

# Complaint Policy

Division of Underground Storage Tanks  
12-17-2018 (Amended 6/18/2021)

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DISCLAIMER: This document is policy only and does not create legal rights or obligations. It is intended to provide division staff guidance on how to apply decisions, procedures and practices pertaining to the internal operation or actions of the division. Decisions affecting the public, including the regulated community, in any particular case will be made applying applicable laws and regulations to the specific facts. Mention of trade names or commercial products does not constitute an endorsement or recommendation for use.

## 1. Purpose

### a. Authority to Investigate

The Tennessee Petroleum Underground Storage Tank Act (UST Act) provides authority to the Commissioner in § 68-215-107(a) through (e) to investigate complaints and the enforce rules of the Underground Storage Tanks and Solid Waste Disposal Control Board adopted pursuant to § 68-215-107(f)(1) through (11) in Chapter 0400-18-01. This document establishes a policy for receiving and responding to complaints, responding to complainants, tracking results, and periodically analyzing the data collected by the Division of Underground Storage Tanks (UST Division).

### b. Definition of Complaint for this Policy

Since the UST Act or rules do not contain a definition for the term complaint, for the purposes of this Policy, valid complaints for the UST Division only include petroleum USTs regulated by the UST Act and rules adopted by the Board.

### c. Clarification that Complaints may be Anonymous

There is no requirement in the UST Act for complainants to identify themselves or to submit a complaint in writing. Consequently, UST Division staff will accept complaints in any format, written or unwritten, and there is no requirement for a complainant to identify themselves or to provide a mailing or email address or telephone number unless they chose to for post complaint follow-up by the staff member.

## 2. Definitions

A petroleum underground storage tank or petroleum UST is defined in § 68-215-103(14).

"Petroleum underground storage tank" means any one (1) or combination of tanks (including the underground lines connected thereto) which are used or have been used to contain an accumulation of petroleum substances, and the volume of which (including the volume of the underground pipes connected thereto) is ten percent (10%) or more beneath the surface of the ground. "Petroleum underground storage tank" does not include any tank exempted from this chapter pursuant to § 68-215-124;"

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Exempted tanks under § 68-215-124 are:

- (1) Septic tanks;
- (2) Farm or residential tanks of one thousand one hundred gallons (1,100 gal.) or less used for storing motor fuel for noncommercial purposes;
- (3) Tanks used for storing heating oil for consumption on the premises where stored;
- (4) Pipeline facilities (including gathering lines) regulated under:
  - (A) The Natural Gas Pipeline Safety Act of 1968, compiled in 49 U.S.C. Appx. § 60101 et seq.;
  - (B) The Hazardous Liquid Pipeline Safety Act of 1979, compiled in 49 U.S.C. Appx. § 60101 et seq.;or
- (C) State laws comparable to the law referred to in subdivision (4)(A) or (4)(B), if it is an intrastate pipeline;
- (5) Surface impoundments, pits, ponds, or lagoons;
- (6) Storm water or waste water collection systems;
- (7) Flow-through process tanks;
- (8) Liquid traps or associated gathering lines directly related to oil or gas production and gathering operations;
- (9) Petroleum storage tanks situated in an underground area (such as a basement, cellar, mine working, drift, shaft, or tunnel) if the storage tank is situated upon or above the surface of the floor; and
- (10) Pipes or connections connected to exempted tanks."

3. The UST Division only has oversight of petroleum USTs, associated piping and ancillary equipment regulated by the UST Act and rules adopted by the Board. The situations listed below are the most commonly received complaints<sup>1</sup>.

### Unregistered Tanks

UST Act	Unlawful Actions	§ 68-215-104(2)
UST Act	Notification as to tanks in use and tanks taken out of operation	§ 68-215-106(a)(1) and (a)(4)
UST Act	Notification as to tanks in use and tanks taken out of operation	§ 68-215-106(f)(9)
UST rules	Notification, Reporting, and Record Keeping	0400-18-01-.03(1)(a)1 and 2

### Release Prevention

UST Act	Unlawful Actions	§ 68-215-104(2) and (6)
UST Act	Supervision, inspection, and enforcement responsibilities	§ 68-215-107(f)(6) and (7)
UST rules	Spill and overfill prevention	0400-18-01-.02(3)(a) through (d)

### Corrosion Protection

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<sup>1</sup> The list of commonly received complaints is not an exhaustive list of all violations that could occur under the UST Act and rules adopted by the Board.

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UST Act	Supervision, inspection, and enforcement responsibilities	§ 68-215-107(f)(6) and (7)
UST rules	Corrosion protection	0400-18-01-.02(4)(a) through (c)6.ii.IV)

### Release Detection

UST Act	Unlawful Actions	§ 68-215-104(2) and (6)
UST Act	Supervision, inspection, and enforcement responsibilities	§ 68-215-107(f)(1)
UST rules	Release detection	0400-18-01-.04(1)(a) through (5)(c)

Released petroleum discovered at the petroleum site or in the surrounding area by persons other than the responsible party or their service companies and corrective action contractors

UST Act	Unlawful Actions	§ 68-215-104(1)
UST Act	Supervision, inspection, and enforcement responsibilities	§ 68-215-107(f)(3) and (4)
UST rules	Release reporting, investigation and confirmation	0400-18-01-.05(1) through (4)(b)
UST rules	Petroleum release response, remediation, and risk management – General requirements	0400-18-01-.06(1)(a)
UST rules	Petroleum release response, remediation, and risk management – Initial Response	0400-18-01-.06(3)(a)

### Illegal Tank Closures

UST Act	Unlawful Actions	§ 68-215-104(2)
UST Act	Supervision, inspection, and enforcement responsibilities	§ 68-215-107(f)(5)
UST rules	Release detection	0400-18-01-.07

### Deliveries to unregistered or red tagged tanks

UST Act	Unlawful Actions	§ 68-215-104(2) and (3)
UST Act	Unlawful use of tanks identified or not identified by notice or tag	§ 68-215-106(c) through (f)
UST rules	Petroleum product delivery	0400-18-01-.15

Tampering with release detection or release prevention equipment

UST Act	Unlawful Actions	§ 68-215-104(2) and (6)
UST Act	Unlawful use of tanks identified or not identified by notice or tag	§ 68-215-106(c) through (f)
UST rules	Petroleum product delivery	0400-18-01-.15

4. The definition of valid complaint for this Policy does not include:
- a. Reporting of a suspected or confirmed release by a regulated party or their representative;
  - b. Inquiries for copies of public records from inspections and cleanup projects;
  - c. Requests for technical assistance with day to day compliance from the public, potential purchasers, real estate agents, tank owners, tank operators, service providers and corrective action contractors on topics like;
    - i Release detection release prevention questions;
    - ii Release response and corrective action questions;
    - iii Fund eligibility and coverage questions;
    - iv Construction or permitting questions;
    - v Notification and fees questions; and
    - vi Liability questions.
  - d. Types of tanks that must be referred to another entity:
    - i Exempt tanks listed in 68-215-124(1) through (10);
    - ii Hazardous substance tanks regulated by the Environmental Protection Agency; and
    - iii All other tanks not defined as a petroleum underground storage tank in 68-215-103(14).
5. Tracking of all valid and invalid complaints will be performed in the GasLog database where the start date for the complaint will be the date the UST Division is contacted by:
- a. The public through an in person conversation, telephone call, email, letter, news report or by any other means; or
  - b. A referral by other TDEC Division, state or local agency, EPA or legislative contact.

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6. The complaint response begins when the complaint is received by the UST Division.
  - a. Employees will follow the work outcomes and action steps in their assigned Individual Performance Plan statements<sup>2</sup>, established UST Guidance<sup>3</sup>, and use established checklists<sup>4</sup> for the site conditions, and arrive with the specified equipment<sup>5</sup>. See attachments A, B and C.
  - b. A trip report will be written and included in GasLog unless already determined to be non-jurisdictional
  - c. Follow-up correspondence<sup>6</sup> will be sent to or a conversation held with the complainant whenever possible unless already determined to be non-jurisdictional
    - i Letter – see attached form letter
    - ii Email – see attached text for email
    - iii Always provide results in a trip report showing findings
    - iv Telephone – place telephone conversation report in GasLog
7. The complaint response is complete and will be closed when the UST Division determines that the complaint:
  - a. Is valid for regulation under UST Act and enters process for compliance inspections or the process for suspected and confirmed releases of petroleum;
  - b. Is not valid for regulation under the UST Act and is referred to other TDEC entity, state or local agency, or EPA; or
  - c. No regulated tank or other environmental condition is found after a trip to the site.
8. Tracking and Data analysis
  - a. Tracking will be performed in the GasLog database and periodic analysis of complaints will be performed by the Field Office Deputy Director to correspond with the mid-year (October 1 through March 31) and end-of-year (April 1 through September 30) Semiannual Reports of UST Performance Measures issued by the Environmental Protection Agency showing at a minimum:
    - i The number and percentage of:
      - A. Valid versus invalid complaints; and

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<sup>2</sup> See Attachment A – IPP work outcomes and action steps

<sup>3</sup> See Attachment B - Technical Guidance Documents 19 and 20

<sup>4</sup> See Attachment C - Drinking Water Complaints, Surface Water Complaints, Vapor Complaints

<sup>5</sup> See Attachment D - Field Equipment Checklist

<sup>6</sup> See Attachment E – Complaint follow-up correspondence

- B. The number and percentage of anonymous versus known complainants.
  - ii Valid for all regulated USTs under the UST Act § 68-215-101 et seq.
    - A. Valid no violations found
    - B. Valid violations found and type of violations
      - I. Release detection
      - II. Release prevention
      - III. Suspected release
      - IV. Confirmed release
      - V. Unregistered petroleum UST
  - iii Invalid for all other tanks and structures not regulated under the UST Act § 68-215-101 et seq.
    - A. Referred yes or no
    - B. Referred where and date
    - C. Complaint types
      - I. Types of invalid complaints for the UST Act
      - II. Age limited pre-1974 and pre-1988 – § 68-215-106(a)(2)
        - (i) All USTs out of service on or before January 1, 1974; and
        - (ii) All USTs out of service after January 1, 1974 and removed from the ground before July 1, 1988
- “For each petroleum underground storage tank taken out of operation after January 1, 1974, the owner of such tank shall within one (1) year after July 1, 1988, notify the commissioner of the existence of such tanks, unless the owner knows such tanks were removed from the ground. The owner of petroleum underground storage tanks taken out of operation on or before January 1, 1974, shall not be required to notify the commissioner. The commissioner shall accept as formal notification the EPA underground storage tank notification form filed with the department by the owner of the petroleum underground storage tank before July 1, 1988.”
- III. Exempt tanks under § 68-215-124 and other tanks

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- IV. Hazardous substance tanks will be referred to the Region IV office of the Environmental Protection Agency in Atlanta, Georgia.
- V. Complaints about the following tanks will be referred to the Division of Solid Waste or Division of Remediation
  - (i) Petroleum ASTs;
  - (ii) Farm and residential tanks of  $\leq 1,000$  gallons that are exempt by § 68-215-124(2);
  - (iii) Tanks used for storing heating oil for consumption on the premises where stored that are exempt by § 68-215-124(3);
  - (iv) Flow-through process tanks that are exempt by § 68-215-124(7);
  - (v) Petroleum storage tanks situated in an underground area (such as a basement, cellar, mine working, drift, shaft, or tunnel) if the storage tank is situated upon or above the surface of the floor that are exempt by § 68-215-124(9); and
  - (vi) Pipes or connections connected to exempted tanks that are exempt by § 68-215-124(10).
- VI. Complaints about the following tanks and structures will be referred to the Division of Water Resources
  - (i) Septic tanks that are exempt by § 68-215-124(1);
  - (ii) Surface impoundment and lagoons that are exempt by § 68-215-124(5);
  - (iii) Storm water and waste water collection systems that are exempt by § 68-215-124(6); and
  - (iv) Pipes or connections connected to exempted tanks that are exempt by § 68-215-124(10).
- VII. Complaints about the following tanks and structures exempted by § 68-215-124(9) and (10) will be referred to the Tennessee Public Utility Commission, Gas Pipeline Safety Division
  - (i) Pipeline facilities (including gathering lines) regulated under:
    - (1) The Natural Gas Pipeline Safety Act of 1968, compiled in 49 U.S.C. Appx. § 60101 et seq.;
    - (2) The Hazardous Liquid Pipeline Safety Act of 1979, compiled in 49 U.S.C. Appx. § 60101 et seq.; or

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- (3) State laws comparable to the law referred to in subdivision (4)(A) or (4)(B), if it is an intrastate pipeline; and
- (ii) Liquid traps or associated gathering lines directly related to oil or gas production and gathering operations.

### 3. Continuous Improvement and Quality Assurance

#### a) Training

- i) Division staff will be trained during refreshers at annual staff meetings, compliance inspector training, case manager's training or periodically as needed.
- ii) Report data will be reviewed with individual staff where training opportunities present.
- iii) Updates to the complaint policy will be provided to staff after updates occur.

#### b) Complaint Tracking System

- i) The system will be updated as needed per staff and leadership input.
- ii) Updates will be reviewed with Division IT personnel and implemented during the following semi-annual reporting period.

#### c) Program Adaptation

- i) The Division will consider changes to rules, regulations or policies should data analysis of environmental complaints show such changes are needed.
- ii) The Division will follow all applicable procedures in pursuing any such future changes.



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### Attachment A

#### IPP work Outcome and Action Steps for UST Division Staff with Complaint Response Responsibilities

Work Outcome Statement: Promptly and effectively respond to all assigned UST environmental response situations and complaints in the Environmental Field Office in State fiscal year. For environmental impact issues, respond within 24 hours of notification/knowledge and within 10 days for other complaints.

#### Action Steps:

1. Notifies and consults appropriate personnel (i.e., supervisor, RP, CAC, state contractor through Central Office, other department program staff, PIO, local emergency response management) to insure the appropriate response is implemented and information is conveyed, tracked in UST databases, and filed.
2. Insures UST related complaints are entered, within 10 days, into Gaslog and hard file. Any complaint or request that is not under the normal day to day operations of the program is tracked in the Department's CST, if applicable.

Supports Goal: Strategic Goal 3-Positive Environmental Outcomes

#### B. Complaints are tracked in GasLog

Event Code 35a is used for emergency response, Event Code 02 any other complaints, and these codes will be queried for the annual work report and interim and annual reviews.

SOPs are provided to staff to use with specific inspection forms that are tracked in GasLog under Event Code 14f

Attachment B  
Technical Guidance Documents 19 and 20

Use the following web links to obtain the most recent guidance/forms for the reference documents.

**TGD 019**     [Impacted Drinking Water Management](#)

**TGD 020**     [Petroleum Vapor Management](#)

DRAFT

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### Attachment C

### Drinking Water Complaints, Surface Water Complaints, Vapor Complaints

Examples from reporting period 7/1/2019 to 2/20/21:

#### Drinking Water:

Complaint No.	UST Fac. ID	Facility Name	EFO	County	Staff Initials
82074	9790157	Charlie's Friendly Service	Memphis	Shelby	KH
82074	Site ID: 89577			<b>Created by:</b>	<b>Updated by:</b>
Plus ID: 783				BG41077	BG41121

**Details:** The complainant called on February 10, 2020 and said that the facility in question had leaking tanks in the ground and that fuel was leaking into the surface. David Groce and I (Karim Bouzeid) have visited this site in the past for this same complaint. The facility in question has had all tanks removed and appropriate soil sample taken. All documentation shows no tanks and <RBCL contamination results. I told the complainant that we have a closure letter for the tanks and a passing test results for the soil sampling. He said that he was angry that the owner of the facility was, "doing some shady business without a permit". I suggested to them that they may want to check with the city code enforcement or another local government organization as the facility has met all of TDEC-UST standards for their tank closures.

#### Surface Water:

Complaint No.	UST Fac. ID	Facility Name	EFO	County	Staff Initials
<b>90307</b>		Dannie Brian Tinch and Tammy R Tinch	Chattanooga	Hamilton	DRB
90307	Site ID:			<b>Created by:</b>	<b>Updated by:</b>
Plus ID: 1164				BG41007	

**Details:** Initial complaint was sent to DRB via email by Daniel White (Attorney) for Mr. Clift. Mr. White phone # 423-265-8804 ext. 114, Daniel@cawpllc.com  
Mr. White indicated old USTs were still in ground at 10933 Hixson Pike and last used around 1981. No registered USTs discovered. Surface soil samples taken within 6" in depth did not indicate any BTEX. Hit on PAHs however could be from surface runoff. Referred to SWM

#### Vapor Complaints:

Complaint No.	UST Fac. ID	Facility Name	EFO	County	Staff Initials
<b>86792</b>	2470913	AR Market 1 LLC	Knoxville	Knox	RAH
86792	Site ID: 78932			<b>Created by:</b>	<b>Updated by:</b>
Plus ID: 964				BG41144	BG41144

**Details:** Petroleum odors identified in onsite and nearby storm drains. Confirmed during a site visit. Systems test and Site check Required.  
Managed as a release case

Attachment D  
Field Equipment Checklist for Complaints

**STOCKED COOLER**

2 – 4 Soil jars  
2 – 4 sets VOA vials  
1 – 2 sets PAHs bottles  
Twine  
Scissors/knife  
Sample scoop/trowel  
Alconox  
DI water  
Brush  
Plastic sheeting  
Trash bags  
Nitrile gloves (in Ziploc bag)  
Leather gloves  
Ziploc bags for samples  
4 – 6 Laboratory Chain of Custody forms  
6 – 10 Sample tags  
Indelible ink pen  
Orange safety vest  
Ear plugs  
Safety glasses  
Intrinsically safe flashlight  
Measuring tape  
Screwdriver  
Emergency contact numbers

**EQUIPMENT**

PID  
CGI  
Water level indicator  
Shovel  
Hand auger  
Measuring wheel  
Crowbar  
GPS  
GPR (when needed)

**OTHER ITEMS TO TAKE TO THE FIELD**

Sample cooler  
Business cards  
Field/site map  
Camera  
Inspection forms/tablet  
Bailers  
Safety cones  
Sample coolers (1 stocked and 1 for samples)  
Steel toe boots  
Rubber boots  
Hard

Buckets  
PCA/CAP/Latest monitoring report  
Waders

hat

Attachment E  
Complaint Follow-up Correspondence

Correspondence content and requirements may vary depending upon many factors. The following is an example of an *Unapproved Underground Storage Tank Closure* referenced on page 3 above.

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(\*1 Date)

#

(\*2 Name)  
(Company)  
(Address)

Re: Enforcement Action Notice-Unapproved Underground Storage Tank Closure  
(\*3 Facility Name)  
(\*4 Facility Address)  
Facility ID # (\*5), (\*6) County

Dear (\*7):

The Division of Underground Storage Tanks has discovered that petroleum (\*8 tanks, lines, compartments or system) at the above referenced facility have been closed without our approval. This is a violation of Rule 0400-18-01-.07(4)(a) which states, in part:

- "(a) At least thirty (30) days before beginning either permanent closure of any portion of an underground storage tank system or a change-in-service under subparagraphs (b) and (c) of this paragraph, owners, operators and/or other responsible parties shall apply for permanent closure, unless such action is in response to corrective action. Application for permanent closure or change in service shall meet the following requirements:
1. An Application for Permanent Closure of Underground Storage Tank Systems shall be submitted in a format established by the division. The application shall be completed according to the instructions provided by the division.
  2. The tank owner, operator and/or other responsible party shall obtain division approval of the Application for Permanent Closure prior to permanently closing the UST system or any portion thereof or effecting a change in service of the UST system, unless tank compartment closure is conducted in accordance with paragraphs (3) and (5) of this rule.
  3. The application shall constitute a plan for closure or change in service of the UST system, or any portion thereof."

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This file is being referred to the enforcement section of the Division for review and may result in assessment of civil penalties. Once the file is received in our central office, a case manager will be assigned to evaluate the case, and this person will work with you throughout the enforcement process.

Although the Division does have to make you aware of this violation and inform you about the referral, we are committed to working with you to reach our common goal of safely storing petroleum in the State of Tennessee.

Please submit a properly completed Application for Permanent Closure of Underground Storage Tank Systems (PCA) to this field office by (\*9 date 30 days). We ask for your help to protect our natural resources because leaking tanks can contaminate Tennessee's drinking water or cause significant safety hazards and the cost to clean-up even small leaks can be very high.

All forms and guidance, including the PCA, are available at <http://www.tn.gov/environment/section/ust-underground-storage-tanks>

If you have any questions about this letter, please do not hesitate to call me at (phone \*#).

Sincerely,

(name)  
(Title optional)  
Division of Underground Storage Tanks

c: -----FO Closure File # (\*5)

FO-029EAN 03092016 FINAL