hearing under 9006 of RCRA. If the violator does not accept the settlement offer, the compliance order is withdrawn.

A region initiating administrative actions against a violator should follow the Part 22 procedures if a violator forgoes the settlement offered through the field citation process. The federal procedures guidance (OSWER Directive 9610.11 "UST/LUST Enforcement Procedures Guidance Manual") describes appropriate procedures in detail. Judicial enforcement may also be appropriate in certain instances, in which case the region should follow appropriate referral procedures for judicial actions.

## **Outreach**

Regions are encouraged to publicize their field citation programs while they are still in the developmental stage, as well as when they actually begin issuing citations. It is important to inform the members of the regulated community as well as the public that the programs are being developed so they know what to expect, and to publicize violations addressed using citations, in order to demonstrate that the program is being actively implemented. A variety of methods can be employed to publicize the program, including public meetings, cooperation with trade associations, press releases, radio or television announcements, and written outreach materials.

## **Developing State Field Citation Programs**

OUST's ultimate goal is to see state and local governments develop the authorities and capabilities needed to implement their own UST enforcement programs. As a way to help realize that goal, OUST is working with the regions to issue federal field citations to demonstrate the success of this expedited enforcement



approach to the states. Federal field citations are therefore an interim step, to be used primarily until state enforcement programs are fully developed. Federal field citations represent a low-cost method of maintaining a field presence in states without their own field presence, and of improving state capabilities by training state inspectors through joint inspections. All regions should develop the capability to issue federal field citations and continuously work with states to streamline state enforcement processes, which may include developing state and local field citation programs.

Helping states to develop their own field citation programs raises a number of questions. For example, the regions will need to determine the mechanics of issuing federal field citations in states that have received state program approval. When conducting enforcement activities in approved states, federal officials rely upon federal statutory authority, but enforce the state regulatory requirements. Therefore, federal inspectors in approved states will need to use the model citation OUST has developed for use in approved states. Regions also will need to amend their SOPs to include all citable violations, identified in terms of each approved state's regulatory requirements.

### **Purposes and Use of This Guidance**

This guidance is intended to provide overall direction for establishing regional field citation programs. As such, the role of the guidance is to enunciate the general principles that should underlie an appropriately designed field citation program; further details not contained in this guidance will be developed and transmitted to program staff through subsequent training or guidance.

This guidance and any internal procedures adopted for its implementation, are intended solely as guidance for employees of the U.S. Environmental Protection Agency. They do not constitute rulemaking or final Agency action by the Agency and may not be relied on to create a right or a benefit, substantive or procedural, enforceable at law or in equity, by any person. The Agency may take action at variance with this memorandum or its internal implementing procedures.

**Selected Violations of Federal Underground Storage Tank Regulations**  
**SUBPART B -- UST SYSTEMS: DESIGN, CONSTRUCTION, INSTALLATION, AND NOTIFICATION**

**§280.20 Performance standards for new UST systems**

<b>Regulatory Citation</b>	<b>Violation</b>	<b>Violations Appropriate for Regulatory Field Citations (Penalty Amount)</b>
§280.20(a)(1)	Installation of an improperly constructed fiberglass-reinforced plastic tank	\$300
§280.20(a)(2)	Installation of an improperly designed and constructed metal tank that fails to meet corrosion protection standards	\$300
§280.20(a)(2)(i)	Installation of a metal tank with unsuitable dielectric coating	\$150
§280.20(a)(2)(ii)	Installation of an improperly designed cathodic protection system for a metal tank	\$300
§280.20(a)(2)(iii)	Improper Installation of cathodic protection system for a metal tank	\$150
§280.20(a)(2)(iv)	Improper operation and maintenance of tank cathodic protection system	\$150
§280.20(a)(3)	Installation of an Improperly constructed steel-fiberglass-reinforced-plastic tank	\$300
§280.20(b)(1)	Installation of Improperly constructed fiberglass-reinforced plastic piping	\$300
§280.20(b)(2)	Failure to provide any cathodic protection for metal piping	\$300
§280.20(b)(2)(i)	Installation of piping with unsuitable dielectric coating	\$150
§280.20(b)(2)(ii)	Installation of improperly designed cathodic protection for metal piping	\$300
§280.20(b)(2)(iii)	Improper Installation of cathodic protection system for piping	\$150
§280.20(b)(2)(iv)	Improper operation and maintenance of cathodic protection system for metal piping	\$150
§280.20(c)	Failure to use a spill prevention system and an overfill prevention system	\$300
§280.20(c)(1)(i)	Installation of inadequate spill prevention equipment In a new tank	\$150
§280.20(c)(1)(ii)	Installation of inadequate overfill prevention equipment in a new tank	\$150
§280.20(d)	Failure to install tank in accordance with accepted codes and standards	\$150
§280.20(d)	Failure to install piping in accordance with accepted codes and standards	\$150
§280.20(e)	Failure to provide any certification of UST installation	\$150

### §280.21 Upgrading of existing UST systems

Regulatory Citation	Violation	Violations Appropriate for Regulatory Field Citations (Penalty Amount)
§280.21(a)	Failure to perform replacement, upgrade, or closure for existing substandard tank systems	\$300
§280.21(b)	Failure to meet all tank upgrade standards	\$300
§280.21(b)(1)(i)	Improper Installation of interior lining for tank upgrade requirements	\$150
§280.21(b)(1)(ii)	Failure to meet Interior lining Inspection requirements for tank upgrade	\$150
§280.21(b)(2)(i)	Failure to ensure that tank is structurally sound before installing cathodic protection	\$150
§280.21(b)(2)(ii)	Failure to conduct monthly release detection monitoring for upgraded tank under 10 years of age	\$300
§280.21(b)(2)(iii)	Failure to meet tightness test requirements for a tank upgraded with cathodic protection	\$150
§280.21(b)(2)(iv)	Failure to meet requirements for testing for corrosion holes for a tank upgraded with cathodic protection	\$150
§280.21(c)	Failure to Install any cathodic protection for metal piping upgrade requirements	\$300
§280.21(c)	Failure to meet piping tightness test requirements for metal piping after upgrade with cathodic protection	\$150
§280.21(d)	Failure to provide spill or overfill prevention system for an existing tank	\$300

### §280.22 Notification requirements

Regulatory Citation	Violation	Violations Appropriate for Regulatory Field Citations (Penalty Amount)
§280.22(a) or	Failure to notify state or local agency within 30 days of bringing an UST system into use	\$300
§280.22(b)	Failure to notify designated state or local agency of existing tank	\$300
§280.22(c)	Failure to submit a separate notification form identifying all known tanks for each site where tanks are located	\$150
§280.22(e)	Failure to certify on notification form UST system requirements of proper installation, cathodic protection, financial responsibility, and release detection	\$150
§280.22(f)	Failure to provide installer certification of compliance with installation requirements on notification form	\$150
§280.22(g)	Failure to inform tank purchaser of notification requirements	

**SUBPART C -- GENERAL OPERATING REQUIREMENTS**

**280.30 Spill and overfill control**

<b>Regulatory Citation</b>	<b>Violation</b>	<b>Violations Appropriate for Regulatory Field Citations (Penalty Amount)</b>
§280.30(a)	Failure to take necessary precautions to prevent overfill/spillage during the transfer of product	\$300
§280.30(b)	Failure to report a spill/overfill	
§280.30(b)	Failure to Investigate and clean up a spill/overfill	

**280.31 Operation and maintenance of corrosion protection**

<b>Regulatory Citation</b>	<b>Violation</b>	<b>Violations Appropriate for Regulatory Field Citations (Penalty Amount)</b>
§280.31(a)	Failure to operate and maintain corrosion protection system continuously	\$150
§280.31(b)	Failure to ensure proper operation of cathodic protection system	\$150
§280.31(c)	Failure to inspect impressed current systems every 60 days	\$150
§280.31(d)	Failure to maintain records of cathodic protection inspections	\$50

**280.32 Compatibility**

<b>Regulatory Citation</b>	<b>Violation</b>	<b>Violations Appropriate for Regulatory Field Citations (Penalty Amount)</b>
§280.32	Failure to ensure that UST system is made of or lined with materials compatible with substance stored	\$150

**280.33 Repairs allowed**

<b>Regulatory Citation</b>	<b>Violation</b>	<b>Violations Appropriate for Regulatory Field Citations (Penalty Amount)</b>
§280.33(a)	Failure to repair UST system in accordance with accepted codes and standards	\$150
§280.33(b)	Failure to repair fiberglass-reinforced UST in accordance with accepted codes and standards	\$150
§280.33(c)	Failure to replace metal piping that has released product	\$150
§280.33(c)	Failure to repair fiberglass-reinforced piping in accordance with manufacturers specifications	\$150
§280.33(d)	Failure to ensure that repaired tank systems are tightness tested within 30 days of completion of repair	\$300
§280.33(e)	Failure to test cathodic protection system within 6 months of repair of an UST system	\$150
§280.33(f)	Failure to maintain records of each repair to an UST system	\$50

### 280.34 Reporting and recordkeeping

Regulatory Citation	Violation	Violations Appropriate for Regulatory Field Citations (Penalty Amount)
For violations of reporting and recordkeeping, see appropriate regulatory section (e.g., reporting of releases will be under Subpart D).		
§280.34(a)(1) or	Failure to submit notification for UST system	\$300
§280.34(a)(1)	Failure to submit certification of a new installation with notification form	\$300
§280.34(b)(1)	Failure to maintain analysis of site corrosion potential if corrosion protection equipment is not used	\$50
§280.34(b)(2)	Failure to maintain corrosion protection equipment operation documentation	\$50
§280.34(b)(3)	Failure to maintain documentation of UST system repairs	\$50
§280.34(b)(4)	Failure to maintain documentation of compliance with release detection requirements	\$50
§280.34(c)(1) or	Failure to maintain records at UST site and immediately available for inspection	\$50
§280.34(c)(2)	Failure to maintain records at a readily available alternative site	\$50

**SUBPART D -- RELEASE DETECTION**

**280.40 General requirements for all UST systems**

**(Applies only to petroleum tanks)**

<b>Regulatory Citation</b>	<b>Violation</b>	<b>Violations Appropriate for Regulatory Field Citations (Penalty Amount)</b>
§280.40(a)	Failure to provide adequate release detection method	\$300
§280.40(b)	Failure to notify implementing agency when release detection indicates release	
§280.40(c)	Failure to provide any release detection method by phase-in date	\$150
§280.40(d)	Failure to close any UST system that cannot meet release detection requirements	\$300

**280.41 Requirements for petroleum UST systems**

<b>Regulatory Citation</b>	<b>Violation</b>	<b>Violations Appropriate for Regulatory Field Citations (Penalty Amount)</b>
§ 280.41(a) or	Failure to monitor tanks at least every 30 days, if appropriate	\$300
§280.41(a)(1) or	Failure to conduct tank tightness testing every 5 years, if appropriate	\$300
§ 280.41(a)(2)	Failure to conduct annual tank tightness testing, if appropriate	\$300
§280.41(b)(1)(i)	Failure to equip pressurized piping with automatic line leak detector	\$300
§280.41(b)(1)(ii)	Failure to have annual tank tightness test or perform monthly monitoring on pressurized piping	\$300
§ 280.41(b)(2)	Failure to conduct line tightness test or use monthly monitoring on suction piping	\$300

**280.42 Requirements for hazardous substance UST systems**

<b>Regulatory Citation</b>	<b>Violation</b>	<b>Violations Appropriate for Regulatory Field Citations (Penalty Amount)</b>
§280.42(a)	Failure to provide release detection for an existing hazardous substance tank system	\$300
§280.42(b)	Failure to provide adequate release detection for a new hazardous substance UST system	\$300
§280.42(b)(1)	Failure to provide adequate secondary containment of tank for a hazardous substance UST	\$300
§280.42(b)(2)	Failure to provide adequate double-walled tank/adequate lining for a hazardous substance UST	\$300
§280.42(b)(3)	Failure to provide adequate external liners for a hazardous substance UST	\$300
§280.42(b)(4)	Failure to provide adequate secondary containment of piping for a hazardous substance UST	\$300

### 280.43 Methods of release detection for tanks

Regulatory Citation	Violation	Violations Appropriate for Regulatory Field Citations (Penalty Amount)
§280.43(a)	Inadequate operation or maintenance of inventory control	\$300
§280.43(a)(1)-(6)		\$50 each
§280.43(b)	Inadequate operation or maintenance of manual tank gauging	\$300
§280.43(b)(1)-(4)*		\$50 each
§280.43(c)	Inadequate operation or maintenance of tank tightness testing	\$150
§280.43(d)	Inadequate operation or maintenance of automatic tank gauging	\$300
§280.43(d)(1)-(2)		\$150 each
§280.43(e)	Inadequate operation or maintenance of vapor monitoring	\$300
§280.43(e)(1)-(7)#		\$150 each
§280.43(f)	Inadequate operation or maintenance of ground-water monitoring	\$300
§280.43(f)(1)-(8)@		\$150 each
§280.43(g)	Inadequate operation or maintenance of interstitial monitoring	\$300

### 280.44 Methods of release detection for piping

Regulatory Citation	Violation	Violations Appropriate for Regulatory Field Citations (Penalty Amount)
§280.44	Failure to provide any release detection for underground piping	\$300
§280.44(a) or	Failure to provide adequate line leak detector system for underground piping	\$150
§280.44(b)	Failure to provide adequate line tightness testing system for underground piping system	\$150
§260.44(c)	Inadequate use of applicable tank release detection methods	\$150

### 280.45 Release detection recordkeeping

Regulatory Citation	Violation	Violations Appropriate for Regulatory Field Citations (Penalty Amount)
§280.45	Failure to maintain records of release detection monitoring	\$150
§280.45(a)	Failure to document all release detection performance claims for 5 years after installation	\$50
§280.45(b)	Failure to maintain results of sampling, testing or monitoring for release detection for at least 1 year or failure to retain results of tightness testing until next test is conducted	\$50
§280.45(c)	Failure to document calibration, maintenance, and repair of release detection	\$50

\* If citing more than 3 subsections, cite instead §280.43(b) or §280.41 (a)

# If citing more than 1 subsection, cite instead §280.43(e)

@ If citing more than 1 subsection, cite instead §280.43(f)



**SUBPART E -- RELEASE REPORTING, INVESTIGATION, AND CONFIRMATION**

**280.50 Reporting of suspected release**

<b>Regulatory Citation</b>	<b>Violation</b>	<b>Violations Appropriate for Regulatory Field Citations (Penalty Amount)</b>
§280.50(a)-(c)	Failure to report a suspected release within 24 hours to the implementing agency	

**280.52 Release investigation and confirmation steps**

<b>Regulatory Citation</b>	<b>Violation</b>	<b>Violations Appropriate for Regulatory Field Citations (Penalty Amount)</b>
§280.52(a)-(b)	Failure to investigate and confirm a release (if appropriate) using accepted procedures	

**280.53 Reporting and cleanup of spills and overfills**

<b>Regulatory Citation</b>	<b>Violation</b>	<b>Violations Appropriate for Regulatory Field Citations (Penalty Amount)</b>
§280.53(a)	Failure to report a spill/overfill (if appropriate) to implementing agency within 24 hours (or other specified time period)	
§280.53(b)	Failure to contain and immediately clean up a spill/overfill of less than 25 gallons	
§280.53(b)	Failure to contain and immediately clean up a hazardous substance spill/overfill	

**SUBPART F -- RELEASE RESPONSE AND CORRECTIVE ACTION**

**280.61 Initial Response**

<b>Regulatory Citation</b>	<b>Violation</b>	<b>Violations Appropriate for Regulatory Field Citations (Penalty Amount)</b>
§280.61	Failure to take initial response actions within specified time period after a release is confirmed	

**280.62 Initial abatement measures and site check**

<b>Regulatory Citation</b>	<b>Violation</b>	<b>Violations Appropriate for Regulatory Field Citations (Penalty Amount)</b>
§280.62	Failure to perform initial abatement measures and submit report within 20 days (or other specified time) of release confirmation	

**280.63 Initial site characterization**

<b>Regulatory Citation</b>	<b>Violation</b>	<b>Violations Appropriate for Regulatory Field Citations (Penalty Amount)</b>
§280.63	Failure to submit report on initial site characterization within 45 days (or other specified time) of release confirmation	

**280.64 Free product removal**

<b>Regulatory Citation</b>	<b>Violation</b>	<b>Violations Appropriate for Regulatory Field Citations (Penalty Amount)</b>
§280.64	Failure to perform free product removal and submit report within 45 days (or other specified time) of release confirmation	

**SUBPART G OUT-OF-SERVICE UST SYSTEMS AND CLOSURE**

**280.70 Temporary closure**

<b>Regulatory Citation</b>	<b>Violation</b>	<b>Violations Appropriate for Regulatory Field Citations (Penalty Amount)</b>
§280.70(a)	Failure to continue operation and maintenance of corrosion protection system in a temporarily closed tank system	\$150
§280.70(a)	Failure to continue operation and maintenance of release deflection in a temporarily closed tank system	\$300
§280.70(b)	Failure to comply with temporary closure requirements for a tank system for 3 or more months	\$300
§280.70(b)(1)-(2)		\$150 each
§280.70(c)	Failure to permanently close or upgrade a temporarily closed tank system after 12 months	\$300

**280.71 Permanent closure and changes-in-service**

<b>Regulatory Citation</b>	<b>Violation</b>	<b>Violations Appropriate for Regulatory Field Citations (Penalty Amount)</b>
§280.71(a)	Failure to notify implementing agency of a closure or change-in-service	\$300
§280.71(b)	Failure to remove all liquids and sludges for tank closure	\$300
§280.71(b)	Failure to remove closed tank from the ground or fill tank with an inert solid for tank closure	\$300
§280.71(c)	Failure to empty and clean tank system and conduct a site assessment prior to a change-in-service	

**280.72 Assessing the site at closure or change-in-service**

<b>Regulatory Citation</b>	<b>Violation</b>	<b>Violations Appropriate for Regulatory Field Citations (Penalty Amount)</b>
§280.72(a)	Failure to measure (if required) for the presence of a release before a permanent closure	
§280.72(b)	If contaminated soil, contaminated ground water, or free product is discovered, failure to begin corrective action	

**280.74 Closure records**

<b>Regulatory Citation</b>	<b>Violation</b>	<b>Violations Appropriate for Regulatory Field Citations (Penalty Amount)</b>
§280.74	Failure to maintain closure records for at least 3 years	\$300
§280.74	Failure to maintain change-in-service records for at least 3 years	\$300

**SUBPART H -- FINANCIAL RESPONSIBILITY**

**280.93 Amount and scope of required Financial Responsibility**

<b>Regulatory Citation</b>	<b>Violation</b>	<b>Violations Appropriate for Regulatory Field Citations (Penalty Amount)</b>
§280.93(a)	Failure to comply with financial responsibility requirements by the required phase-in time	\$150
§280.93(a)(1)-(2)	Failure to meet the requirement for per-occurrence coverage of insurance.	\$150
§280.93(b)(1)-(2)	Failure to meet the requirement for annual aggregate coverage of Insurance.	\$150
§280.93(f)	Failure to review and adjust financial assurance after acquiring new or additional USTs	\$150

**280.94 Allowable mechanisms and combinations of mechanisms**

<b>Regulatory Citation</b>	<b>Violation</b>	<b>Violations Appropriate for Regulatory Field Citations (Penalty Amount)</b>
§280.94	Use of an unapproved mechanism or combination of mechanisms to demonstrate financial responsibility	\$150

**280.95 Financial test of self-insurance**

<b>Regulatory Citation</b>	<b>Violation</b>	<b>Violations Appropriate for Regulatory Field Citations (Penalty Amount)</b>
§280.95	Use of falsified financial documents to pass financial test of self-insurance	

**280.106 Reporting by owner or operator**

<b>Regulatory Citation</b>	<b>Violation</b>	<b>Violations Appropriate for Regulatory Field Citations (Penalty Amount)</b>
§280.106(a)(1)	Failure to report evidence of financial responsibility to the implementing agency within 30 days of detecting a known or suspected release	\$150
§280.106(a)2	Failure to report evidence of financial responsibility to the implementing agency if the provider becomes incapable of providing financial assurance and the owner or operator is unable to obtain alternate coverage within 30 days.	\$150
§280.106(b)	Failure to report evidence of financial responsibility to the implementing agency when new tanks are installed	\$150

### 280.107 Recordkeeping

<b>Regulatory Citation</b>	<b>Violation</b>	<b>Violations Appropriate for Regulatory Field Citations (Penalty Amount)</b>
§280.107	Failure to maintain copies of the financial assurance mechanism(s) used to comply with financial responsibility rule and certification that the mechanism is in compliance with the requirements of the rule at the UST site or place of business	\$150

**Expedited Enforcement Compliance Order and Settlement Agreement**

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION \_\_\_\_\_, MAIN STREET, USA  
EXPEDITED ENFORCEMENT  
COMPLIANCE ORDER AND SETTLEMENT AGREEMENT**

**PART I: COMPLIANCE ORDER**

COMPLIANCE ORDER NO. \_\_\_\_\_

On \_\_\_\_\_ Time \_\_\_\_\_ a.m./p.m.  
(Date of Violation)

At \_\_\_\_\_  
(Name of Facility)

\_\_\_\_\_  
(Address of Facility)

Facility Identification Number \_\_\_\_\_

Name of Owner, Operator or  
On-site Representative \_\_\_\_\_  
(Circle one)

\_\_\_\_\_  
(Address of Owner, Operator, or On-Site  
Representative)

An authorized representative of the United States Environmental Protection Agency (EPA) inspected this facility to determine compliance with underground storage tank regulations promulgated under Subtitle I of the Resource Conservation and Recovery Act of 1976(42 U.S.C. § 6912 et seq.). During this inspection, the following violations of underground storage tank regulations were found, with corresponding penalty amounts:

40 CFR \_\_\_\_\_ Penalty \$ \_\_\_\_\_

Nature of Violation: \_\_\_\_\_

40 CFR \_\_\_\_\_ Penalty \$ \_\_\_\_\_

Nature of Violation: \_\_\_\_\_

40 CFR \_\_\_\_\_ Penalty \$ \_\_\_\_\_

Nature of Violation: \_\_\_\_\_

Penalty Total \$ \_\_\_\_\_

**PART II: SETTLEMENT AGREEMENT**

The United States Environmental Protection Agency (EPA) offers this Settlement Agreement under its expedited enforcement procedures in order to settle the violations found in the Compliance Order in Part I of this form subject to the following terms and conditions:

The Owner or Operator signing below certifies, under civil and criminal penalties for making a false submission to the United States Government, that Owner or Operator has corrected the violation(s) and enclosed a certified check for \$ \_\_\_\_\_ in payment of the full penalty amount, as described in the Compliance Order.

Upon EPA final approval of this Settlement Agreement, EPA will take no further action against the Owner or Operator for the violations described in the Compliance Order. EPA does not waive any enforcement action by EPA, the State where the facility is located or any local agencies for any other past, present or future violations of the underground storage tank requirements or any other violations under any other statute not described in the Compliance Order.

Also, upon EPA final approval of this Settlement Agreement, the Owner or Operator waives the opportunity for a public hearing pursuant to Section 9006 of the Resource Conservation and Recovery Act.

This Settlement Agreement is binding on the EPA and the Owner or Operator signing below. The Owner or Operator signing below waives any objections to EPA's jurisdiction with respect to the Compliance Order and this Settlement Agreement, and consents to EPA's final approval of this Settlement Agreement without further notice. This Settlement Agreement is effective upon EPA's final approval below. Upon final approval, EPA shall mail a copy of the approved Settlement Agreement to the Owner

The owner or operator of the above facility is hereby ordered to correct the violations and pay the penalties described above.

This Compliance Order is not an adjudicatory proceeding under 40 CFR Part 22, the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation or Suspension of Permits, but is issued solely with reference to the Settlement Agreement in Part II of this form. If the Settlement Agreement in Part II is not returned in correct form by the owner or operator within 30 days of the date of signature below by the Authorized Representative of EPA, this Compliance Order is hereby withdrawn, without prejudice to EPA's ability to file additional enforcement actions for the above or any other violations.

I have personally observed the above violations and find the owner or operator in violation of the above-referenced UST regulations.

\_\_\_\_\_ Date: \_\_\_\_\_  
(Signature of Authorized Representative of EPA)

I hereby acknowledge receipt of this Compliance Order and Settlement Agreement.

\_\_\_\_\_ Date: \_\_\_\_\_  
(Signature of Owner, Operator or On-site Representative)

**INSTRUCTIONS**

The United States Environmental Protection Agency has authority under Section 9006 of the Resource Conservation and Recovery Act to issue compliance orders and pursue civil penalties for violations of underground storage tank regulations. However, the EPA encourages the expedited settlement of easily verifiable violations of underground storage tank requirements, such as the violations cited in the Expedited Enforcement Compliance Order and Settlement Agreement for which these instructions are provided, by agreeing to these settlement terms that include expedited correction of the violation and payment of penalties.

You may resolve the cited violations quickly by signing and returning the Settlement Agreement and paying the penalty amount within 30 days of the issuance of the Compliance Order. You must correct the violations within 30 days of the issuance of the Compliance Order. EPA, at its discretion, may grant one 30 day extension for the period to come into compliance where the owner or operator satisfactorily demonstrates that it is technically infeasible or impracticable to achieve compliance within 30 days. The Settlement Agreement is binding on EPA and the Owner or Operator upon EPA final approval. Upon EPA final approval of the Settlement Agreement, a copy of which will be returned to you, EPA will take no further action against you for these violations. EPA will not accept or approve any Settlement Agreement returned more than 30 days after the date of the Compliance Order unless an extension has been granted by EPA. This Compliance Order is not an adjudicatory proceeding under 40 CFR Part 22, the Consolidated Rules of practice Governing the Administrative Assessment of Civil Penalties and the

or Operator signing below.

Final approval of the Settlement Agreement is in the sole discretion of the Regional Administrator, Region \_\_\_\_\_, EPA, or authorized delegate.

SIGNATURE BY OWNER OR OPERATOR:

Name (print) \_\_\_\_\_

Title (print) \_\_\_\_\_

Signature \_\_\_\_\_ Date: \_\_\_\_\_

FINAL APPROVAL BY EPA:

Name (print) \_\_\_\_\_

Title (print) \_\_\_\_\_

Signature \_\_\_\_\_ Date: \_\_\_\_\_

Revocation or Suspension of permits, but is issued solely with reference to the Settlement Agreement in Part II of this form.

If you do not return the Settlement Agreement with payment of the penalty amount 30 days after issuance, unless extension has been granted by EPA, the Compliance Order will be withdrawn, without prejudice to EPA's ability to file additional enforcement actions for the above or any other violations. Failure to return the Settlement Agreement within the approved time does not relieve you of the responsibility to comply fully with the regulations, including correcting the violations that have been specifically identified by the inspector. If EPA pursues administrative enforcement measures in order to correct the violation(s) or to seek penalties, you will receive instructions describing your rights under the Consolidated Rules of practice Governing the Administrative Assessment of Civil Penalties and the revocation or Suspension of Permits (40 CFR Part 22).

You are required under the Settlement Agreement to certify that you have corrected the violations found in the Compliance Order and paid the penalty amount. The payment for the penalty amount must be in the form of a certified check payable to the "Treasurer of the United States of America," with the number of the Compliance Order written on the check.

**The Settlement Agreement and copy of the check shall be sent to:**

Underground Storage Tank Program  
U.S. Environmental Protection Agency  
Region \_\_\_\_\_  
Main Street  
USA

**Payment of the penalty amount shall be sent to:**

U.S. Environmental Protection Agency  
Region \_\_\_\_\_  
P.O. Box \_\_\_\_\_  
Main Street  
USA

By the terms of the Settlement Agreement, and upon EPA's final approval of the Settlement Agreement, you waive the opportunity for a public hearing pursuant to Section 9006 of the Resource Conservation and Recovery Act. EPA will treat any response to the citation, other than acceptance of the Settlement Offer, as an indication that the recipient is not interested in pursuing this expedited settlement procedure.

Final approval of the Settlement Agreement is at the sole discretion of the Regional Administrator, Region \_\_\_\_\_, EPA, or authorized delegate.

If you have any questions, you may contact the EPA Regional Office of Underground Storage Tanks at \_\_\_\_\_.



**Expedited Enforcement Compliance Order and Settlement Agreement--For Approved States**

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION \_\_\_\_\_, MAIN STREET, USA  
EXPEDITED ENFORCEMENT  
COMPLIANCE ORDER AND SETTLEMENT AGREEMENT  
FOR APPROVED STATES**

**PART I: COMPLIANCE ORDER**

COMPLIANCE ORDER NO. \_\_\_\_\_

On \_\_\_\_\_ Time \_\_\_\_\_ a.m./p.m.  
(Date of Violation)

At \_\_\_\_\_  
(Name of Facility)

\_\_\_\_\_  
(Address of Facility)

Facility Identification Number \_\_\_\_\_

Name of Owner, Operator or  
On-site Representative \_\_\_\_\_  
(Circle one)

\_\_\_\_\_  
(Address of Owner, Operator, or On-Site Representative)

An authorized representative of the United States Environmental Protection Agency (EPA) inspected this facility to determine compliance with underground storage tank regulations promulgated under Subtitle I of the Resource Conservation and Recovery Act of 1976(42 U.S.C. § 6912 et seq.). During this inspection, the following violations of underground storage tank regulations were found, with corresponding penalty amounts:

(State Reg.No.) \_\_\_\_\_ Penalty \$ \_\_\_\_\_

Nature of Violation: \_\_\_\_\_

(State Reg.No.) \_\_\_\_\_ Penalty \$ \_\_\_\_\_

Nature of Violation: \_\_\_\_\_

(State Reg.No.) \_\_\_\_\_ Penalty \$ \_\_\_\_\_

Nature of Violation: \_\_\_\_\_

**PART II: SETTLEMENT AGREEMENT**

The United States Environmental Protection Agency (EPA) offers this Settlement Agreement under its expedited enforcement procedures in order to settle the violations found in the Compliance Order in Part I of this form subject to the following terms and conditions:

The Owner or Operator signing below certifies, under civil and criminal penalties for making a false submission to the United States Government, that Owner or Operator has corrected the violation(s) and enclosed a certified check for \$\_\_\_\_\_ in payment of the full penalty amount, as described in the Compliance Order.

Upon EPA final approval of this Settlement Agreement, EPA will take no further action against the Owner or Operator for the violations described in the Compliance Order. EPA does not waive any enforcement action by EPA, the State where the facility is located or any local agencies for any other past, present or future violations of the underground storage tank requirements or any other violations under any other statute not described in the Compliance Order.

Also, upon EPA final approval of this Settlement Agreement, the Owner or Operator waives the opportunity for a public hearing pursuant to Section 9006 of the Resource Conservation and Recovery Act.

This Settlement Agreement is binding on the EPA and the Owner or Operator signing below. The Owner or Operator signing below waives any objections to EPA's jurisdiction with respect to the Compliance Order and this Settlement Agreement, and consents to EPA's final approval of this Settlement Agreement without further notice. This Settlement Agreement is effective

Penalty Total \$ \_\_\_\_\_

The owner or operator of the above facility is hereby ordered to correct the violations and pay the penalties described above.

This Compliance Order is not an adjudicatory proceeding under 40 CFR Part 22, the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation or Suspension of Permits, but is issued solely with reference to the Settlement Agreement in Part II of this form. If the Settlement Agreement in Part II is not returned in correct form by the owner or operator within 30 days of the date of signature below by the Authorized Representative of EPA, this Compliance Order is hereby withdrawn, without prejudice to EPA's ability to file additional enforcement actions for the above or any other violations.

I have personally observed the above violations and find the owner or operator in violation of the above-referenced UST regulations.

\_\_\_\_\_ Date: \_\_\_\_\_  
(Signature of Authorized Representative of EPA)

I hereby acknowledge receipt of this Compliance Order and Settlement Agreement.

\_\_\_\_\_ Date: \_\_\_\_\_  
(Signature of Owner, Operator or On-site Representative)

upon EPA's final approval below. Upon final approval, EPA shall mail a copy of the approved Settlement Agreement to the Owner or Operator signing below.

Final approval of the Settlement Agreement is in the sole discretion of the Regional Administrator, Region \_\_\_\_\_, EPA, or authorized delegate.

**SIGNATURE BY OWNER OR OPERATOR:**

Name (print) \_\_\_\_\_

Title (print) \_\_\_\_\_

Signature \_\_\_\_\_ Date: \_\_\_\_\_

**FINAL APPROVAL BY EPA:**

Name (print) \_\_\_\_\_

Title (print) \_\_\_\_\_

Signature \_\_\_\_\_ Date: \_\_\_\_\_

**INSTRUCTIONS**

The United States Environmental Protection Agency has authority under Section 9006 of the Resource Conservation and Recovery Act to issue compliance orders and pursue civil penalties for violations of underground storage tank regulations. However, the EPA encourages the expedited settlement of easily verifiable violations of underground storage tank requirements, such as the violations cited in the Expedited Enforcement Compliance Order and Settlement Agreement for which these instructions are provided, by agreeing to these settlement terms that include expedited correction of the violation and payment of penalties.

You may resolve the cited violations quickly by signing and returning the Settlement Agreement and paying the penalty amount within 30 days of the issuance of the Compliance Order. You must correct the violations within 30 days of the issuance of the Compliance Order. EPA, at its discretion, may grant one 30 day extension for the period to come into compliance where the owner or operator satisfactorily demonstrates that it is technically infeasible or impracticable to achieve compliance within 30 days. The Settlement Agreement is binding on EPA and the Owner or Operator upon EPA final approval. Upon EPA final approval of the Settlement Agreement, a copy of which will be returned to you, EPA will take no further action against you for these violations. EPA will not accept or approve any Settlement Agreement returned more than 30 days after the date of the Compliance Order unless an extension has been granted by EPA. This Compliance Order is not an adjudicatory proceeding under 40 CFR Part 22, the Consolidated Rules of practice Governing the Administrative Assessment of Civil Penalties and the

Revocation or Suspension of permits, but is issued solely with reference to the Settlement Agreement in Part II of this form.

If you do not return the Settlement Agreement with payment of the penalty amount 30 days after issuance, unless extension has been granted by EPA, the Compliance Order will be withdrawn, without prejudice to EPA's ability to file additional enforcement actions for the above or any other violations. Failure to return the Settlement Agreement within the approved time does not relieve you of the responsibility to comply fully with the regulations, including correcting the violations that have been specifically identified by the inspector. If EPA pursues administrative enforcement measures in order to correct the violation(s) or to seek penalties, you will receive instructions describing your rights under the Consolidated Rules of practice Governing the Administrative Assessment of Civil Penalties and the revocation or Suspension of Permits (40 CFR Part 22).

You are required under the Settlement Agreement to certify that you have corrected the violations found in the Compliance Order and paid the penalty amount. The payment for the penalty amount must be in the form of a certified check payable to the "Treasurer of the United States of America," with the number of the Compliance Order written on the check.

**The Settlement Agreement and copy of the check shall be sent to:**      **Payment of the penalty amount shall be sent to:**

Underground Storage Tank Program  
U.S. Environmental Protection Agency  
Region \_\_\_\_\_  
Main Street  
USA

U.S. Environmental Protection Agency  
Region \_\_\_\_\_  
P.O. Box \_\_\_\_\_  
Main Street  
USA

By the terms of the Settlement Agreement, and upon EPA's final approval of the Settlement Agreement, you waive the opportunity for a public hearing pursuant to Section 9006 of the Resource Conservation and Recovery Act. EPA will treat any response to the citation, other than acceptance of the Settlement Offer, as an indication that the recipient is not interested in pursuing this expedited settlement procedure.

Final approval of the Settlement Agreement is at the sole discretion of the Regional Administrator, Region \_\_\_\_\_, EPA, or authorized delegate.

If you have any questions, you may contact the EPA Regional Office of Underground Storage Tanks at \_\_\_\_\_.