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

DEC 2 - 2003

ASSISTANT ADMINISTRATOR
FOR ENFORCEMENT AND
COMPLIANCE ASSURANCE

MEMORANDUM

SUBJECT: Use of Expedited Settlements to Support Appropriate Tool Selection

FROM: John Peter Suarez
Assistant Administrator

TO: Regional Administrators
Deputy Regional Administrators
Regional Counsel
Regional Enforcement Division Directors
Regional Water Management Division Directors
Regional Enforcement Coordinators
OECA Office Directors
All ORE Employees
All OC Employees

As a follow-up to my April 15, 2003 "Smart Enforcement" memorandum, the Office of Regulatory Enforcement (ORE) encourages the Regions to use, where appropriate, expedited settlements as one of the tools to address compliance assurance and enforcement priorities. To further this objective, this memorandum authorizes all Regions to implement the Clean Water Act (CWA) § 311(j) Spill Prevention Control and Countermeasure (SPCC) Expedited Settlement Program and encourages Regions to continue to implement Underground Storage Tank (UST) Field Citation Enforcement pursuant to Subtitle I of the Resource Conservation and Recovery Act (RCRA).[1] Guidance regarding regional authorization and implementation of the SPCC Expedited Settlement Program is provided in Section VI of this memorandum, and the SPCC Expedited Settlement documents are provided in Appendix 2. Additionally, on August 21, 2003, OECA provided national approval of the Storm Water Expedited Settlement Program and, in the

[1] The UST Field Citation Enforcement program name will change to the UST Expedited Settlement Program. As indicated in note 4, infra, the Enforcement Action Type value in the Integrated Compliance Information System (ICIS) for this program will also be changed.

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near future, will provide national approval of an expedited settlement program for certain violations of Clean Air Act (CAA) § 112(r)(7) (CAA § 112(r) Expedited Settlement Program).

The majority of this memorandum, however, is designed to provide Regions with necessary information to identify additional program areas appropriate for consideration of an expedited settlement approach and to outline the process Regions should follow in seeking Headquarters' approval for new expedited settlement pilots that deviate from the applicable penalty policy. To that end, Section II lists factors to identify program areas that may be appropriate for expedited settlements. Section III highlights general components of expedited settlement pilot proposals. Section IV articulates circumstances in which expedited settlements may be inappropriate. Section V discusses the process for implementing new expedited settlement pilots. Finally, Section VII addresses Integrated Compliance Information System (ICIS) data entry. An attachment to this memorandum, "Expedited Settlement Resources," provides: summaries of Headquarters-approved expedited settlement programs; contact information for media-specific Headquarters personnel; and the SPCC Expedited Settlement documents.

Expedited settlements should be part of a complete compliance and enforcement strategy that encompasses the full range of tools available to the compliance and enforcement program. Regions using an expedited settlement approach must remain committed to using existing administrative and judicial enforcement mechanisms against entities that choose to ignore an expedited settlement offer, and in situations where an expedited settlement is not the appropriate enforcement tool. Traditional enforcement actions should be pursued for all violations where an expedited settlement does not adequately address the level of noncompliance or the nature of the violator. Additionally, EPA always reserves the right to not extend an expedited settlement offer to any particular violator.

I. EXPEDITED SETTLEMENTS OVERVIEW

Expedited settlements are a valuable tool. They offer "real time" enforcement in situations where violations are corrected and a penalty is obtained in a short amount of time, generally a few months from EPA's discovery of the violation. The approach is generally appropriate for minor, easily correctable violations and provides a discounted, non-negotiable settlement offer in lieu of more formal, traditional administrative penalty actions. The mechanism used is typically a one-page expedited settlement agreement that the regional office mails. The respondent must accept the settlement offer, depending upon the program, within either 30 or 45 days of receipt, unless the respondent is granted an extension. When the respondent accepts the offer in exchange for a reduced penalty and minimized transaction costs, the respondent agrees to waive its opportunity for a hearing and certifies, under penalty of perjury, that the violation(s) and harm from the violation(s) has been corrected and, in some circumstances, that the respondent has taken steps to prevent future violations.

The expedited settlement approach offers both benefits to the environment and potential cost-savings to the Agency. When used appropriately, expedited settlements result in regulated entities returning to compliance and paying penalties more quickly than would be accomplished through issuance of a non-expedited administrative penalty order. Because the settlement document is standardized and its terms are non-negotiable, EPA saves resources that would otherwise be deployed in commencing and pursuing a more formal administrative action. Additionally, the expedited settlement approach allows EPA to increase its enforcement presence to address violators or sectors of the regulated community that EPA was previously unable to otherwise reach due to resource constraints.

Expedited settlements also strengthen future cases against repeat violators. Where a respondent to an expedited settlement subsequently repeats the same, or commits a closely-related, violation, EPA will have a stronger litigation position with evidence to support penalty factors, such as culpability or history of prior violations. Finally, while traditional administrative actions for penalties may take more than a year to resolve, a typical expedited settlement will resolve a regulated entity's penalty liability and ensure compliance within a few months of EPA's discovery of the violation.

II. FACTORS TO CONSIDER IN IDENTIFYING PROGRAM AREAS APPROPRIATE FOR EXPEDITED SETTLEMENT PILOTS

Headquarters has identified five factors to assist the Regions in identifying program areas that may be appropriate candidates for expedited settlement pilots. We encourage Regions that are interested in expanding their use of expedited settlements to analyze their programs using these, and any other relevant, factors to determine if their programs would benefit from an expedited settlement approach. In particular, program areas that may be explored as candidates include: certain violations of RCRA Subtitle C Generator requirements; Emergency Planning and Community Right-to-Know Act (EPCRA) §§ 311/312; and EPCRA § 313.

As a threshold matter, Regions should identify significant environmental problems that would benefit from an increased enforcement presence. They should then determine whether a significant period of time exists between inspections and the resolution of a formal enforcement response that could be minimized through use of an expedited settlement. Programs that may already have a fairly streamlined approach, or that do not experience a significant lapse between inspections and resolution, should not be considered as candidates for an expedited settlement approach.

Program areas characterized by all of the following factors may be appropriate candidates for an expedited settlement approach:

1. Programs with violations that an inspector can witness at the time of inspection or that can be readily determined through simple information requests, on-site document review, or data sources. For instance, violations eligible for expedited

settlement treatment under the SPCC Expedited Settlement Program must be witnessed by the inspector at the time of inspection.

2. Programs with violations that are easy to fix or require low-technology solutions such that, upon detection, the violator can quickly take measures to ensure compliance within the timeframe to accept the expedited settlement offer and concurrently certify that the violation has been corrected. Depending upon the program, this timeframe may range from 30 to 45 days after the violator's receipt of the expedited settlement offer from EPA. Violations that do not require the violator to take some affirmative action, in addition to payment of a penalty, are not appropriate for an expedited settlement approach. Thus, Regions should not design an expedited settlement approach aimed solely at collecting penalties. Rather, through these expedited settlements, EPA should both obtain environmental benefits and collect penalties.

3. Programs with violations that are considered minor, such as certain recordkeeping or reporting violations. Violations that are not appropriate for expedited settlement treatment are those that result in significant harm to human health or the environment or may present an imminent and substantial endangerment to human health or the environment (e.g., violations resulting in a release of hazardous substances that may impair a drinking water source).

4. Programs that have a limited enforcement presence and limited resources relative to the size of the regulated universe. For instance, with regard to the storm water program, EPA has estimated that the total number of construction activities in the United States subject to Phase I and II exceeds 521,000 starts per year. With such a large regulated universe and limited enforcement resources, EPA will be able to reach many more violators of the storm water regulations through the expedited settlement approach.

5. Programs that need to increase their enforcement presence due to widespread noncompliance.

After identifying programs that meet each of the factors listed above, it is important to identify and consider any statutory limitations that may further inform a decision whether to pursue an expedited settlement approach. For instance, under CWA § 309, EPA provides 30-day public notice of a proposed settlement. Under CAA § 113(d), EPA must seek a waiver from the Department of Justice (DOJ) when instituting an administrative penalty action for violations where the first alleged date of violation occurred more than twelve months prior to initiation of the administrative action. Though these types of statutory requirements do not necessarily bar an expedited settlement approach, such issues should be considered when determining whether an expedited approach will be effective.

III. GENERAL COMPONENTS OF EXPEDITED SETTLEMENT PILOT PROPOSALS

Drawing upon the Agency's experience in developing and implementing expedited settlement approaches, Headquarters has identified the following seven general components that should be incorporated into future expedited settlement pilot proposals.

1. Coordination with States, Tribes, and Local Governments

As with any enforcement approach used in an authorized state or tribe, Regions should coordinate with states, tribes, and local governments, as appropriate, in the planning and implementation of an expedited settlement tool.

2. Up-front Outreach and Compliance Assistance

If a Region wants to develop an expedited settlement pilot to reach a universe or sector of the regulated community that has had little or no regulatory interaction, the Region should consider using some form of outreach and compliance assistance prior to using the expedited settlement tool. For instance, in the SPCC Expedited Settlement Program, prior to implementation, a Region could provide outreach through workshops if a sector of this regulated universe has had limited regulatory interaction such that facility owners and operators may not be aware that their facilities are subject to SPCC requirements. A Region interested in facilitating outreach and compliance assistance prior to inspections may use one or more of the following measures:

- Conduct compliance assistance workshops throughout the Region in areas targeted for inspection. Explain the statute/regulations, inspection procedures, and the enforcement process. Address the full range of enforcement response tools, including informal administrative tools (warning, show cause letters, or Notice of Violation/Notice of Noncompliance), formal administrative tools (expedited settlement, pre-filing negotiation and settlement, and administrative order and complaint under 40 C.F.R. Part 22), and referrals to the Department of Justice for civil or criminal prosecution.

- Work with the Regional Compliance Assistance Coordinator through established compliance assistance communication networks and environmental assistance providers or provide information on how to access compliance assistance materials, e.g., through the National Environmental Compliance Assistance Clearinghouse (www.epa.gov/clearinghouse).

- Distribute compliance assistance materials that describe the relevant regulatory requirements and discuss the range of enforcement response tools, including expedited settlements.

A Region may also consider announcing impending inspections to the targeted, regulated community. We are not, however, mandating announced inspections as a requisite component of expedited settlement pilots. Regions choosing to provide notice of impending inspections should generally allow 30 to 60 days after conducting outreach and compliance assistance workshops so that the targeted, regulated community has an opportunity to obtain appropriate assistance and information and to implement what they learn to attempt to come into compliance.

3. Standard Operating Procedures for Inspections

EPA inspectors should continue to use standard methods for conducting inspections, regardless of whether the program offers an expedited settlement approach.[2] Thus, inspectors should continue to document violations identified during the inspection in the same manner used during a traditional inspection, such that the Region can substantiate the violation without additional investigatory follow-up. Similarly, Regions implementing an expedited settlement approach are encouraged to continue targeting their inspections to find the most significant violations and violators, unless the expedited settlement approach was specifically designed to deploy enforcement and compliance resources to a subset of the regulated universe. For instance, Regions implementing the forthcoming CAA § 112(r) Expedited Settlement Program will not specifically target facilities for inspection with an expectation that all violations will be resolved with expedited settlements. Rather, the approach is yet another enforcement response tool that the Region can use after discovering violations of CAA § 112(r)(7). However, because Regions are unable to inspect a significant number of construction sites under 50 acres in the Storm Water Expedited Settlement Program, they can specifically target these smaller sites for inspection for expedited settlement treatment, although the site would have to satisfy additional criteria to be eligible for a Storm Water Expedited Settlement.

In designing an expedited settlement pilot, Regions should consider whether an inspector may leave an unsigned draft expedited settlement form (draft form) with the facility at the time of the inspection to provide a preview of a potential settlement offer. It is important to note, however, that even if the inspector can leave a draft form, the regional office retains the ability to make a determination as to the type of enforcement action to take, if any, for violations observed during the inspection. Expedited settlement pilots can use either approach with regard to whether an inspector may leave a draft form at the time of inspection. For instance, in the SPCC Expedited Settlement Program, if the proposed penalty falls between $400 and $2,500, the

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[2] The Regions should also ensure that all inspections, including inspections performed in programs with expedited settlements, use Inspection Conclusion Data Sheets (ICDSs) where applicable. In Fiscal Year 2004, ICDSs are required to be completed for two programs that have expedited settlements: CAA § 112(r) and the UST Expedited Settlement Program.

owner/operator is eligible for an expedited settlement offer. In addition, the inspector, having used an expedited settlement checklist, may leave a draft form with the violator at the time of the inspection to give preliminary notice of what violations may exist and the potential penalties associated with such violations. Thus, in the SPCC Expedited Settlement Program, inspectors must receive training in the use of this tool prior to including the approach during inspections so that the inspector can explain the expedited settlement approach, and, in particular, to clearly indicate that the draft form is not an official offer. However, in the forthcoming CAA § 112(r) Expedited Settlement Program, the inspector will neither indicate whether the inspection uncovered violations appropriate for expedited settlement nor specify any penalty amounts associated with such violations. Consequently, the inspector will not leave any expedited settlement documents with the facility owner or operator. As such, inspectors performing inspections in the CAA § 112(r) program do not need specific training in the CAA § 112(r) Expedited Settlement Program.

In cases where an expedited settlement program allows the inspector to leave a draft form at the facility, note that only EPA employees can complete the form (see "SPCC Inspection Findings, Alleged Violations, and Penalty Form" at Appendix 2). Thus, EPA contractors, SEE grantees, and EPA interns may not complete such forms. An official expedited settlement offer should be mailed from the regional office and served personally, by certified mail, return receipt requested.[3] The recipient's response period is triggered by its signature of the return receipt. As this is an expedited process, the regional office should strive to make a post-inspection decision quickly of whether an expedited settlement is appropriate and, if appropriate, send the expedited settlement offer expeditiously.

4. Discounted Civil Penalties

It is important to have carefully developed expedited settlement penalties to provide an incentive to the regulated entity to accept the expedited settlement offer while also ensuring that EPA levies an appropriate penalty for the type of violation. As such, Regions interested in piloting a new expedited settlement approach must develop an expedited settlement penalty matrix or assign specific penalty amounts for particular types of violations. Generally, these expedited settlement penalties should be below the minimum calculation derived from the applicable penalty policy. As with the pilot proposal itself, the Region's proposed expedited settlement penalties must receive Headquarters' approval. Once an expedited settlement has been successfully piloted, Headquarters will authorize all Regions to implement the pilot nationally as an expedited settlement program, thereby ensuring national consistency with regard to penalty amounts.

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[3] Although 40 C.F.R. § 22.5(b)(2) provides for alternative means of service for documents, we recommend that the Region use certified mail, return receipt requested, or some other method that provides written verification of delivery and receipt to ensure that service has been completed.

When designing future expedited settlement pilots, the Region should place a cap on the cumulative dollar amount for penalties that may be cited in one expedited settlement. For instance, in the SPCC Expedited Settlement Program, the range of penalties is $400 to $2,500. If the cumulative dollar amount for penalties for violations discovered during the inspection is above or below this range, the entity is ineligible for an SPCC Expedited Settlement offer. In the Storm Water Expedited Settlement Program, the penalty calculated using the Expedited Settlement Worksheet must be no more than $15,000 for the entity to be eligible for a Storm Water Expedited Settlement offer.

Similarly, the Region may propose an upper limit on the number of violations that may be cited at an inspection before rendering the entity ineligible for an expedited settlement offer. If such a threshold is set, it should be below the point beyond which the number of violations, regardless of the nature of those violations, suggests that the regulated entity requires a more formal enforcement response. The UST Expedited Settlement Guidance suggests a threshold between three and ten violations.

5. Expedited Settlement Documents

In the existing expedited settlement programs, EPA settles cases using the Administrator's authority to institute administrative proceedings under the relevant statute, and 40 C.F.R. § 22.13(b), enabling EPA to simultaneously commence and conclude an administrative proceeding pursuant to 40 C.F.R. § 22.18(b). The expedited settlement document is typically a one-page form with "Findings, Alleged Violations, and Proposed Penalty" attached and incorporated by reference. The settlement agreement must comply with all applicable provisions in 40 C.F.R. Part 22. For instance, when using 40 C.F.R. § 22.13(b), the settlement agreement must also contain the elements described at 40 C.F.R. §§ 22.14(a)(1)-(3), (8). See 40 C.F.R. § 22.18(b)(2).

An instruction sheet should accompany the expedited settlement offer, explaining the mechanics of accepting and complying with the offer. The settlement offer, in conjunction with an accompanying instruction sheet, must convey to the recipient that the terms of the proposed settlement are non-negotiable, and that the recipient must waive its right to a hearing and certify, under penalty of perjury, that the violations have been corrected and the penalty has been paid. If EPA has a statutory obligation to provide public notice before issuing an order assessing a civil penalty, the recipient can either submit its payment upon acceptance of the offer or certify that the payment will be made within a certain timeframe. See Storm Water Expedited Settlement Program.

Recipients are given a predetermined number of days to accept the offer. The offer is automatically withdrawn, without prejudice to EPA's ability to institute an enforcement action for noncompliance identified in the "Findings, Alleged Violations, and Proposed Penalty," if the recipient fails to accept within the designated timeframe. Regions have the discretion to extend the offer, for cause, but generally should not grant an extension beyond 60 to 90 days after the

violator's receipt of the official expedited settlement offer. The release language in the agreement should be consistent with longstanding form and procedural requirements in our administrative settlements to resolve only the civil and administrative claims narrowly and specifically identified in the administrative settlement agreement. As such, the expedited settlement agreement should indicate that once final, EPA will take no further civil action against the recipient for the violations of the specific regulations described in the attached "Findings, Alleged Violations, and Proposed Penalty" form.

6. Commitment to Escalate the Enforcement Response if the Offer is Rejected

Since the expedited settlement offer is optional, the recipient may choose to decline the offer or fail to respond to the offer at all. In either situation, the Region should be prepared to escalate the enforcement response by commencing an enforcement proceeding. Without this commitment to escalate, EPA's failure to pursue a more formal action for the violations could significantly detract from the regulated community's incentive to accept these expedited settlement offers.

7. Purpose and Goals of the Proposed Pilot

Though a pilot may contain the preceding six general components, Headquarters' decision to nationally authorize all Regions to implement a particular pilot as a national program will be based upon a review of the pilot, after it has been field-tested, to determine if it is a viable compliance and enforcement tool. After it has been field-tested for no more than one year, Headquarters, in consultation with the Regions, will either expand the pilot into a national program, with or without modifications, or decide to discontinue the pilot. In the event that substantial modifications are made to the pilot, Headquarters may decide that further field-testing is required.

In the pilot proposal, the Region should identify the purpose and goals of the pilot, the factors to be used in assessing whether the pilot accomplished its purpose and achieved the stated goals, and the means by which the information to measure effectiveness will be gathered. As part of the pilot proposal, the Region should describe how it will gather such information and indicate how this information will be communicated to Headquarters. One way to communicate this information could be through monthly or quarterly conference calls between Headquarters and regional personnel implementing the pilot.

Factors that Headquarters has previously considered in assessing whether a pilot is a viable compliance and enforcement tool include: the ease with which the inspectors could identify violations appropriate for expedited settlement treatment and use an accompanying checklist either during or after the inspection for such violations; whether the inspectors encountered any difficulties in using inspection forms during the inspection; the number of sites eligible for expedited settlement treatment that accepted the expedited settlement offer; whether the regulated community found the process confusing; whether the expedited settlement

approach saved the Region resources or enabled the Region to reach a universe of the regulated community that the Region would not otherwise have been able to reach; and whether there was an increase in compliance.

IV. CIRCUMSTANCES IN WHICH AN EXPEDITED SETTLEMENT APPROACH IS INAPPROPRIATE

The expedited settlement approach is not always the appropriate enforcement tool for a particular violator. For instance, an expedited settlement is not an appropriate enforcement response for violations that resulted in significant harm to human health or the environment, or may have presented an imminent and substantial endangerment to human health or the environment. Moreover, an expedited settlement is not an appropriate enforcement response for a repeat violator. For purposes of future expedited settlement pilot proposals, the definition of repeat violator can be either as stringent, or more stringent, than the following definition: a violator who, in the past five years, has had the same or closely-related violations: 1) at the facility where the instant violation occurred; or 2) at multiple facilities, i.e., three or more facilities, under the ownership, operation, or control of the violator. The five-year period begins to run when a federal, state, tribal, or local government has given the violator notice of a specific violation, without regard to when the original violation cited in the notice actually occurred.

Traditional enforcement actions should be pursued for all violations where an expedited settlement is not adequate to address the level of noncompliance or the nature of the violator. In determining whether a particular violator should be eligible for an expedited settlement, Regions should consider whether the duration of noncompliance is significant, and whether the violator has gained significant economic benefit as a result of delayed compliance. Additionally, the expedited settlement approach is never appropriate for entities that deliberately conceal evidence of noncompliance, or fail or refuse to provide records or access necessary to determine compliance status.

V. PROCESS FOR SEEKING APPROVAL FOR NEW EXPEDITED SETTLEMENT PILOTS

Each Region seeking to pilot a new expedited settlement approach must communicate with the media-specific ORE Division prior to implementation. While the media-specific ORE Division will serve as the first point of contact for the Regions, ORE will coordinate with the appropriate OC Division to ensure that ORE and OC communicate regarding future expedited settlement pilots. ORE commits to decide whether to approve an expedited settlement pilot within ninety days of receiving a Region's pilot proposal.

Because Headquarters approval is generally necessary for any administrative settlement that deviates from the applicable penalty policy, Regions must obtain Headquarters' approval for any expedited settlement pilot for which the range of penalties is below the range of penalties assessed for such violations using the penalty policy. If a Region's enforcement response does not deviate from the applicable penalty policy, it is not an expedited settlement for purposes of

this memorandum. While such an enforcement response does not require advance Headquarters approval, we request that the Regions advise the media-specific ORE Division if the enforcement response is used for a class of violators or violations as opposed to use on a case-by-case basis. As the national compliance and enforcement program manager, OECA monitors the range of compliance and enforcement tools used by each Region. Once new expedited settlements have been successfully piloted, Headquarters will authorize the Regions to implement the pilot nationally as an expedited settlement program, though no Region is obligated to implement the tool.

To hasten the pilot approval process, the pilot proposal should embody the seven general components discussed in Section III and identify the circumstances in which an expedited settlement would be inappropriate as discussed in Section IV. Upon review of the Region's pilot proposal, and after reaching agreement with the Region with regard to its pilot proposal, ORE will issue an approval memorandum that communicates Headquarters' understanding of the monetary range for settlements, the type of violators and violations for which the expedited settlement pilot is appropriate, the mechanics for implementation and integration. In addition, this memorandum approves the expedited settlement documents to be used in the pilot.

The expedited settlement documents accompanying a Region's pilot proposal should follow the same basic format identified in Section III.5 and comply with 40 C.F.R. Part 22 (see 40 C.F.R. §§ 22.13(b); 22.14(a)(1)-(3), (8); 22.18(b)). The expedited settlement agreement must clearly identify the alleged violations, the basis for alleging such violations (e.g., inspectors' observations or simple information request letter), and EPA's authority to enter into the expedited settlement. The document should require the recipient to admit jurisdiction, waive any right to a hearing to contest the allegations and appeal the proposed order accompanying the consent agreement, and clearly delineate the terms and conditions of the settlement offer. Finally, the document must ensure compliance, such as requiring the recipient to certify that the violations have been corrected and that the penalty has been, or will be, paid. The settlement does not become final until the recipient, the settling complainant, and the approving Agency official have signed the document. Additionally, the expedited settlement offer is automatically withdrawn if not accepted within 30 to 45 days of receipt or, if an extension has been granted, not accepted within the extended timeframe.

VI. APPROVAL OF EXISTING EXPEDITED SETTLEMENT PROGRAMS

With the transmittal of this memorandum, all Regions are authorized, without prior Headquarters approval, to implement the SPCC Expedited Settlement Program and use the documents attached to this Memorandum at Appendix 2. In addition, Regions can continue using the UST Expedited Settlement Program. A Region not previously authorized to use the SPCC Expedited Settlement Program must communicate through a memorandum to ORE's Water Enforcement Division, prior to implementation, that it is committed to using the SPCC Expedited Settlement Program as part of a complete SPCC enforcement program that will encompass other Class I or Class II cases as well as judicial referrals. In addition, Regions must

commit to use the SPCC Expedited Settlement Program to complement, rather than a substitute for, other formal CWA § 311 enforcement. A Region choosing to implement the SPCC Expedited Settlement Program retains the right to not extend an expedited settlement offer to any particular violator.

A Region's memorandum to the Water Enforcement Division must also indicate that it will use the SPCC Expedited Settlement Program for violations that may be appropriately settled in the range of $400 to $2,500, and for the violations reflected in "Findings, Alleged Violations, and Proposed Penalty Form" (Form) at Appendix 2. If a Region wants to implement a program in which the eligible violations deviate from those identified in the Form, the Region must seek prior approval from the Water Enforcement Division. The Water Enforcement Division will not, however, allow Regions to deviate with regard to penalty amount, and, at this time, will not revisit the penalty amounts reflected in the Form. The Water Enforcement Division, however, has committed to review the SPCC Expedited Settlement Program, both in terms of the eligible violations and the penalty amounts, in the near future. Finally, consistent with the approach taken in previously authorized Regions, prior to implementation, a Region must ensure that its inspectors are trained in the use of this tool. To obtain training materials for the SPCC Expedited Settlement Program, please contact the Water Enforcement Division.

Regions previously authorized to implement an SPCC Expedited Settlement approach should note, however, that in issuing national approval of the SPCC Expedited Settlement Program, Headquarters has made two changes with regard to the types of violations eligible for expedited settlement treatment. In particular, for bulk storage tanks, excluding production facilities, "[s]econdary containment [that] appears to be grossly inadequate" is no longer an eligible violation under the SPCC Expedited Settlement Program and will now read "secondary containment appears to be inadequate." Additionally, "[n]o spill prevention control and countermeasure plan" is no longer an eligible violation for bulk storage facilities with greater than 1,000 barrels. Also note that the scope of the release language has been slightly narrowed to ensure consistency with the Agency's longstanding form and procedural requirements in administrative settlements, discussed in Section III.5.

With regard to other expedited settlement programs, OECA has issued national approval of the Storm Water Expedited Settlement Program and, in the near future, will issue national approval of an expedited settlement program for certain violations of CAA § 112(r)(7). Summaries of all four expedited settlement programs are provided in Appendix 1. Headquarters authorization to implement these programs, however, depends upon adherence to the components and structure of the respective expedited settlement programs. Documents for Storm Water Expedited Settlements have been provided under separate cover. Documents for CAA § 112(r) Expedited Settlements are expected to be finalized in the near future.

This transmittal does not authorize Regions to implement Spill Expedited Settlements without prior Headquarters approval. Until further notice, those Regions that have obtained Headquarters approval to deviate from the CWA § 311 Civil Penalty Policy and have implemented an expedited settlement approach for minor impact spills pursuant to CWA §311(b)

(i.e., Regions IV, VI, VIII, and X) may continue to do so. ORE's Water Enforcement Division is currently reevaluating the Spill Expedited Settlement Pilot. A forthcoming transmittal from the Water Enforcement Division will discuss the future role of this expedited settlement approach.

VII. INTEGRATED COMPLIANCE INFORMATION SYSTEM (ICIS) DATA ENTRY

The Office of Compliance (OC) has worked with ORE to enhance ICIS to ensure that expedited settlements, although counted as both Administrative Penalty Order (APO) complaints and settlements, can be segregated from non-expedited settlement APO complaints and settlements. Beginning November 10, 2003, new expedited settlement values will be operational in ICIS. For existing Headquarters-approved expedited settlements, ICIS will contain values in the Enforcement Action Type drop-down menu in which information on the expedited settlement must be entered.[4] Pursuant to the Small Business Paperwork Relief Act of 2002 (SBPRA), EPA must prepare a regulatory enforcement report that specifies civil penalties assessed against regulated entities and, in particular, small businesses.[5] To comply with the reporting requirements of the SBPRA, EPA must track expedited settlement APOs separately from non-expedited APOs. The Regions, therefore, should use the small business flag if the facility receiving an expedited settlement is a small business, as defined in the Small Business Compliance Policy.

For expedited settlement agreements issued pursuant to 40 C.F.R § 22.13(b), the date that the Regional Administrator, Regional Judicial Officer, or Environmental Appeals Board signs the consent agreement and final order is the date that should be entered into ICIS for both the initiation and conclusion of the administrative enforcement action. We take this approach, because it is consistent with the plain meaning of 40 C.F.R. § 22.13(b), which provides that a

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[4] The following represents an example of the Enforcement Action Type drop-down list in ICIS for the Headquarters-approved expedited settlement programs and pilots:

CAA § 113D1 Action for Penalty - 112(r) Expedited Settlement Program
CWA § 309G2 AO For Class I Penalty - Storm Water Construction Expedited Settlement Program
CWA § 311B6B1 AO For Class I Penalty - SPCC Expedited Settlement Program
CWA § 311B6B1 AO For Class I Penalty - Spill Expedited Settlement Pilot (Approved in Individual Regions)
RCRA § 9006 AO For Comp And/Or Penalty (UST) - UST Expedited Settlement Program

[5] The Small Business Paperwork Relief Act of 2002 (SBPRA), Public Law 107-198, requires agencies to prepare regulatory enforcement reports that contain the following: 1) the number of enforcement actions in which a civil penalty is assessed; 2) the number of enforcement actions in which a civil penalty is assessed against a small business; 3) the number of enforcement actions described in 1) and 2) in which a civil penalty is reduced or waived; and 4) the total monetary amount of the reductions or waivers referred to in 3). In January and June 2003, Headquarters issued two guidance documents to address EPA's obligations under the SBPRA. Contact the Office of Compliance to obtain copies of these guidance documents.

proceeding is simultaneously commenced and concluded by the issuance of a consent agreement and final order. Because we recognize the importance of tracking whether a respondent has signed and returned an expedited settlement offer within the requisite timeframe, ICIS is being revised to add an Administrative Enforcement Action Sub-activity for "expedited settlement offered." This Sub-activity will be operational on November 10, 2003. Additionally, the Regions are reminded that, pursuant to 40 C.F.R. § 22.6, these expedited consent agreements and final orders must be filed with the Regional Hearing Clerk. See also 40 C.F.R. § 22.31(b).

In reviewing each Region's enforcement program, Headquarters will consider whether the expedited settlement tool is used appropriately. Headquarters retains the discretion to revisit a Region's authorization to implement the tool. Similarly, Headquarters, coordinating with the Regions, may revisit national expedited settlement programs to ensure that such tools continue to address the compliance problem at issue. We look forward to working with the Regions in exploring meaningful and effective opportunities to use the expedited settlement tool. For program/pilot specific questions, please contact the media-specific ORE Divisions. Contact information for existing programs is provided in the Summary of Existing Expedited Approaches, attached to this memorandum in Appendix 1.

EXPEDITED SETTLEMENT RESOURCES

APPENDIX 1:	SUMMARY OF EXISTING EXPEDITED SETTLEMENT APPROACHES, AND CONTACT INFORMATION
APPENDIX 2:	SPCC EXPEDITED SETTLEMENT DOCUMENTS
APPENDIX 3:	UST EXPEDITED SETTLEMENT PROGRAM INFORMATION

APPENDIX 1: SUMMARY OF EXISTING EXPEDITED SETTLEMENT APPROACHES, AND CONTACT INFORMATION

Underground Storage Tank (UST) Expedited Settlement

The UST Expedited settlement approach offers a "traffic ticket"-styled citation that can be issued on-site to first-time violators for clear-cut violations that are relatively easy to correct. Part I of the citation document is the Compliance Order. In this section, the inspector identifies the violations observed during the inspection and the predetermined penalty amount. Part II contains the Settlement Agreement. In this section, the recipient agrees to waive any jurisdictional objections and certifies, under penalty of perjury, that the violations identified in Part I have been corrected and that the full penalty has been paid.

The recipient has thirty (30) days to accept and return the agreement or the compliance order and settlement agreement are withdrawn. The Region has the discretion to grant a 30-day extension if: 1) the owner or operator files a formal request for the extension; 2) the owner or operator demonstrates that there are factors beyond its control that necessitate an extension; and 3) the Region believes that compliance will be achieved within the period of the extension. Instructions accompanying the settlement offer explain the agreement's terms and conditions.

Inspectors performing UST inspections exercise little discretion in citing violations eligible for expedited settlement treatment because the inspectors use a list of violations in 40 C.F.R. Part 280, with predetermined penalty amounts prescribed for each violation. Potential penalties for UST Expedited Settlement violations go up to $1,300. Each Region has the discretion to place an upper limit on the number of violations that may be cited at one site. However, the threshold should be set below the point beyond which the number of violations, regardless of the nature, suggest that a facility is seriously out of compliance and requires a more formal enforcement response.

Regions interested in using UST Expedited Settlements should develop a set of Standard Operating Procedures (SOP). The SOP generally should include information on what training is required for inspectors, what procedures are required for issuing citations and conducting follow-up activities, how to handle requests for extensions, and what steps to follow when the terms of the expedited settlement agreement are not met.

For additional information on the UST Expedited Settlement Program, please contact Diana Saenz (202) 564-4209.

Clean Water Act (CWA) § 311(j) Spill Prevention Control and Countermeasure (SPCC) Expedited Settlement

The SPCC Expedited Settlement approach is aimed at less egregious violations of the SPCC regulations. The approach is used for violations that may be settled in the range of $400 to $2,500, and is limited to such violations witnessed and described by the field inspector. The

field inspector uses a "Findings, Alleged Violations, and Proposed Penalty" form that both documents the SPCC violations observed during the inspection and identifies the SPCC violations eligible for expedited settlement. The form also provides the predetermined penalty amount for the violation(s) observed.

The SPCC expedited settlement agreement cites the statutory and regulatory authority EPA uses to enter into the agreement for the alleged violations and incorporates, by reference, the inspectors' observations as documented in the form. Upon acceptance, the recipient must certify that the violations have been corrected and that the penalty has been paid, in full. By accepting the agreement, the recipient admits that it is subject to the SPCC regulations and that EPA has jurisdiction to enforce the SPCC regulations. The recipient has thirty (30) days to sign and return the agreement. Instructions accompanying the expedited settlement offer explain the agreement's terms and conditions.

For additional information on the SPCC Expedited Settlement Program, please contact David Drelich at (202) 564-2949.

CWA Storm Water Expedited Settlement

On August 21, 2003, Headquarters issued national approval of the Storm Water Expedited Settlement Program. Six Regions participated in the development of this expedited settlement program, advising Headquarters as to the appropriate scope of the program and penalty ranges. In addition, the Regions provided input on a one-page boilerplate settlement document. The Storm Water Expedited Settlement Program provides the Regions with expedited settlement tools, criteria, an inspector worksheet, an expedited settlement offer worksheet, and the expedited settlement agreement.

Use of an expedited settlement approach in the storm water program is appropriate because the universe of violators generally exceeds a Region's or state's resources for conducting traditional enforcement actions. Storm water expedited settlements will be limited to first-time violators of the storm water requirements where the threat to the environment and public health is not serious enough to warrant an escalated enforcement response. Penalty amounts are less than $15,000, and will only be offered at construction sites that are no larger than 50 acres. The authority to sign the expedited settlement may be delegated to the Branch Chief level.

For additional information on the Storm Water Expedited Settlement Program, please contact Lauren Kabler at (202) 564-4052.

Clean Air Act (CAA) § 112(r) Expedited Settlement

The forthcoming CAA § 112(r) Expedited Settlement approach will afford owners and operators the opportunity to come into compliance with Part 68, and to settle their outstanding liability for a reduced penalty. The settlement offer will include a provision ordering the source to comply with Part 68. Settlement offer recipients will generally receive forty-five (45) days to

pay the monetary penalty and come into compliance. Recipients may be granted one extension to come into compliance with the Part 68 requirements.

For additional information on the CAA § 112(r) Expedited Settlement Program, please contact Craig Haas at (202) 564-6447.

APPENDIX 2: SPCC EXPEDITED SETTLEMENT DOCUMENTS

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION _____
SPCC EXPEDITED SETTLEMENT AGREEMENT

INSTRUCTIONS

The United States Environmental Protection Agency (EPA) has authority under Section 311 of the Clean Water Act to pursue civil penalties for violations of the Spill Prevention Control and Countermeasure (SPCC) regulations. However, EPA encourages the expedited settlement of easily verifiable violations of SPCC requirements, such as the violations cited in the Expedited Settlement Agreement for which these instructions are provided.

You may resolve the cited violations quickly by signing and returning the original Expedited Settlement Agreement and paying the penalty amount within 30 days of your receipt of the Expedited Settlement Agreement. As a condition of the settlement, you must also correct the violations within 30 days of your receipt of the Expedited Settlement Agreement. 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 Expedited Settlement Agreement is binding on EPA and the owner or operator. Upon signing and returning of the Expedited Settlement Agreement and a check for the amount of the penalty, copies of which should be retained by you, EPA will take no further civil action against you for these violations. EPA will not accept or approve any Expedited Settlement Agreement returned more than 30 days after the date of your receipt of the settlement agreement unless an extension has been granted by EPA.

If you do not sign and return the Expedited Settlement Agreement with payment of the penalty amount within 30 days of your receipt of the Expedited Settlement Agreement, unless an extension has been granted by EPA, the Expedited Settlement Agreement is automatically withdrawn, without prejudice to EPA's ability to file an enforcement action for the above or any other violations. Failure to return the Expedited 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 in the SPCC Inspection Findings, Alleged Violations and Proposed Penalty Form. If you decide not to sign and return the Expedited Settlement Agreement and pay the penalty, EPA can pursue more formal enforcement measures to correct the violation(s) and seek penalties of up to $11,000 per violation up to a maximum penalty of $27,500.

You are required in the Expedited Settlement Agreement to certify that you have corrected the violations and paid the penalty amount. The payment for the penalty amount must be in the form of a certified check payable to the "Oil Spill Liability Trust Fund," with EPA and the Docket Number of the Expedited Settlement Agreement on the check. The Docket Number is located at the top of the left column of the Expedited Settlement Agreement.

The original, signed, Expedited Settlement Agreement and the original, Certified Check Payment of the penalty amount must be sent via CERTIFIED MAIL to:

OPA Enforcement Coordinator
U. S. Environmental Protection Agency

_____
_____
_____

By the terms of the Expedited Settlement Agreement, you waive your opportunity for a hearing pursuant to Section 311 of the Clean Water Act. EPA will treat any response to the proposed Expedited Settlement Agreement, other than acceptance of the settlement offer, as an indication that the recipient is not interested in pursuing this expedited settlement procedure.

If you have any questions, you may contact EPA Region _ at_____

Spill Prevention Control and Countermeasure Inspection Findings, Alleged Violations, and Proposed Penalty Form

(Note: Do not use this form if there is no secondary containment)

These Findings, Alleged Violations and Penalties are issued by EPA Region __ under the authority vested in the Administrator of EPA by Section 311(b)(6)(B)(I) of the Clean Water Act, as amended by the Oil Pollution Act of 1990

Company Name

Docket Number: C W A - 0 -

Facility Name

Date

Address

Inspection Number: F Y - I N S P -

City:

Inspectors Name:

State: Zip Code:

EPA Approving Official:

Contact:

Enforcement Contacts:

Summary of Findings

(Bulk Storage Facilities)

GENERAL TOPICS: 112.3(d), (e); 112.5(a), (b), (c); 112.7 (b), (c), (d)
(When the SPCC Plan review penalty exceeds $1,000.00 enter only the minimum allowable of $1,000.00.)

- ☐ No Spill Prevention Control and Countermeasure Plan (excluding Bulk Storage facilities over 1,000 barrels) $1,000.00
- ☐ Plan not certified by a professional engineer 300.00
- ☐ No management approval of plan 300.00
- ☐ Plan not available for review 300.00
- ☐ Plan not maintained on site (applies if facility is manned at least eight (8) hours per day) 100.00
- ☐ No evidence of three-year review of plan by owner/operator 50.00
- ☐ No plan amendment(s) if the facility has had a change in: design, construction, operation, or maintenance which affects the facility's discharge potential 50.00
- ☐ Amendment(s) not certified by a professional engineer 100.00
- ☐ Inadequate or no prediction of equipment failure which could result in discharges 100.00
- ☐ Plan does not discuss appropriate containment/diversionary structures/equipment 100.00

Claiming installation of appropriate containment/diversionary structures is impractical but:

- ☐ No contingency plan $100.00
- ☐ No written commitment of manpower, equipment, and materials 100.00

Written Procedures and Inspection Records 112.7(e)(8)

- ☐ Inspections required by 40 CFR Part 112 are not in accordance with written procedures developed for the facility 50.00
- ☐ Written procedures and a record of inspections are not signed by facility supervisor 50.00
- ☐ Written procedures and a record of inspections are not made part of the plan 50.00
- ☐ Written procedures and a record of inspections are not maintained for three years 50.00

Personnel Training and Spill Prevention Procedures 112.7(e)(10)

- ☐ No training on the operation and maintenance of equipment to prevent discharges 50.00
- ☐ No training on the applicable laws, rules, and regulations 50.00
- ☐ No designated person responsible for spill prevention 50.00
- ☐ Spill prevention briefings are not scheduled and conducted periodically 50.00
- ☐ Plan has inadequate or no discussion of personnel and spill prevention procedures 50.00

FACILITY DRAINAGE, ONSHORE (excluding Production Facilities) 112.7(e)(1)

- ☐ Valves used to drain diked areas are not of manual, open-and-closed design (note: flapper-type valves should not be used). 200.00
- ☐ Pumps or ejectors not manually activated when diked storage areas drained 100.00
- ☐ Drainage from undiked areas not into ponds, lagoons, or catchment basins, or no diversion systems to return spills to the facility. 400.00
- ☐ Plan has inadequate or no discussion of facility drainage 50.00

BULK STORAGE TANKS (excluding Production Facilities) 112.7(e)(2)

- ☐ Material and construction of tanks not compatible to the material stored and the conditions of storage such as pressure and temperature 300.00
- ☐ Secondary containment appears to be inadequate 500.00
- ☐ Materials of construction are not sufficiently impervious 250.00
- ☐ Excessive vegetation which affects the integrity of the containment system 100.00
- ☐ Walls of containment system are slightly eroded or have low areas 200.00

When drainage from diked areas is to a storm drain, open water course, or lake or pond:

- ☐ Bypass valve not normally sealed closed 300.00
- ☐ Runoff rain water not inspected and/or will cause a harmful discharge as defined in 40 CFR 110 .... 300.00
- ☐ Bypass valve is not opened and resealed under responsible supervision 100.00
- ☐ Adequate records of drainage events are not maintained 50.00
- ☐ Underground tanks are not protected from corrosion or are not subjected to regular pressure testing. . 100.00
- ☐ Partially buried tanks do not have buried sections protected from corrosion. 100.00
- ☐ Aboveground tanks not subject to periodic integrity testing, such as visual, hydrostatic, and nondestructive methods, etc. 300.00
- ☐ Outside of tank not frequently observed for signs of deterioration, leaks which might cause a spill, or accumulation of oil inside diked area. 300.00
- ☐ Steam return /exhaust of internal heating coils which discharge into an open water course not monitored, passed through a settling tank, skimmer, or other separation system. 100.00
- ☐ Records of inspections of aboveground tanks are not maintained 50.00

Tanks are not "fail-safe" engineered:

- ☐ No audible or visual high liquid level alarm, or 300.00
- ☐ No high-level pump cutoff devices set to stop flow at a predetermined tank content level, or 300.00
- ☐ No direct communications between tank gauger and pumping station, or 300.00
- ☐ No fast response system for determining liquid levels, such as computers, telepulse or direct vision gauges. 300.00
- ☐ No testing of liquid level sensing devices to ensure proper operation 50.00
- ☐ Disposal facilities which discharge plant effluents directly to navigable waters are not monitored frequently to detect oil spills 100.00
- ☐ Visible oil leaks resulting in accumulations of oil in diked areas are not promptly corrected 300.00
- ☐ Mobile or portable storage tanks are not positioned to prevent spilled oil from reaching navigable water, or are in area subject to flooding. 100.00
- ☐ Secondary containment inadequate for mobile or portable storage tanks 500.00
- ☐ Plan has inadequate or no discussion of bulk storage tanks 50.00

FACILITY TRANSFER OPERATIONS, PUMPING, AND IN-PLANT PROCESSES, ONSHORE (excluding Production Facilities) 112.7(e)(3)

- ☐ Buried piping not corrosion protected with protective wrapping, coating, or cathodic protection. 100.00
- ☐ Corrective action not taken on buried piping when corrosion damage found 300.00
- ☐ Terminal connections at transfer points on not-in-service or standby pipelines are not capped or blank-flanged and marked as to origin 50.00

- ☐ Pipe supports are not properly designed to minimize abrasion and corrosion, and allow for expansion and contraction. 50.00
- ☐ Aboveground valves and pipelines are not inspected regularly 200.00
- ☐ Periodic pressure testing of the valves and pipelines is not conducted 100.00
- ☐ Vehicle traffic not warned verbally or by appropriate signs of aboveground piping. 100.00
- ☐ Plan has inadequate or no discussion of facility transfer operations, pumping, and in-plant processes. . 50.00

FACILITY TANK CAR AND TANK TRUCK LOADING/UNLOADING RACK, ONSHORE 112.7(e)(4)

- ☐ Inadequate secondary containment, and/or rack drainage does not flow to catchment basin, treatment system, or quick drainage system. 500.00
- ☐ Containment system does not hold at least the maximum capacity of the largest single compartment of any tank car or tank truck. 300.00
- ☐ There is no interlocked warning light, physical barrier system, or warning signs to prevent vehicular departure before complete disconnect from transfer lines. 200.00
- ☐ There is no inspection of lowermost drains and all outlets prior to filling and departure of any tank car or tank truck. 100.00
- ☐ Plan has inadequate or no discussion of facility tank car and tank truck loading/unloading rack. 50.00

SECURITY (excluding Production Facilities) 112.7(e)(9)

- ☐ Facility not fully fenced and entrance gates are not locked and/or guarded when plant is unattended or not in production. 100.00
- ☐ Master flow and drain valves that permit direct outward flow of tank's contents to the surface are not secured in closed position when in a non-operating or standby status. 200.00
- ☐ Starter controls on pumps are not locked in the "off" position or located at a site accessible only to authorized personnel when pumps are not in a non-operating or standby status. 50.00
- ☐ Loading and unloading connection(s) of pipelines are not capped or blank-flanged when not in service. 50.00
- ☐ Facility lighting not commensurate with the type and location of facility to facilitate the discovery of spills during hours of darkness and to deter vandalism. 100.00
- ☐ Plan has inadequate or no discussion of facility security 50.00

TOTAL $_____

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
[Region __, Address]
SPCC EXPEDITED SETTLEMENT AGREEMENT

DOCKET NO.__ - - __

On_____ Time_____
At:_____
_____
_____
Owned or operated by:_____
_____
_____(Respondent)_____

an authorized representative of the United States Environmental Protection Agency (EPA) conducted an inspection to determine compliance with the Oil Pollution Prevention (SPCC) regulations promulgated at 40 CFR Part 112 under Section 311(j) of the Clean Water Act, 33 U.S.C. § 1321(j), (the Act), and found that Respondent had failed to comply with the SPCC regulations as noted on the attached SPCC INSPECTION FINDINGS, ALLEGED VIOLATIONS AND PROPOSED PENALTY FORM (Form), which is hereby incorporated by reference. By its first signature below, EPA ratifies the Inspection Findings and Alleged Violations set forth in the Form.

EPA finds the Respondent is subject to the SPCC regulations and has violated the SPCC regulations as further described in the Form. The Respondent admits being subject to 40 CFR Part 112 and that EPA has jurisdiction over the Respondent and the Respondent's conduct as described in the Form. Respondent does not contest the Inspection Findings, and waives any objections Respondent may have to EPA's jurisdiction.

EPA is authorized to enter into this Expedited Settlement under the authority vested in the Administrator of EPA by Section 311(b)(6)(B)(i) of the Act, 33 U.S.C. § 1321(b)(6)(B)(i), as amended by the Oil Pollution Act of 1990, and by 40 CFR § 22.13(b). The parties enter into this Expedited Settlement in order to settle the civil violations described in the Form for a penalty of $_____. The Respondent consents to the assessment of this penalty.

This Expedited Settlement is also subject to the following terms and conditions: Respondent certifies, subject to civil and criminal penalties for making a false submission to the United States Government, that the violations have been corrected and Respondent has sent a certified check in the amount of $_____, payable to the "Oil Spill Liability Trust Fund," to: **[Regional addressee]**. Respondent has noted on the penalty payment check "EPA" and the docket number of this case, " - - ."

After this Expedited Settlement becomes effective, EPA will take no further civil action against the Respondent for the violations of the SPCC regulations described in the Form. However, EPA does not waive any rights to take any enforcement action for any other past, present, or future violations by the Respondent of the SPCC regulations or of any other federal statute or regulation.

Upon signing and returning this Expedited Settlement to EPA, Respondent waives the opportunity for a hearing or appeal pursuant to Section 311 of the Act, and consents to EPA's approval of the Expedited Settlement without further notice.

This Expedited Settlement is binding on the parties signing below, and is final upon the **[appropriate official's]** signature. If Respondent does not sign and return this Expedited Settlement as presented within [30] days of the date of its receipt, the proposed Expedited Settlement is withdrawn without prejudice to EPA's ability to file any other enforcement action for the noncompliance identified in the Form.

APPROVED BY EPA:

_____ Date:_____
[Complainant]
[Title]

APPROVED BY RESPONDENT:

Name (print):_____

Title (print):_____

Signature:_____

IT IS SO ORDERED:

_____ Date_____
[Appropriate official]
[Title]

OREREV.4/3/02

APPENDIX 3: UST EXPEDITED SETTLEMENT PROGRAM INFORMATION

Visit: http://www.epa.gov/OUST/directiv/od961016.htm#SELECTED VIOLATIONS to obtain a list of UST regulations eligible for expedited settlement.

Visit: http://www.epa.gov/OUST/directiv/od961016.htm#COMPLIANCE ORDER for Model UST Compliance Order and Settlement Agreements for states with or without Approval.