



UST-COM-G-Rule 0400-18-01-.09(6) Inspection Process Guidance-FINAL-09012022

TDEC

Division of Underground Storage Tanks

Rule 0400-18-01-.09(6) Guidance


Scope of Fund Reimbursement

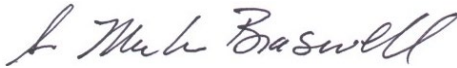
Operational Compliance Inspection Process

March 1, 2022

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SIGNATURE & REVISION HISTORY TABLE PAGE

Division Director	Date
	3/1/2022

Drafter / Preparer	Date
	3/1/2022

Reviewer	Date
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Revision Number	Date	Brief Summary of Change
0	03/01/2022	Final Original Draft Policy
1	09/01/2022	Final Original Policy

Background

On June 15, 2021, the Division of Underground Storage Tanks (Division) amended our regulations. As a result of this change, the Division's fund eligibility rules were moved from rule 0400-18-01-.09(10)(c) to rule 0400-18-01-.09(6). To determine fund eligibility, the Division formerly had a process that was internally referred to the .09(10)(c) process. The process has been amended and is now referred to as the .09(6) process.

The .09(6) process includes performing a complete operational compliance inspection for all suspected and confirmed releases (occurring on or after June 15, 2021) reported to or discovered by the Division. This document provides guidance to Division staff of the .09(6) inspection process to ensure timely, consistent, and accurate results for both the Division's operational compliance and remediation programs.

Supervision General Workflow

All suspected and confirmed releases reported to or discovered by Division staff shall be channeled to the appropriate Environmental Manager (EFOM) for proper delegation and distribution to Division inspectors and remediation case managers, or to determine if additional resources are needed from another Environmental Field Office. Below is a list of the general steps to be taken for the .09(6) process:

- 1) Suspected or confirmed release reported to or discovered by the Division¹.
- 2) Route to EFOM (per traditional EFO counties) or EFOM designee.
- 3) EFOM immediately creates a remediation case in GasLog and, in consultation with the DDCA, assigns remediation case manager if subsurface investigation is needed.
- 4) EFOM immediately creates a compliance inspection in GasLog and assigns the compliance inspection.
 - a) When creating the inspection in GasLog, select "Yes" to the Question "Is there evidence of a suspected release?" in the "Operator and Site Question" portion of the main inspection page.
 - b) Is an underground storage tank (UST) system present?
 - i) **Yes** – Select the "Purpose of the Visit" as "Operational" on the main inspection page.
 - ii) **No** – Select the "Purpose of the Visit" as "Compliance Review".
 - c) Select an "Inspection Date" of **10** calendar days from notification of the suspected release. Once the inspection is scheduled, the "Inspection Date" should be updated to the scheduled date by the assigned inspector.
 - d) In the "Inspection History" add event code "12a Report of Suspected Release" or "12b Report of Confirmed Release", as appropriated. Enter the date of notification as the "Received" date. Upload copy of notification.

¹ For environmental impact issues, respond within **24** hours of notification/knowledge and within **10** business days for other complaints in accordance with the Division's current complaint policy. A .09(6) inspection is a secondary priority to mitigating environmental impacts and safety concerns.

- e) Add event code “14a Operations Inspection-Compliance” with due date of **10** calendar days from notification of the suspected release. Once an inspection is scheduled, date should be corrected to the scheduled date by the assigned inspector.

Staff General Workflow

Compliance Inspector must schedule a .09(6) operational inspection or compliance review with the owner and/or operator within **2** business days of notification of suspected release and must conduct the inspection within **10** calendar days of the suspected release notification. *If the facility is in **enforcement**, contact the Division’s enforcement case manager prior to conducting the inspection per current policy.

- a) Inspector/Case Manager issues appropriate FO-00X letter with the FO-030 scheduling letter (See Table 1)
- b) Inspector follows the Standardized Inspection Manual (SIM) and normal inspection process regarding scheduling and conducting the inspection.
- c) Inspector uploads the inspection report and the “Petroleum UST Fund Deductible Determination” form (aka .09(6) form) under the 14a tracking entry in GasLog. The deadline for uploading this form is outlined in the Fund Application Process below.
- d) Were violations discovered?
 - i) **No** – Update GasLog and close the inspection by following normal process.
 - ii) **Yes** – Evidence of return to compliance needed?
 - (1) **No** – Update GasLog and follow normal inspection process.
 - (2) **Yes** – Issue FO-36**FED** letter via certified mail with a 30-day due date. Was compliance deadline met?
 - (a) **No**. Submit EAR with Case Disposition marked “Violations discovered during a .09(6) inspection that have/have not been addressed.”
 - (b) **Yes** – Follow normal inspection process.

NOTE: No more than one results of compliance letter will be issued. If compliance is not achieved, refer the inspection to enforcement. If multiple .09(6) inspections for one facility are open with the same violations, the original 30-day deadline stands. If new violations are discovered during subsequent .09(6) inspections, they will receive an additional 30-day deadline from the inspection date.

Table 1: Form Letter Workflow

Form Letter	Correspondent	Tracking
FO-000: Release Investigation - Obs. Well Contamination	Case Manager	Remediation
FO-001: Release Investigation - System Test and Site Check	Case Manager w/Inspector review	Remediation and Compliance
FO-001scd: Modified Site Check-Dispenser Leak	Case Manager	Remediation
FO-001scsp: Spill Bucket Investigation	Case Manager	Remediation
FO-002: Release Investigation - Off-site Drinking Water Impact	Case Manager	Remediation
FO-003: Release Investigation - System Test	Inspector	Compliance

FUND ELIGIBILITY (FE) APPLICATION PROCESS

- 1) Once the FE application is received, inspection documentation event will be mined from GasLog.
 - a) *UST Operation Inspection Results Form* - must be uploaded within **1** business day of the inspection
 - b) *Petroleum UST Fund Deductible Determination Form* - must be completed and uploaded to the 14a Operations Inspection-Compliance tracking entry within **1 business** day after:
 - i) Receiving any requested compliance documents or;
 - ii) The 30-day compliance deadline in FO-036FED letter
- 2) Violations requiring documentation of compliance exists:
 - a) **No** – Process application within 30 days of receipt of complete application and all necessary documentation from the FO. FE approved?
 - i) **No** – Draft FED order.
 - ii) **Yes** – Send FE approval letter.
 - b) **Yes** - Hold making final determination until the 30-day deadline of the FO-36**FED** has passed. FE approved?
 - i) **No** – Violations corrected?
 - (1) **No** – Draft FED order and include civil penalties for those violations.
 - (2) **Yes** – Draft FED order with no civil penalties.
 - ii) **Yes** – Were violations that affect the deductible discovered?
 - (1) **No** – Were violations corrected?
 - (a) **No** – Draft FDA order with civil penalties for those violations
 - (b) **Yes** - Draft FE approval letter.
 - (2) **Yes** – Were violations corrected?
 - (a) **No** – Draft FDA order with civil penalties for those violations.
 - (b) **Yes** – Draft FDA order with no civil penalties.