



**DIRECTIVE NUMBER:** 9610.15A

**TITLE:** Interim Final National Policy Statement for  
Underground Storage Tank Program Implementation  
in Indian Country

**APPROVAL DATE:** OCT 23

**EFFECTIVE DATE:** OCT 2 1996

**ORIGINATING OFFICE:** Office of Underground  
Storage Tanks

FINAL

DRAFT

**STATUS:** Interim Final

**REFERENCE (other documents):** OSWER Directive  
9610.9A-Interim Final National Corrective Action Policy  
for USTs in Indian Country. OSWER Directive 9610.15 -  
UST/LUST National Native American Lands Policy Statement

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# OSWER Directive Initiation Request

1. Directive Number

9610.15A

## 2. Originator Information

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## 3. Title

Interim Final National Policy Statement for Underground Storage Tank Program Implementation in Indian Country

## 4. Summary of Directive (include brief statement of purpose)

The purpose of this Directive is to state policy and provide guidance concerning implementation of the underground storage tank program in Indian Country. Implementation approaches and a variety of activities that regions can undertake are discussed.

## 5. Keywords

Underground Storage Tanks, Indian Country

## 6a. Does This Directive Supersede Previous Directive(s)?

No  Yes

What directive (number, title) 9610.15  
UST/LUST National Native

## b. Does It Supplement Previous Directive(s)?

No  Yes

American Lands Policy Statement  
What directive (number, title)

## 7. Draft Level

A - Signed by AA/DAA  B - Signed by Office Director  C - For Review & Comment  D - In Development

## 8. Document to be distributed to States by Headquarters?

Yes  No

## This Request Meets OSWER Directives System Format Standards.

### 9. Signature of Lead Office Directives Coordinator

Shushona Clark, OUST Directives Coordinator

Date

*Shushona Clark* 11/13/95

### 10. Name and Title of Approving Official

Lisa Lund, Acting Director, OUST

Date

*Lisa Lund* 10/20/95

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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

OCT 23 1995

OFFICE OF  
SOLID WASTE AND EMERGENCY  
RESPONSE

MEMORANDUM

**SUBJECT:** Interim Final National Policy Statement for Underground Storage Tank Program Implementation in Indian Country

**FROM:** Lisa Lund, Acting Director *Lisa Lund*  
Office of Underground Storage Tanks

**TO:** Regional Program Managers, Regions 1-10

Attached is OSWER Directive 9610.15A, Interim Final National Policy Statement for Underground Storage Tank Program Implementation in Indian Country. We appreciate the comments submitted by the regions on the draft statement and have made a number of changes as a result.

This interim final policy is effective immediately and supersedes OSWER Directive 9610.15. We are issuing the policy as "interim final" because we may wish to revise it based on tribal comments and our experience using it. As you know, we will be undertaking several activities in FY 1996, including training with tribal representatives, to initiate risk-based corrective action processes in Indian Country. We expect to receive comments on those portions of the policy statement related to the training at the time that this training is offered.

You are encouraged to share this interim final policy with interested tribes in your region. We ask that tribal comments be directed to the regions. Please forward any comments you receive to us and let us know if we can be of assistance to you by providing additional copies for distribution.

If you have any questions or comments, please contact Bill Lienesch at (703) 308-8873.

cc: Larry Brill, Region 1  
Stanley Siegel, Region 2  
Maria Vickers, Region 3  
Mary Kay Lynch, Region 4  
Norman Niedergang, Region 5  
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Bill Pedicino, Region 7  
Stephen Tuber, Region 8  
Laura Yoshii, Region 9  
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OSWER DIRECTIVE 9610.15A  
INTERIM FINAL NATIONAL POLICY STATEMENT FOR UNDERGROUND STORAGE  
TANK PROGRAM IMPLEMENTATION IN INDIAN COUNTRY

Over the past several years, EPA, with the cooperation of tribes, has been implementing the Underground Storage Tank (UST) program (RCRA Subtitle I) in Indian Country. During that time, and consistent with the flexibility built into the design of the UST program, several approaches have been used to implement various aspects of the UST program in Indian Country. The purpose of this document is to build on that experience and provide direction and a set of priorities for EPA regional offices for the coming years.

At the federal level, the resources to implement the UST program in Indian Country have been limited. Given the current federal budget constraints, resources are not likely to increase dramatically. Nevertheless, EPA is committed, as discussed below, to achieve the goal of protecting human health and the environment in Indian Country.

The policies set out in this Directive are not final agency action, but are intended solely as guidance. They are not intended, nor can they be relied upon, to create any right, benefit or trust responsibility, enforceable by any party, in litigation with the United States. EPA officials may decide to follow guidance provided in this memorandum, or to act at variance with the guidance, based on analysis of specific site circumstances. The Agency also reserves the right to change this guidance at any time without prior notice.

#### I. BACKGROUND

Federally recognized Indian tribes are sovereign entities subject to federal laws. Underground storage tanks located in Indian Country generally are not subject to state laws. Because EPA does not authorize tribes to operate the UST program in lieu of EPA, EPA is responsible for the implementation of Subtitle I in Indian Country.

There are approximately 7,000 registered USTs in Indian Country of which approximately 5,000 are actively used. Region 8 has more USTs in Indian Country than any other region. Oklahoma, which is in Region 6, has more Native Americans than any other state. While some USTs are found in Indian Country in every Region except Region 3, the majority of USTs (approximately 95%) are found in Regions 5, 6, 8, 9, and 10.

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1. The term UST program as used throughout this document includes both the regulatory or preventative program and the leaking underground storage tank or LUST program.

## II. GOAL

The overriding goal of the implementation of the UST program in Indian Country is to protect human health and the environment. More specifically, the goal is to bring all USTs in Indian Country into compliance so as to prevent future releases and to clean up existing releases. As discussed in detail below, this may be accomplished through direct federal implementation of the federal UST program, by building the capability of selected tribes to operate tribal underground storage tank programs, and by facilitating agreements between tribes and states to use state and tribal authorities and resources to ensure protection.

This goal is consistent with EPA's Indian Policy (see page 6, below) and with OSWER's policy on environmental equity. As stated in the July 22, 1992 OSWER Environmental Equity Initiative: "OSWER strives to ensure that its programs provide protection from risk equitably across all populations." The Initiative further states that: "OSWER is committed to promoting awareness and sensitivity to environmental equity concerns and translating that awareness into positive action to address those concerns through the implementation of its programs."

## III. OBJECTIVES

The objectives of the national UST program in Indian Country are to:

- o Improve rates of cleanups initiated and completed;
- o Facilitate the development of tribally-run regulatory and clean-up programs based on willingness, authorities, capabilities and funding;
- o Increase the amount of resources from a variety of sources, dedicated to the UST program, including funding granted to tribes;
- o Promote the involvement of other agencies and organizations, including the Bureau of Indian Affairs and the Indian Health Service, to make their resources more readily available to Indian tribes for environmental protection and to leverage their resources. This includes facilitating the negotiation of formal agreements between tribes and state underground storage tank programs;
- o Survey one-third of the reservations for unregistered USTs in each of Fiscal Years 1995, 1996 and 1997;

- o Determine the status of confirmed releases and which agency (tribe, state or EPA) has the day-to-day lead for overseeing the corrective action for each confirmed release (September 30, 1995);
- o Establish a priority system for LUST Trust Fund funded federal-lead corrective actions (September 30, 1995); and
- o Have a fully functioning management information system in the regions using UST-Access (March 31, 1996).

#### IV. IMPLEMENTATION STRATEGY

##### A. EPA's Resources

In Fiscal Year 1995, EPA received \$500,000 of LUST Trust Fund money to implement the UST program in Indian Country. While the Administration requested a substantial increase in resources for FY 1996, it is unlikely that Congress will provide the requested resources. The level of resources available will have a direct impact on EPA's ability to implement the national priorities listed below.

In most years, the vast majority of the available resources will be allocated to the regions that are responsible for implementation of the UST program in Indian Country. The regions, in turn, should make a portion of the allocated funds available to tribes through RCRA Section 8001 grants. (Please see section V.H below for more information on these grants.)

##### B. National Priorities

National priorities for the UST program in Indian Country will be established annually for the coming fiscal year. Specific activities to carry out the priorities will be determined as part of the planning process conducted annually with the regions. Below are the priorities, jointly agreed to by OUST and the regions, for Fiscal Years 1995 and 1996. Priorities will identify the major activities to be undertaken by the regions (RO) and OUST (HQ) during the fiscal year. The vast majority of available funds and staff time will be dedicated to priority activities.

##### Fiscal Year 1995

- o Develop an Accurate Inventory
  - Improve and update data (RO)
  - Develop UST-Access (HQ)

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- Begin unregistered tank surveys (RO)
  - Work with tribes and states to get notification forms to the regions (RO)
  - Report inventory data to HQ quarterly (RO)
  - Compile summary statistics quarterly (HQ)
- 0   Oversee Confirmed Releases
- Determine status of all releases (RO)
  - Determine if there will be direct regional oversight or joint oversight with the State (RO)
  - Improve rate of cleanups initiated and completed (RO)
- 0   Expand Field Presence Including Enforcement When Appropriate
- Increase use of SEES (RO)
  - Increase technical assistance and outreach (RO)
  - Increase inspections and use of field citations (RO)
- 0   Develop Policies and Guidance
- Issue guidance for quarterly reporting measures (HQ)
  - Issue revised national policy statement (HQ)
  - Issue guidance on priority systems and RBCA (HQ)
  - Issue guidance on long-term cleanups (HQ)
  - Work with OECA on LUST field citation policy (HQ)
  - Finalize allocation formula (HQ)
- 0   Make Grants to Tribes
- Increase number and/or amount of 8001 grants, as appropriate (RO)

Fiscal Year 1996

- 0   Maintain an Accurate Inventory
- Convert data and initiate use of UST-Access (RO)
  - Continue unregistered tank surveys (RO)
  - Report inventory data to HQ quarterly (RO)
  - Compile summary statistics quarterly (HQ)
- 0   Oversee Confirmed Releases
- Initiate use of priority system and RBCA (RO)
  - Improve rate of cleanups initiated and completed (RO)

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- Continue to assist in development and negotiation of agreements between states and tribes
- 0 Expand Field Presence Including Enforcement As Appropriate
  - Increase use of field citations (RO)
  - Work with OECA to explore if the list of citable violations should be expanded to include minor LUST violations (HQ)
- 0 Develop Policies and Guidance
  - Revise allocation formula, if necessary (HQ)
  - Explore the possibility of treating tribes in the same manner as states for the UST program (HQ)
- 0 Make Grants to Tribes
  - Increase number and/or amount of 8001 grants, as appropriate (RO)

C. Annual Planning Process

All regions with USTs in Indian Country will participate with OUST in a cooperative annual planning process. The objectives of this process are to: (1) identify the status of UST program implementation activities in Indian Country within each region; (2) identify those areas where the region or tribes have made progress during the previous year; (3) identify those areas most in need of improvement; (4) identify specific activities, especially those necessary to carry out the national priorities for that fiscal year, that will result in needed improvements; and (5) identify the resources necessary to carry out those activities.

The annual planning process should take place as early as possible in the fiscal year with the goal of being completed by January. This should allow sufficient time throughout the remainder of that fiscal year to make progress on the priorities identified for that fiscal year.

D. Performance Measures

Performance measures will be reported quarterly by the regions to OUST which will in turn summarize the reported data. The regions' reports will include: the number of active tanks, closed tanks, confirmed releases; emergency responses; cleanups initiated; cleanups completed; enforcement actions; Trust Fund expenditures at sites; cost recovery sites and dollars; critical sites; and additional performance measures that may be developed.



The data reported by the regions will be reviewed to determine progress in meeting the program's goal, objectives and national implementation priorities. Necessary changes, if any, in program direction, policy, and implementation will be identified.

#### E. Implementation Approaches

EPA regional offices are responsible for ensuring that the UST program is implemented in Indian Country. The regions will establish and manage a basic UST program, as described below, within the constraints of available resources. The extent of this basic program, however, will depend in part on the degree to which a specific tribe, or a tribe pursuant to an agreement with a state, is operating a protective tribal underground storage tank program. Where strong tribal programs exist, the need for federal action in individual cases may be greatly diminished. Because the resources for the operation of the federal program are limited, regions should thus work, when appropriate, to encourage tribal (and/or state) involvement in regulating USTs in Indian Country. Two available approaches to accomplish this involvement are outlined below.

First, regions are encouraged to work with selected tribes that have developed or can develop the capability to administer a tribal underground storage tank program on lands within their jurisdiction. Although EPA would not actually be authorizing such programs, this approach is consistent with EPA's Policy for the Administration of Environmental Programs on Indian Reservations which was signed by Administrator William D. Ruckelshaus on November 8, 1984. The policy states in part: "The Agency will take affirmative steps to encourage and assist tribes in assuming regulatory and program management responsibilities for reservation lands. The Agency will assist interested tribal governments in developing programs and in preparing to assume regulatory and program management responsibilities for reservation lands." This was reiterated in Administrator Browner's March 1994 memorandum on EPA Indian Policy: "Nevertheless, the core principle of the Policy, a commitment to working with Federally recognized tribes on a government-to-government basis to enhance environmental protection, has been reaffirmed by President Clinton and remains the cornerstone of EPA's Indian program."

Significant underground storage tank program development work has already begun in Region 9 with the Navajo Nation, in Region 6 with a consortium of pueblos in New Mexico and a consortium of tribes in Oklahoma, and in Region 5 with the Minnesota Chippewa.

Second, regions also are encouraged to facilitate the negotiation of tribal-state agreements when possible. This may be particularly advantageous in those cases where the tribe and state have developed or can develop a good working relationship and where such an arrangement will allow access to state assurance funds for financial responsibility coverage and cleanup costs. Regions should ensure that such agreements result in protection of human health and the environment since EPA is ultimately responsible for implementation of RCRA Subtitle I in Indian Country.

In 1993, the UST/LUST National Native American Lands Policy Statement (OSWER Directive 9610.15), noted that the regions were responsible for establishing and managing a basic underground storage tank program using available resources. The basic program represents the minimum activities that each region will complete to fulfill the requirements of the law, regulations, executive orders and EPA policy. An example of an applicable policy is the Agency enforcement policy concerning taking enforcement actions against Indian tribes.

OUST's 1993 guidance listed various activities and noted that additional activities that would be part of a basic program could be found in the Transition Task List (OSWER Directive 9610.5-1). The activities centered primarily on actions related to notification forms, corrective action oversight, and closure.

Below is a more comprehensive list of activities that constitute the elements of a basic program. Within the constraints of available resources, the regions are responsible for ensuring that all the elements of a basic program are implemented for USTs in Indian Country. The regions are encouraged to become involved in activities beyond these basic program elements. The level of available resources will affect how quickly the regions implement the program elements and their ability to take on additional activities.

#### Basic Program Elements

1. Outreach to tribal governments and owners and operators.
  - A. Provide requested information in a timely manner.
  - B. Provide training, as necessary, for Indian tribes, owners and operators, contractors and consultants.
2. Receive notification forms.
3. Maintain an accurate inventory using an up-to-date management information system (UST-Access available December 1995).

4. Assure that corrective actions are adequately overseen.
  - A. Answer calls reporting releases.
  - B. Receive documentation of financial responsibility in the event of a release. (This requirement also applies in the event of certain other events including bankruptcy and the revocation of a financial assurance mechanism.)
  - C. Receive site assessment and corrective action reports and review them in a timely manner.
  - D. Utilize a Risk-Based Corrective Action (RBCA) process to conduct and oversee federal-lead cleanups and oversee responsible-party lead cleanups.
  - E. Ensure that corrective actions are completed as quickly as possible utilizing enforcement and other methods given available resources.
5. Enforcement
  - A. Ensure that the region has an active inspection program including field citations.
  - B. Take formal enforcement actions when appropriate.
6. Receive notifications of closure and change-in-service, and keep records of excavation zone assessments at closure if necessary.
7. Provide support to tribes with sufficient tank populations, capability and interest to develop and implement their own programs.

Within the constraints of available resources, the regions must ensure that these basic program elements are achieved but have flexibility in how they accomplish these activities, as well as the additional activities listed in the next section.

#### V. ACTIVITIES

There are a wide variety of activities that can be undertaken to further implementation of the UST program in Indian Country. These activities will be pursued with appropriated LUST and UST monies, as well as with personnel funded by both UST and LUST monies. Additionally, some activities related to tribal program development may be supported via RCRA Section 8001 grants. The specific activities pursued in any region will depend on factors such as the number of tribes, their existing and potential ability to implement an equivalent tribal program, and number of USTs and leaking USTs on tribal lands. Specific activities undertaken in a given region will be determined during the annual planning process.

A. Notifications

The regions should solicit and receive all notification forms from owners and operators in Indian Country. States should be asked to forward any Indian Country notification forms currently in their possession or that come to them in the future to the appropriate region. Regions may communicate the importance of receiving notification forms to the state through written documentation or orally as part of regular discussions. It also is critical for regions to share this message with tribes. A general statement reminding tribes to forward notification forms to regions could be part of any outreach effort or written agreement. Finally, OUST and the regions will discuss and evaluate Indian Country notification reporting requirements as part of the annual planning process and determine appropriate action to take, if necessary, to deal with any problems that may exist.

B. Maintaining A Regional Inventory

Maintaining an accurate up-to-date inventory is a top priority for implementation of the UST program. Headquarters has developed a database (UST-Access) to track facility, tank and ownership information. This database will be provided to the regions to support their efforts to maintain an accurate inventory of USTs.

Both the regions and OUST have a role to play in maintaining accurate Indian Country UST inventories. Regions have the responsibility to find unregistered tanks, obtain notification forms from the owner/operator and input the data into the database. OUST will make available database software (UST-Access) so that the regions may catalogue and track Indian Country UST information accurately. OUST will update the national summary statistics quarterly. It will review the information submitted to identify problem areas both nationally and in individual regions. The national summary statistics will be reviewed with each region during the annual planning meeting, or more often, if needed. To improve the inventories, the regions, at a minimum, should:

- o notify owners and operators of underground storage tanks in Indian Country of the need to submit their notification forms to the region;
- o inform states that future notification forms for USTs in Indian Country need to be provided to EPA; and
- o report quarterly performance measures to OUST, including a brief narrative summary highlighting

cleanup problems, focusing on releases affecting drinking water.

An important part of maintaining an accurate inventory is identifying unregistered USTs. Three basic categories of unregistered USTs exist:

1. USTs that are in-service and unregistered;
2. abandoned USTs that contain product; and
3. abandoned USTs that do not contain product.

The highest priority will be placed on finding unregistered, in-service USTs because they pose the greatest threat to human health and the environment. Below is a list of techniques regions may employ to identify unregistered USTs, and improve the overall inventory of USTs in Indian Country:

- o Increase regional field presence (e.g., use SEE or AARP dollars to fund a circuit rider, set a goal to visit a certain number of reservations within a quarter);
- o Utilize data obtained from tribal grants to update regional inventories (regions should place a grant condition in all future tribal grants requiring any updates to inventory data to be submitted to the regions);
- o Work with states to identify facilities in Indian Country contained in the states' data bases;
- o Check neighboring facilities when conducting a corrective action or preventative inspection for signs of unregistered USTs;
- o Coordinate efforts with tribal entities and government agencies to conduct surveys in order to locate unregistered USTs (e.g. work with local Indian Health Service or Bureau of Indian Affairs offices);
- o Develop strong outreach and educational programs for UST owners/operators in Indian Country (e.g., press releases to inform community of registration requirements; hold informational meetings with owners, operators, consultants, jobbers, distributors concerning registration and compliance; high profile media outreach effort to register all USTs; etc.);
- o Provide financial support to the tribes to complete an unregistered UST survey;

- o Work cooperatively with tribes and states, where appropriate, or with other federal agencies such as the Bureau of Indian Affairs (BIA) and the Indian Health Service (IHS) to identify unregistered USTs and other sources of information for the identification of unregistered USTs.

### C. Outreach

Outreach and education are critical to improving the quality of the UST program in Indian Country and compliance with environmental regulations. OUST and the regions will continue to develop and disseminate information to Indian Country owners/operators, their consultants and contractors and to tribal governments to improve their understanding and application of the regulations as well as the types of assistance available to them at the federal and state level. Regions will utilize and build on outreach activities such as: information dissemination, training, information seminars, and increased regional field presence.

### D. Financial Responsibility

The financial responsibility requirements are applicable to owners and operators in Indian Country. All individuals, with non-tribally owned tanks, including tribal members, are currently required to be in compliance with the financial responsibility requirements. Owners of tribally owned USTs that are in technical compliance have until December 31, 1998 to comply with the financial responsibility requirements (40 CFR 280.91(f)). Tribal-state agreements are often the key to allowing facilities in Indian Country access to state assurance funds. When tribes so desire, regions should facilitate the inclusion of USTs in Indian Country in state funds.

### E. Closure

The closure requirements described in 40 CFR 280.70 through 280.74 (Subpart G) are applicable to owners and operators in Indian Country and cover the requirements for:

- o temporary closure (UST system temporarily out of service--special requirements for three months of temporary closure and 12 months of temporary closure);
- o permanent closure and changes-in-service (notification of closure and change-in-service, procedures for closing UST, and UST's storing non-regulated substances);

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- o assessing the site at closure or change-in-service, (measuring for a release and performing corrective action if contamination discovered);
- o applicability to previously closed UST systems, (direction to assess the excavation zone of UST systems permanently closed before December 22, 1988); and
- o closure records (maintaining records that demonstrate compliance with closure requirements).

Regions will apply these requirements in order to identify and contain existing contamination and to prevent future releases from UST systems no longer in service.

F. Corrective Action Oversight and Federal-Lead Cleanups

EPA is responsible for the implementation of RCRA Subtitle I in Indian Country. (EPA's role in corrective action oversight and federal-lead cleanups is discussed in more detail in OSWER Directive 9610.9A, Interim Final National Corrective Action Policy for USTs in Indian Country.) However, the primary responsibility for conducting and paying for cleanups lies with owners and operators. In cases when the state, with the permission of the tribe, is overseeing existing cleanups or agrees to oversee future cleanups, the regions will monitor state oversight of these corrective actions. In cases that post-date the effective date of this policy, the state and region will reach an agreement before state oversight of a cleanup begins. In all cases, the state will oversee a cleanup only with tribal consent. Agreements need not be in writing.

The regions and OUST with representative tribal participation are currently developing a risk-based decision making process that will focus corrective action activities and resources on situations that pose the greatest threat to human health and the environment. The system will be issued in an OSWER directive in FY 1996.

Owners and operators are responsible for the cost of cleanup of their leaking UST(s). When LUST Trust Fund money is expended at a leaking UST site, the owner and operator are liable for all costs of corrective action and enforcement, including interest, oversight, indirect and management and support costs associated with these activities that are paid for by the Trust Fund. (See OSWER Directive 9610.10A, Cost Recovery Policy for the LUST Trust Fund.) When the region expends Trust Fund money for corrective action or enforcement, and "action thresholds" (See OSWER Directive 9610.10A, Section F) have triggered site-specific accounting, the region will document all trust fund expenditures

at such sites. The region is responsible for pursuing recovery of costs from responsible parties or documenting the reasons for a decision not to do so. In accordance with the current cost recovery policy, the region has the discretion to determine the priority and level of effort to devote to individual cost recovery cases, including those for sites in Indian Country, provided those decisions are documented in the case files.

Consistent with the OSWER Directive 9650.13, Streamlined Implementation of UST Corrective Action Requirements, regions also should continue examining both regional and tribal corrective action processes to determine ways to streamline and make those processes more effective and efficient.

#### G. Enforcement

EPA's policy for implementation of the UST program in Indian Country includes cooperative efforts between OUST and the Office of Enforcement and Compliance Assurance (OECA). OECA assisted in developing the strategy to implement the UST program in Indian Country. OUST's policies are consistent with the Agency's policies concerning enforcement actions in Indian Country, including the 1984 policy statement mentioned above (Policy for the Administration of Environmental Programs on Indian Reservations).

General enforcement activities include the following:

- o OECA will participate in an annual planning meeting on UST program implementation in Indian Country to discuss enforcement issues;
- o The Office of Site Remediation Enforcement (OSRE) and OUST will encourage regions and tribes to search for responsible parties that are financially able to fund LUST cleanups; and
- o In cases where there is no tribal ownership interest in, or management of a facility located in Indian Country, the Agency will respond to noncompliance at such a facility in the same manner that it responds to noncompliance at facilities located outside of Indian Country. In such cases, EPA will coordinate enforcement efforts with the tribal government in the same manner that it would with an affected state government.
- o In cases where there is tribal ownership interest in, or management of a facility located in Indian Country,



regions must consult with headquarters concerning potential formal enforcement actions.

There are several activities that the regions will undertake to establish an effective enforcement program. First, the regions will establish and utilize a field citation program in Indian Country to address prevalent, clear-cut minor violations that are relatively easy to correct. Most of the regions already have established a field citation program in Indian Country. Second, the regions will issue administrative complaints and corrective action orders when warranted. (See OSWER Directives 9610.11, 9610.12, and 9610.16 for specific guidance on enforcement procedures, penalties and field citations.) Third, the regions will use UST-Access to track compliance with assigned deadlines. And, finally, the regions will report enforcement actions on a quarterly basis. OUST will consolidate national summary statistics on enforcement actions on a quarterly basis.

#### H. Financial Support for Tribes

As noted above in the discussion of resources available to EPA, the majority of funding available for the UST program in Indian Country is from the LUST Trust Fund. In 1994, Congress explicitly acknowledged EPA's authority to award LUST Trust Fund monies to tribes through RCRA Section 8001 grants. EPA also has authority to award underground storage tank program funds to tribes under Section 8001.

Section 8001(a) authorizes grants for conducting and promoting the following categories of eligible activities: research, investigations, experiments, training, demonstrations, surveys, public education programs, and studies relating certain specified topics listed in Section 8001(a)(1)-(13). Section 8001 grants may be used to help tribes develop the capability to administer an UST program to the extent that such capability development activities legitimately fit within the eligible activities categories of Section 8001(a). Examples of eligible projects include demonstrating the development and implementation of a regulatory program in Indian Country, conducting an unregistered tank survey, and providing leak detection training. In any given year, available funding may not be sufficient to fund every tribe interested in a Section 8001 grant. The following criteria should be used to prioritize funding requests:

- o Has at least 20 facilities or 50 tanks, whichever is smaller, on the reservation. Some of these may not yet be registered and part of the reason for giving a grant to a tribe would be to complete an accurate inventory;

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- o Has some sort of environmental infrastructure or is attempting to build one;
- o Demonstrates interest in, and makes progress toward, developing an UST code;
- o Commits to develop own funding source to help implement an UST program;
- o Has the ability to match the grant (there is a 5% match for Section 8001 grants);
- o Demonstrates a track record of successfully completing projects and commitments including work funded through EPA grants; and
- o Establishes specific outputs that will result from work conducted under 8001 grant.

**CONCLUSION**

This policy statement is consistent with the UST program's design of providing flexibility in program development and implementation approaches by state, local and tribal governments. Regions have the ability to achieve UST program goals and objectives by undertaking a variety of activities. The selection of specific activities will be based on the needs and capabilities of tribes and tribal consortia in a particular region. Although existing and potential future federal resources for program implementation are limited, EPA is committed to achieving protection of human health and the environment in Indian Country. EPA also is committed to supporting tribally administered programs that can be operated with their own authorities and funding, working with tribal consortia, and serving as a facilitator for development of tribal-state agreements as appropriate.