



USTB

OPERATING PLAN FOR FY-00

FY-00 Operating Plan for the Underground Storage Tank Branch

The UST program was created when the Solid Waste Disposal Act was amended in 1984. Subsequently rules were promulgated in 1988 and are found in 40 CFR Parts 280 and 281. The national UST program has had a strategic plan for development and implementation for a number of years. Although it is now under review, it contains certain key goals which are to complete the cleanup of leaking underground storage tank (LUST) sites, to obtain and sustain compliance with the existing UST rules, and to approve state programs to operate in lieu of a federal program. The Agency recognized that there are many ways to design and implement a program that meets the environmental and public health goals while reflecting the unique characteristics of each implementing agency. Thus, the Agency's decision was to build strong state programs and implement the program on Indian Lands. It is the Branch's responsibility to attain these goals in Region 7. General information about the regional UST program is presented in Appendix 1, Tanks at a Glance. Current performance of the program is presented in Appendix 2, Leak Detection and 1998 Upgrades, and Appendix 3, LUST Cleanup Status.

The following is a restatement of the Government Performance and Results Act (GPRA) goals, objectives, and subobjective applicable to the national UST program. In general the GPRA subobjectives emphasize the cleanup of LUST sites and compliance with the existing UST rules. Following each is a list of major activities to be performed during FY-99 by USTB.

GOAL 5: Better Waste Management and Restoration of Contaminated Waste Sites, and Emergency Response. America's wastes will be stored, treated, and disposed of in ways that prevent harm to people and to the natural environment. EPA will work to clean up previously polluted sites and restore them to use appropriate for surrounding communities.

Objective 1: Reduce or Control Risks to Human Health. By 2005, EPA and its partners will reduce or control the risk to human health and the environment at over 375,000 contaminated Superfund, RCRA, UST, and brownfield sites.

Subobjective 1: Clean up of Underground Storage Tank Contamination. By 2005, cleanups of 370,000 sites where groundwater or soil is known to be contaminated by petroleum releases from USTs regulated under RCRA Subtitle I will be initiated or completed under the supervision of EPA or its partners.

FY 99 APGs and APMs	FY 00 APGs and APMs
APG 1: In 1999, complete 22,000 Leaking Underground Storage Tank (LUST) Cleanups (for a cumulative total of 220,000). APM 1: <i>LUST cleanups completed (CORE)</i>	APG 1: In 2000, complete 22,000 Leaking Underground Storage Tank (LUST) Cleanups (for a cumulative total of 242,000). APM 1: <i>LUST cleanups completed (CORE)</i>

Objective 2: Prevent Releases by Proper Facility Management and Respond to Emergencies. By 2005, 282,000 facilities will be managed according to practices that prevent releases to the environment, and EPA and its partners will have the capabilities to successfully respond to all known emergencies to reduce the risk to human health and the environment.

Subobjective 1: Reduce the annual number of confirmed releases for Underground Storage Tanks (USTs). By 2005, the annual number of confirmed releases from underground storage tanks will not exceed 6,500; in comparison, 24,000 were reported in Fiscal Year 1997. Annual numbers may increase in 1999-2000 as sub-standard tanks are removed/replaced. Overall numbers of confirmed releases will begin to decline in 2001.

FY 99 APGs and APMs	FY 00 APGs and APMs
<p>APG 1: In 1999, 647,000 USTs, equivalent to about 240,000 facilities, will be equipped to meet EPA/State UST requirements. As owners and operators meet requirements 27,000 releases from USTs are expected to be confirmed.</p> <p>APM 1: <i>Number of UST confirmed releases (CORE)</i></p>	<p>APG 1: In 2000, 25,000 releases from USTs are expected to be confirmed.</p> <p>APM 1: <i>Number of UST confirmed releases (CORE)</i></p>

II. PERSONNEL in the BRANCH:

Staff	Areas of Responsibility
Smith, John	Branch Manager
Thibault, Linda	Branch Office Manager
Binkman, Bjorn	Kansas Coordinator, UST Compliance, Tank Technology
Clemenson, Jim	Missouri Coordinator, LUST Issues, UST Compliance
Garwood, Linda	Nebraska Coordinator, UST Compliance
Hallier, Janet	Compliance and Enforcement Information Coordinator, Program Review
Hancock, Alan	Iowa Coordinator, MTBE issues, Tribal Corrective Action
Pollard, Stephen	Student Career Experience Program, UST Compliance, Tribal Corrective Action
Wakeland, Ed	Tribal Lands Coordinator (SEE), UST Compliance, Activity Reporting

III. VISION, MISSION and VALUES:

The vision of the Underground Storage Tank Branch (USTB) is:

To provide and continuously improve leadership and support to the states, municipalities, Indian Tribes, tank owners, and citizens of Region VII for the protection of human health and the

environment. This will be accomplished through identification, management, and oversight of underground storage tank (UST) facility life cycles including installation, operation, closure, and remediation.

The mission of the Branch is to:

Provide guidance, tools and resources to enable the states to support and manage the UST program.

Strive to insure safety, environmental protection and resources availability to the public.

Foster compliance by tank owners and the business community through outreach and education; offering guidance and expertise; and by carrying out a strategically focused inspection and enforcement effort .

The Branch has developed a number of values which include:

Loyalty and integrity to each member of the Branch;

Good communication internally and externally being responsive to all inquiries;

A staff which applies patience and open mindedness in a process of continuous improvement;

The ability of every member of the Branch to question policy and technical issues in complete amnesty; and

A Branch management philosophy which encourages teamwork.

IV. USTB FY 2000 Priorities

The Branch has identified the following priority areas as priorities for FY-2000:

Priorities
Completing Enforcement Follow-up on FY-99 Inspections
Tank Contractor Compliance Initiative
Federal Facility and Indian Country UST Inspections

Priorities
Indian Country Corrective Action
State Program Management & Reviews
MTBE Remediation Issues
Region 7 Coordination
Information and Data Management Improvements

Each priority area is described in detail below:

Completing Enforcement Follow-up on FY-99 Inspections

During FY-99 the Branch devoted nearly half its resources towards compliance assistance, compliance inspections, and enforcement follow-up primarily related to compliance with the December 22, 1998 deadline for complying with tank upgrade requirements. For FY-2000, the Branch plans again to devote the same level of resources towards UST compliance and enforcement issues, however they will be focused on two areas:

Completing Enforcement follow-up on FY-99 inspection; and
 Conducting a compliance initiative to identify and highlight tank contractor errors, negligence, and omissions resulting in UST non-compliance.

The Branch completed approximately 300 compliance inspections in FY-99; of these, approximately 75 facilities required further action, of which, approximately 50 required enforcement actions. During the first quarter of FY-00, the branch plans to complete referral packages to Regional Counsel on all these facilities. However, based on our experience to date, we anticipate that the draft complaints will not all be issued until the second or third quarters of FY-00. Work towards obtaining settlements for these cases will likely continue occur throughout the fiscal year. This work will involve settlement conferences with owner operators and follow-up inspections in order to verify that they have in fact returned to compliance. Based on our experience in FY-99, the expedited settlement procedures of the UST enforcement response policy will result in the owner/operators accepting settlement of the complaints within thirty days of issuance. Additional time will be spent by the branch conducting follow-up inspections at certain facilities to verify that they have, in fact, come into compliance. We expect that follow-up inspections will be required at no more than 20% of the facilities involving enforcement.

Our strategy for completing the enforcement follow-up on the FY-99 inspection initiative is to continue to utilize the standard CNSL referral procedures and packages we developed with CNSL developed in FY-99. Using the experience gained by using these procedures, we intend to have all the Branch staff involved in developing enforcement cases in order to reach our goal of developing referral packages on all these cases by the end of the 1st Quarter of FY-00.

Tank Contractor Compliance Initiative

While a very high percentage of USTs have been equipped to comply with the UST regulations, approximately 90%, our FY-99 inspections found that 35% of the facilities inspected were still out of

compliance. The tanks that were out of compliance, in spite of being properly equipped, were not properly protected from corrosion, or were not accurately monitoring for tank and pipeline leaks, or both. Based on these observations, we propose to conduct a Tank Contractor Compliance Initiative.

This initiative has two goals:

- " Educate tank owner/operators about the potential for tank contractor negligence to cause their UST systems to be out of compliance, as well as the owner/operator's responsibility to properly operate and maintain UST systems; and
- " Work with tank industry professional certification organizations to identify contractors who are violating industry standards of practice.

Owner/operators of tanks we have found to be out of compliance thought their tank systems met the upgrade standards only to find that corrosion protection systems, when we tested them, were improperly designed or installed. On the other hand, many violations involving leak detection have been documented that, while also involve contractor negligence, could have more easily been prevented by the owner/operators with more attention paid to UST requirements. Under the UST regulations, the owner/operator is responsible for any violations of the tank standards. Therefore, all enforcement cases must be taken against the owner/operators (with consideration given for good faith efforts to attain compliance made by the owner/operator), even when the contractor bears some or much of the responsibility for non-compliance.

These enforcement cases have resulted in the contractors bearing costs to bring the facilities into compliance, however, it's obvious that owner's of these, predominantly small businesses, need more education, not just on what the tank standards require, but how to ensure that the systems they have purchase are in fact compliant, and how to operate and maintain these systems so that they remain in compliance. Many different means will be investigated for disseminating our findings, including the Region 7 Tank Home Page, industry newsletters and conferences, state and EPA workshops for contractors, etc.

Further, we intend to use information obtained from the FY-99 inspections and additional targeted FY-00 inspections to document cases of contractor negligence that violate industry codes of practice and forward them to tank industry professional certification organizations such as NACE International (formerly the National Association of Corrosion Engineers and the National Leak Prevention Association (NLPA)). These organizations have disciplinary procedures in place including revoking certifications of professional who violate their standards, however, to date, OUST is not aware of any disciplinary action ever having been taken by the certification organizations.

This initiative can only be successful with the participation of our state partners and industry stakeholders such as the Petroleum Marketers Association of America and their chapters in Region 7 states, and the previously mentioned NACE International. In addition, we will be working with EPA Headquarters, Office of Underground Storage Tanks (OUST) both as a resource and as a conduit for more widely disseminating our findings. Region 7 states have expressed an interest in this project based on informal discussions. We have already been in contact with NACE International regarding some of findings, and they have indicated their willingness to work with us in the future.

Our strategy for conducting this initiative is to seek input and participation from the groups described above. In October, the branch will develop a straw man proposal and circulate it to OUST and Region 7 states for their review and comment. We will schedule a significant amount of time during the

Region 7 Tank s All State meeting in November to discuss the initiative and obtain consensus on it. State participation is crucial because of the knowledge, experience, and resources they can bring to the initiative. The straw man will consist of compiling and analyzing recent state and EPA inspections to identify and classify instances of contractor negligence. Using this information, the states and EPA will target inspections to be completed in FY-00. At this point we are proposing that USTB staff conduct 100 inspections in support of this initiative. The branch can complete 100 inspections in FY-00 as a work load matter, availability of travel funds will likely be the determining factor on whether we actual complete these inspections. We intend to use field citations to address most instances of non-compliance, which will allow us to most efficiently use our resources (This assumes that we retain the authority to use field citations after OECA reviews the issue at the end of the calendar year.) However, in cases where we encounter flagrant violations of the UST requirements we will pursue formal enforcement. While enforcement follow-up of these inspections will proceed as usual, the information gathered both in FY-99 and FY-00 will form the basis of the initiative.

Federal Facility and Indian Country Inspections

The Office of Enforcement and Compliance Assistance (OECA) Federal Facilities Enforcement Office (FFEO) placed a high priority on UST compliance by federal facilities in response to the Administrator s concern about UST compliance. Inspections conducted during FY-99 indicated good rates of compliance with the 1998 upgrade requirements, but as with private sector facilities, compliance with the operation and maintenance requirements of leak detection was not as good. Operation and maintenance of UST systems will be a continuing focus during FY-00. Our inspections in FY-99 centered on Department of Defense facilities simply because they have the most tanks. In FY-00 we intend to target civilian federal agencies for inspections and will work with Region 7 states to select the most appropriate facilities. EPA is awaiting a Department of Justice ruling as to whether the agency has penalty authority in federal facility enforcement cases. Until this ruling is made, we will issue Notices of Violation to federal facilities, to be followed by formal enforcement once the issue of penalty authority is resolved.

EPA is the enforcement authority for UST compliance in Indian Country. There are twenty five active UST facilities in Indian Country within Region 7. Compliance assistance to Indian Country facilities has always been a high priority for the Region 7 tank program, and this was especially the case for the 1998 UST upgrade requirements. FY-99 inspections were targeted for facilities that were likely to have compliance issues based on our compliance assistance efforts. This will be the same approach used in FY-00.

In the draft FY-00 OECA MOA, USTB committed to conduct UST compliance inspections at two federal facilities and four facilities in Indian country. We did not commit to do any more than six inspections due to uncertainty about travel budget. However, we will use other planned travel as opportunities to perform additional federal facility and tribal inspections.

Indian Country Corrective Action

EPA has primary corrective action authority for UST clean-ups in Indian Country. There are 13 Indian Country sites in Region 7 with confirmed releases that have been prioritized based on. Our strategy is to work down the prioritized list first conducting or reviewing site assessments utilizing EPA s Indian Country Risk Based Corrective Action Guidance (ICRBCA).

During FY-99 we initiated the corrective action process at three facilities in Walt Hill, Nebraska,

which is located within the Omaha reservation. In addition, with the assistance of OUST, we have begun review of a site assessment for the Winnebago Company A Service Center against ICRBCA. During the first quarter of FY-00, we intend to activate at least one additional corrective action site, the Winnebago Oil Company, being administered by the Bureau of Indian Affairs (BIA), by requesting that a site assessment be performed according to ICRBCA. This will put 5 of the 13 sites in Indian Country with confirmed releases actively working through the corrective action process.

Walt Hill Sites

The three Walt Hill facilities are located very close to each other and have likely contributed to commingled plumes. The strategy for working on this site, calls for addressing the releases on a site-wide basis, as opposed to facility-by-facility. The three facilities are owned by non-tribal members, and are covered by the Nebraska clean-up fund. Successfully undertaking corrective action at the Walt Hill site requires a large effort made towards communication and coordination between EPA, the Responsible Parties, the Omaha Tribe, and the Nebraska Department of Environmental Quality.

Winnebago Company A Service Center

The Company A site assessment is currently being reviewed against the ICRBCA guidance. That review should be completed by the 4th quarter of FY-00. Any additional data required to complete the site assessment will be collected by the end of the third quarter. By the 4th quarter of the fiscal year, the Phase I site assessment will be completed and reviewed, along with a preliminary determination made as to whether further action is necessary.

Winnebago Oil Company-BIA

This site is being administered by the BIA, which completed a site assessment of this facility some time ago. The existing site assessment does not contain sufficient data to meet the ICRBCA Phase I guidance. We will request that BIA gather the additional data and re-submit the site assessment. Any additional data required to complete the site assessment should be collected by the end of the year. Early in FY 2001, the Phase I site assessment will be completed and reviewed, along with a preliminary determination made as to whether further action is necessary.

State Program Management & Reviews

State Program Management & Reviews encompasses work done by branch staff as grant project officers and state coordinators. This includes grants management; State Program Approval (SPA); State Coordination, including hosting an annual All-States meeting; and State Program reviews. During FY-99, USTB allocated the minimum resources necessary to perform State Program Reviews and grants management, while investing a relatively large portion of time to Nebraska State Program Approval. The result of which is that we anticipate SPA for Nebraska will be completed in FY-00, while we will need to invest additional resources into State Program Reviews for FY-00 in order to conform to the new Region VII Program Review Protocol. In addition, USTB will focus on Leaking Underground Storage Tank(LUST) cost recovery work done by Region 7 states in order to measure progress in this important area. In relation to concerns raised in a 1997 Office of Inspector General Report.

Grants Management

USTB manages state grants and cooperative agreements for state UST and LUST programs. In

the previous two years the tank program has carefully reviewed the balances in LUST cooperative agreements to ensure these resources were being used effectively. In FY-99, with agreement from the affected states, USTB changed the LUST state allocation amounts in order to better manage the funds balance. This effort will continue to be a major focus for FY-00. Cooperative agreement balances will be evaluated quarterly, and these analyses will again be used in determining state allocation amounts.

State Program Approval

Working with OUST, their contractor resources, NDEQ, and Nebraska State Fire Marshall(Linda to write-up status of NE SPA and steps needed for completion, include MS-Project Schedule.)

State Program Reviews

USTB has not done a complete UST state program review in several years. During FY-99 the state coordinator was primarily responsible for completing reviews for their assigned state. In FY-00 one staff member will coordinate the state program reviews with the individual state coordinators, assist in all the reviews, and ensure consistency with the Region 7 Program Review Protocol and consistency from state to state. USTB has identified four areas that constitute a complete underground storage tank program review. These are:

- " Inspection and Enforcement;
- " Closure Procedures;
- " Corrective Action; and
- " LUST Cost Recovery.

For FY-00 the branch will focus on LUST cost recovery in state program reviews.

State Coordination

FY-00 All states meeting

MTBE Remediation Issues

MTBE remediation issues continue to be an important, though not resource intensive area for USTB, not only because of the introduction of Reformulated Gas (RFG) in Missouri and Kansas, but also because its presence has already been documented in historical releases at tank corrective action sites in areas where RFG is not even being contemplated. During FY-99 USTB hosted a workshop on MTBE remediation in late September for the four states, which took a considerable amount of time to put together. In FY-00 USTB will continue in its role as an information resource and conduit for the states. Based on the response to the FY-99 workshop and stated needs by the states, USTB will evaluate the

Region 7 Coordination

Coordination among other Region 7 branches on cross-cutting tank issues is an area that USTB has done on an as needed basis in the past, but one that we intend to put added emphasis in FY-00 in order to make coordination on related issues more routine. In addition to the regional enforcement work groups, other Region 7 program areas with cross-cutting issues include:

- " RCRA Corrective Action

- " Drinking Water
- " SPCC
- " Superfund.

Information and Data Management Improvements

In FY-99 USTB improved its record keeping procedures by developing a file management plan with the Regional Records Center, and moving state program, state grant, and enforcement files to Regional Records Center. In FY-00, USTB will get its electronic house in order by re-organizing and thinning out files stored and the common H:\LUST directory.

V. Monitoring Plan

Resources In FY-99, USTB staff logged their work hours by subject matter on a monthly basis. This information has provided the branch a better picture of how resources are actually spent, and the costs associated with our various activities. In order to simplify this process for FY-00, we will develop a standard spreadsheet for each branch member to use on a monthly basis that will include standard work categories based on branch priorities. Using spreadsheets should improve the efficiency and effectiveness of analyzing the information. The Branch Office Manager will compile and run the analysis of the spreadsheets.

Travel: The Branch Office Manager will track travel expenditures in real time by utilizing a spreadsheet similar to what is used by Financial Management.

Progress: In FY-99, USTB began using MS Project for tracking and project management for UST enforcement cases and Nebraska SPA. In FY-00 the branch will expand the use of this software to also include Indian Country Corrective Action.