

I MINA' TRENTA NA LIHESLATURAN GUÅHAN  
2009 (First) REGULAR SESSION

Bill No. 80(COR)

Introduced by:

T.C. Ada



**AN ACT TO REPEAL AND RE-ENACT CHAPTER 76 OF  
TITLE 10, GUAM CODE ANNOTATED, RELATIVE TO  
THE STORAGE OF HAZARDOUS MATERIALS.**

**BE IT ENACTED BY THE PEOPLE OF THE TERRITORY OF GUAM:**

**Section 1.** Chapter 76, Title 10, Guam Code Annotated is repealed and re-enacted to read:

**“CHAPTER 76  
UNDERGROUND STORAGE OF REGULATED  
SUBSTANCES**

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**§ 76101. Title.** This Chapter shall be known as the Underground Storage of Regulated Substances Act.

**§76102. Statement of Purpose.** The purpose of this Chapter is to:

- (a) Establish a program to prevent contamination from substances stored underground;
- (b) Ensure that newly constructed underground storage tanks meet appropriate standards;
- (c) Ensure that existing tanks be properly maintained, inspected, and tested by licensed and certified professionals;
- (d) Enact and establish regulations, guidelines, standards, and policies that ensure consistent cleanup of regulated substances and mitigation of the damage they cause.

**§ 76103. Definitions.**

- (a) **Administrator** means the Administrator of the Guam Environmental Protection Agency.
- (b) **Agency** means the Guam Environmental Protection Agency.

1  
2 (c) **Board** means the Board of Directors of the Guam Environmental Protection  
3 Agency.

4  
5 (d) **CERCLA** means Comprehensive Environmental Response, Compensation,  
6 and Liability Act, commonly called Superfund, which was enacted by congress in  
7 December 11, 1980 and amended by Superfund Amendments and Reauthorization  
8 Act (SARA) on October 17, 1986.

9  
10 (e) **Corrective Action** means the investigation and cleanup of contamination  
11 from solid and hazardous waste sites and includes action taken to minimize or  
12 mitigate the impact of a release from an Underground Storage Tank (UST) or tank  
13 system.

14  
15 (f) **Gathering Lines** means any pipelines, equipment, facility, or building used in  
16 the transportation of oil or gas during oil or gas production or gathering  
17 operations.

18  
19 (g) **Guarantor** means any person, other than the owner or operator, who provides  
20 evidence of financial responsibility for the UST.

21  
22 (h) **Hazardous Substance Underground Storage Tank or Hazardous**  
23 **Substance Underground Storage Tank System** means a UST or tank system  
24 that contains a hazardous substance defined in Section 101(14) of the federal  
25 Comprehensive Environmental Response, Compensation, and Liability Act  
26 (CERCLA) of 1980, as amended, but not including any substance regulated as a  
27 hazardous waste under Subtitle C of the federal Resource Conservation and  
28 Recovery Act (RCRA), as amended, or any mixture of such substances and  
29 petroleum, and which is not a petroleum UST or tank system.

30  
31 (i) **Installation** means to add or replace equipment.

32  
33 (j) **Installation Permit** means a written approval from the Administrator to  
34 construct, install, or put into place, a UST system.

35  
36 (k) **Maintenance** means the operational upkeep to prevent a UST system from  
37 releasing product.

38  
39 (l) **Motor Fuel** means petroleum or petroleum-based substance that is motor  
40 gasoline, aviation gasoline, No.1 or No.2 diesel fuel, any grade of gasohol, any  
41 grade of ethanol, or any grade of bio-diesel and that is used to operate a motor  
42 engine.

43  
44 (m) **Operate** means to control or direct the function of a UST.  
45

1 (n) **Operator** means any person in control of, or who is responsible for, the daily  
2 operation of a UST.

3  
4 (o) **Owner** shall mean:

5  
6 (1) In the case of a UST system in use on November 8, 1984, or brought into  
7 use on or after that date, any person who owns a UST system used for the storage, use  
8 or dispensing of regulated substances; and

9  
10 (2) In the case of a UST system in use before November 8, 1984, but no  
11 longer in use after that date, any person who owned such UST system immediately  
12 before the discontinuation of its use.

13  
14 (p) **Permit** means Installation Permit.

15  
16 (q) **Person** means an individual, trust firm, corporation, partnership, consortium,  
17 joint venture, joint stock company, political subdivision of a state, any interstate  
18 body, commercial entity, association, or agency, department, instrumentality of  
19 the Federal government or the government of Guam, including autonomous  
20 agencies or any other legal entity.

21  
22 (r) **Petroleum Marketing Facilities** means all facilities at which petroleum is  
23 produced or refined and all facilities from which petroleum is sold or transferred  
24 to other petroleum marketers or to the public.

25  
26 (s) **Pipe or Piping** means a hollow cylinder or the tubular conduit constructed of  
27 non-earthen materials. **Pipe or Piping** includes elbows, couplings, unions, valves,  
28 or other inline fixtures that contain and convey regulated substances from a UST  
29 to a dispenser.

30  
31 (t) **Pipeline Facility** (Including gathering lines) means new and existing pipe  
32 rights-of-ways and any associated equipment, facilities, or buildings.

33  
34 (u) **RCRA** means the Solid Waste Disposal Act of 1980 as amended by the  
35 Resource Conservation and Recovery Act of 1984, as amended. (*Public Law 87-*  
36 *272, Title II, §9001, as added Public Law 98-616, Title VI, §601(a), November 8,*  
37 *1984, 98 Stat. 3277, and amended Public Law 99-499, Title II, §205(a), October*  
38 *17, 1986, 100 Stat. 1696; Public Law 102-508, Title III, §302, October 24, 1992,*  
39 *106 Stat. 3307; Public Law 103-429, §7(d), October 31, 1994, 108 Stat. 4389;*  
40 *Public Law 109-58, Title XV, §1532(a), 1533(1), August 8, 2005, 119 Stat. 1104,*  
41 *1105; 42 U.S.C. §6991c, et. Seq.) as amended, and regulations promulgated*

42 pursuant thereto.  
43

1 (v) **Regulated Substance** means any element, compound, mixture, solution, or  
2 substance that, when released into the environment, may create substantial danger  
3 to the public health, welfare, or the environment. They include:  
4

5 (1) Any substance defined in Section 101(14) of CERCLA, Public Law 96-  
6 510 as amended, but not including any substance regulated as a hazardous waste  
7 under Subtitle C of RCRA, also known as Public Law 94-580, as amended; or  
8

9 (2) Petroleum, including crude oil or any fraction thereof, which is liquid at  
10 standard conditions of temperature and pressure (60 degrees Fahrenheit and 14.7  
11 pounds per square inch absolute);  
12

13 (3) Any grade of gasohol, ethanol, or bio-diesel; and  
14

15 (4) Any other substance as designated by the Administrator.  
16

17 (w) **Release** means the spill, leak, emission, discharge, escape, leaching, or  
18 disposing of a regulated substance from a UST.  
19

20 (x) **Secondary Containment** refers to a component of a secondary containment  
21 system and means a UST and its piping having inner and outer barriers.  
22

23 (y) **Tank** means underground storage tank (UST).  
24

25 (z) **Underground Storage Tank or UST** means any one (1) or combination of  
26 tanks including underground pipes connected thereto, used to contain an  
27 accumulation of regulated substances, and the volume of which including the  
28 volume of the underground pipes connected thereto is ten per cent (10%) or more  
29 beneath the surface of the ground or water.

30 **§76104. Power and Duties of the Administrator.**

31 The Administrator shall:  
32

33 (a) Develop and administer a UST program for Guam pursuant to this Chapter;  
34

35 (b) Provide technical assistance to local and federal agencies, and other persons,  
36 and cooperate with appropriate local agencies and private organizations in  
37 enforcing this Chapter;  
38

39 (c) Serve as Guam's official representative for all purposes of Subtitle I of  
40 RCRA, also known as Public Law 94-580 as amended, and for the purpose of any  
41 Guam or federal legislation that regulates USTs;  
42  
43

1 (d) Enact, modify, update, repeal, and enforce rules and regulations governing  
2 UST design, construction, installation, release detection and inventory control,  
3 compatibility, record maintenance, reporting, corrective action, closure, and  
4 financial responsibility in order to enforce this Chapter;

5  
6 (e) Establish the procedures for the issuance and review of permits governing the  
7 design, operation, and closure of USTs;

8  
9 (f) Enact and enforce other rules and regulations as necessary to establish a UST  
10 program which meets the requirements of Section 9004 of Subtitle I of RCRA;

11  
12 (g) Issue, amend, rescind, and enforce orders as necessary to ensure compliance  
13 with this Chapter or any rules and regulations enacted pursuant hereto, including,  
14 but not limited to:

15  
16 (1) Administrative penalty orders;

17  
18 (2) Require corrective actions as may be necessary or appropriate to this  
19 Chapter; and

20  
21 (3) Commence civil actions in the Superior Court of Guam, including actions  
22 for a temporary or permanent injunction as needed to enforce this Chapter.

23  
24 (h) Establish an effective enforcement system (that includes, at a minimum, a  
25 field citation program) for the prevention, control and abatement of UST  
26 pollution, including specific conditions under the permit requirements and  
27 delivery prohibition of product to ineligible USTs and through all appropriate  
28 administrative and judicial courses of action;

29  
30 (i) Establish a delivery prohibition program that describes, at a minimum, the  
31 criteria and mechanism for prohibiting the delivery, deposit, and acceptance of  
32 product to any UST system;

33  
34 (j) Develop and establish operator training program requirements in cooperation  
35 with UST owners and operators;

36  
37 (k) Issue, continue in effect, modify, revoke, reissue, or deny permits;

38  
39 (l) Ensure that all permit holders comply with applicable requirements mandated  
40 by Federal and Guam statues or rules; and

41  
42 (m) Establish, accept, receive, and administer grants and other funds or fees from  
43 public and private agencies including the Federal government, for carrying out  
44 any purpose of this Chapter.

1           **§ 76105.       Notification Requirement.**

2  
3           (a) Except as otherwise provided in this section, each owner of an underground  
4 storage tank shall notify the Agency in writing and shall specify the tank's age,  
5 size, type, location, and use.  
6

7           (b) For an underground storage tank that was taken out of operation on or before  
8 January 1, 1974, regardless of whether the tank was removed from the ground, the  
9 owner is exempt from giving notice.  
10

11           (c) For an underground storage tank that was taken out of operation after January  
12 1, 1974, but before November 8, 1984, and that was removed from the ground  
13 before May 8, 1986, the owner is exempt from giving notice.  
14

15           (d) For an underground storage tank that was taken out of operation after January  
16 1, 1974, but before November 8, 1984, and that was not removed from the ground  
17 before May 8, 1986, the owner shall specify the type and quantity of the  
18 substances that were stored in the tank immediately before it was taken out of  
19 operation. These requirements are in addition to the requirements for the notice  
20 prescribed in Subsection A.  
21

22           (e) For an underground storage tank that was taken out of operation after  
23 November 8, 1984, but before December 22, 1988, the Administrator may require  
24 the owner to specify the age, size, location, and use of the tank, the type and  
25 quantity of the substances that were stored in the tank immediately before it was  
26 taken out of operation and the date the UST ceased operation.  
27

28           (f) An owner who brings an underground storage tank into operation shall meet  
29 the notification requirements of this section within thirty (30) days after the tanks  
30 are brought into operation.  
31

32           (g) A person who sells a tank for use as an underground storage tank shall notify  
33 the purchaser of the notice requirements of Subsection F.  
34

35           (h) The notice required by this section shall be made of forms prescribed by the  
36 Agency.

37           **§76106.       Tank Standards.**

38  
39 From the effective date of this Chapter until the effective date of a new UST standards  
40 enacted hereunder, all new and existing USTs shall:

41           (a) Prevent release of stored regulated substances due to corrosion or structural  
42 failure for the operational life of the tank;  
43  
44

- 1 (b) Be cathodically protected against corrosion, constructed of non-corrosive  
2 material, or designed to prevent the release of the stored regulated substance; and  
3  
4 (c) Be constructed and lined with materials compatible with the substance stored.

5 **§ 76107. Secondary Containment System – Release Prevention and Release**  
6 **Detection Standards.**

- 7  
8 (a) The Administrator shall develop and implement a program that at least meets  
9 the minimum requirements of the “Grant Guidelines to States for Implementing  
10 the Secondary Containment Provision of the Energy Policy Act of 2005” (EPA-  
11 510-R-06-001, November 2006) published by U.S. EPA and any subsequent  
12 modifications thereto.  
13  
14 (b) The Administrator shall require secondary containment on all existing, new or  
15 replaced UST and connected piping.  
16  
17 (c) The Administrator shall require under-dispenser containment on all motor fuel  
18 dispenser systems.  
19  
20 (d) The Administrator shall require each existing, new, or replaced UST and  
21 piping have a secondary containment system and be monitored for leaks.

22  
23 **§ 76108. Delivery Prohibition Requirements.**

- 24  
25 (a) The Administrator shall develop and implement a delivery prohibition  
26 program with processes and procedures that at least meets the requirements set  
27 forth in “Grant Guidelines to State for Implementing the Delivery Prohibition  
28 Provision of the Energy Policy Act of 2005” (EPA-510-R-06-003, August 2006)  
29 published by U.S. EPA and any subsequent modification thereto.  
30  
31 (b) The Administrator shall prohibit the delivery, deposit, or acceptance of  
32 regulated substances to a UST for both equipment and operational violations.

33 **§ 76109. Operator Training.**

34  
35 The Administrator shall develop and administer an operator training program that is at  
36 least as stringent as the requirements set forth in the “Grant Guidelines to States for  
37 Implementing the Operator Training Provision of the Energy Policy Act of 2005” (EPA-510-D-  
38 07-002, August 2006) published by U.S. EPA and any subsequent modification thereto.  
39 Operators shall participate in the UST operator training programs.

1           **§ 76110.       Leak Detection and Record Maintenance.**

2  
3           (a) The owner and operator of a UST shall maintain a leak detection system that  
4 identifies releases dangerous to human health and the environment.

5  
6           (b) The owner or operator shall maintain systematic and complete records to  
7 demonstrate compliance with this Chapter and regulations enacted hereto.

8           **§ 76111.       Public Participation.**

9  
10          (a) Upon timely application, any person whose interests may be adversely  
11 affected by a release or threatened from a UST system shall be allowed to  
12 intervene as a right in any civil action when the applicant claims an interest  
13 relating to the property or transaction which is subject of the action, and the  
14 applicant is so situated that the disposition of the action may as a practical matter  
15 impair or impede the applicant's ability to protect that interest.

16  
17          (b) Any person may maintain an action for declaratory and equitable relief to  
18 restrain any violation of this chapter. On a prima facia showing of a violation of  
19 this chapter, a preliminary injunction shall be issued to restrain any further  
20 violation of the chapter. No bond is required for an action under this subsection.

21  
22           **§ 76112.       Notification and Reporting Requirements on Releases.**

23  
24          No later than twenty-four (24) hours after he/she suspects a release from a tank or  
25 ancillary equipment has occurred, the owner and the operator of a UST shall notify the Agency  
26 orally or in writing. Within fourteen (14) days after he/she suspects a leak, the owner and  
27 operator shall report to the Agency in writing regarding the substance released, the quantity  
28 released, the cause of the release, the time when the release occurred and the corrective action  
29 taken as of the date of the report.

30           **§ 76113.       Corrective Action.**

31  
32          (a) The owner or operator of a UST shall stop a confirmed release within twelve  
33 (12) hours of confirmation or knowledge that a release occurred. The owner and  
34 operator shall take corrective action in response to a release to protect human  
35 health and the environment, and shall restore the environment and the UST and/or  
36 Pipeline Facility to a condition acceptable to the Administrator.

37  
38          (b) The Administrator may require the owner and operator to undertake corrective  
39 action, investigation, monitoring, surveying, testing, and research necessary and  
40 appropriate to:  
41



- (1) Identify the existence and extent of the release;
- (2) Identify the source and nature of the regulated substance involved;
- (3) Evaluate the extent of the danger to human health, safety, welfare, and the environment; and
- (4) Develop and implement a corrective action plan.

(c) If the owner or operator does not take immediate action to complete actions under this section and adequately complete the cleanup of a release or fails to comply with an order of the Administrator, the Administrator may cleanup the release or contract with a private entity to do so.

(d) If the Administrator is authorized to act under Subsection (b) here of, he/she may undertake such investigation, monitoring, surveying, testing, and other information gathering as he/she deems appropriate to identify the existence and extent of danger to human health, safety, welfare, and the environment. In addition, the Administrator may undertake or contract with a private entity to undertake such planning, fiscal, economic, engineering, and other studies and investigation he/she deems appropriate to plan and direct cleanup actions, and to recover the costs and legal costs thereof.

**§ 76114. Underground Storage Tank Management Fund.**

There is hereby established a fund to be known as the Underground Storage Tank Management Fund, hereinafter referred to as the UST-LUST Fund, a non-lapsing, revolving fund.

(a) All fees, reimbursement, assessment, fines, forfeitures, and other funds collected or received pursuant to this Chapter shall be deposited in the UST-LUST Fund.

(b) The Administrator shall administer the UST-LUST Fund and make disbursements from the fund:

- (1) To fund actions authorized by §76113 of this Chapter.
- (2) To train Agency employees in the regulation of USTs and response to release of regulated substances from USTs.
- (3) To fund the administration, purchase of equipment, supplies, and payment of personnel costs arising from enforcement of this Chapter.

**§ 76115. Financial Responsibility.**

1 (a) All owners and operators of UST systems, within 180 days of the effective  
2 date of this chapter, shall establish and maintain evidence of financial  
3 responsibility, as provided for in this section, for taking corrective action and  
4 compensating third parties for bodily injury and property damage caused by  
5 accidental releases arising from the operation of underground storage tanks in at  
6 least the following per occurrence amounts:  
7

8 (1) For all owners or operators of petroleum underground storage tanks that  
9 are located at petroleum marketing facilities or that own or operate five or  
10 more tanks or that handle an average of more than 10,000 gallons of  
11 petroleum per month based on annual throughput for the previous calendar  
12 year, \$2,000,000.

13 (2) For all other owners or operators of petroleum underground storage  
14 tanks: \$500,000.  
15

16 (b) Owners or operators of petroleum underground storage tanks shall  
17 demonstrate financial responsibility for taking corrective action and for  
18 compensating third parties for bodily injury and property damage caused by  
19 accidental release arising from the operation of petroleum underground storage  
20 tanks in at least the following annual aggregate amounts:  
21

22 (1) For owners or operators of four or fewer tanks, an annual aggregate  
23 amount of \$1,000,000.

24 (2) For owners or operators of five or more tanks, an annual aggregate  
25 amount of \$2,000,000.

26 (3) For owners and operators of 10 or more tanks, an annual aggregate  
27 amount of at least \$2,000,000 or such other higher aggregate amount as set  
28 forth in regulations promulgated by the Administrator.  
29

30 (c) Subject to the approval of the Administrator, an owner or operator of an UST  
31 may establish evidence of financial responsibility by any one, or a combination of  
32 the following methods:  
33

34 (1) Commercial or private insurance, including risk retention group;

35 (2) Qualification as a self-insurer;

36 (3) A guarantee, surety bond, or letter of credit; or

37 (4) Any other reasonable and economically practicable means.  
38

39 (d) The Administrator shall not approve any financial responsibility method or  
40 combination of methods, unless the owner or operator has demonstrated that such  
41 method(s):  
42

43 (1) Are valid and enforceable;

44 (2) Are issued by a provider that is qualified or licensed in Guam;

1 (3) Do not permit cancellation without allowing the Administrator to draw  
2 funds;

3 (4) Shall only be directly used for corrective action and 3<sup>rd</sup> party liability  
4 costs; and

5 (5) Require the provider to notify the owner or operator and the  
6 Administrator of any circumstances that would impair or suspend coverage.  
7

8 (e) Surety bonds shall be payable to the Guam Environmental Protection Agency,  
9 to include costs and expenses of the cleanup of any release, as well as damages  
10 incurred by the Government, consistent with the provisions of this chapter. Any  
11 bond filed with the Agency must be issued by a bonding company authorized to  
12 do business within the territory. The Guam EPA is authorized to establish a  
13 special account, escrow, standby trust, or other trust or account mechanism into  
14 which funds established as financial assurance may be deposited when needed.  
15 Notwithstanding any other provision of law, the Administrator may retain and use  
16 such amounts for the purposes for which the financial assurance was established.  
17

18 (f) To qualify as a self-insurer the UST system owner or operator shall  
19

20 (1) Demonstrate a tangible net worth of at least ten times:  
21

22 (a) The total of the aggregate amount required in subsection (c) of this  
23 section;

24 (b) The sum of the corrective action cost estimates, the current closure  
25 and post-closure care cost estimates, and the amount of liability coverage  
26 required under this chapter; and

27 (c) The sum of plugging and abandonment cost estimates in effect for  
28 which a financial test is used to demonstrate financial responsibility  
29 under this chapter.  
30

31 (2) The owner or operator shall have a tangible net worth of at least  
32 \$10,000,000.

33 (3) The owner or operator shall meet the requirement set forth in 40 CFR  
34 280.95.  
35

36 (g) The total liability of any guarantor is limited to the aggregate amount that the  
37 guarantor has provided as evidence of financial responsibility to the UST system  
38 owner or operator under this section. Nothing in this subsection may be construed  
39 to limit any other territorial or federal statutory, contractual or common law  
40 liability of a guarantor to its owner or operator including, but not limited to, the  
41 liability of such guarantors for bad faith either in negotiating or in failing to  
42 negotiate the settlement of any claim. For the purpose of this subsection, the term  
43 "guarantor" means any person, other than the owner or operator, who provides  
44 evidence of financial responsibility for an owner or operator pursuant to this  
45 section.

1  
2 (h) Any claim costs incurred by the Agency for taking emergency, preventive,  
3 corrective or enforcement action may be filed directly against the bonding  
4 company, the insurer, the guarantor, or any other person providing evidence of  
5 financial responsibility. Any amount collected or awarded under this subsection  
6 shall be paid into Guam Environmental Protection Agency's UST-LUST Fund.  
7

8 (i) An owner or operator of an UST system shall designate a person within Guam  
9 as his/her resident agent for service of process, and such designation shall be  
10 filled in accordance with rules and regulation promulgated by the Agency.  
11

12 (j) The financial responsibility amounts required by this section, or any portion of  
13 such amount, may be satisfied by utilization of Guam Environmental Protection  
14 Agency UST-LUST Fund.

15 **§ 76116. Closure.**

16  
17 The owner or operator shall close a UST so as to prevent future releases of regulated  
18 substances. The owner and operator shall comply with the release response provisions in this  
19 Chapter and other requirements promulgated by the Administrator before and during removal of  
20 the USTs. The Administrator shall adopt requirements for change in-service and temporary and  
21 permanent closure of USTs and tank systems.

22 **§ 76117. Permit Requirements.**

23  
24 (a) No person shall own, install, or operate a UST without a permit issued by the  
25 Administrator. An applicant for a permit shall pay a permit processing fee  
26 prescribed by the regulations.  
27

28 (b) Said permit shall be non-transferable and conditioned upon the observance of  
29 the laws of Guam and related rules and regulations.  
30

31 (c) A permit holder shall apply for the renewal of each permit he/she holds, upon  
32 forms provided by the Administrator, not less than sixty (60) calendar days prior  
33 to the permit's expiration.  
34

35 (d) Each permit application and permit renewal application shall be submitted  
36 with evidence of financial responsibility, in a sum established by the  
37 Administrator by regulation.

38 **§ 76118. Inspection and Entry.**

39  
40 The Administrator may inspect all USTs at reasonable times to take corrective action or  
41 to ensure compliance with this Chapter and the rules and regulations enacted pursuant hereto.  
42 The Administrator's authority to inspect shall include, but is not limited, to the following:

1  
2 (a) Requesting and obtaining from any owner or operator and deliverer and  
3 guarantor of a UST, information relating to such tanks, their associated  
4 equipment, and their contents;

5  
6 (b) Conducting any study or performance of monitoring, and testing of tanks,  
7 their associated equipment, or surrounding soils, air, surface water, or  
8 groundwater;

9  
10 (c) Inspecting and copying all records relating to the USTs;

11  
12 (d) Inspecting and obtaining samples of regulated substances contained in the  
13 USTs; and

14  
15 (e) Taking corrective action or performing site assessment activities at the  
16 location of the UST.

17 **§ 76119. Confidentiality of Records.**

18  
19 Reports and records submitted to the Agency by any person on the ownership,  
20 installation, or operation of underground storage tanks or tank systems shall be made  
21 available for inspection by the public during established office hours except as provided in  
22 this section. Upon a showing satisfactory to the Agency that public disclosure of records,  
23 reports, or information, or a particular part thereof, to which the agency's representative has  
24 access to under this section would divulge information entitled to protection under Guam's  
25 Sunshine Reform Act of 1999, the Agency shall consider the information or particular  
26 portion thereof to be confidential. No confidential information secured pursuant to this  
27 section by any official or employee of the Agency within the scope of and of the official's or  
28 employee's employment in the prevention, control, or abatement of releases from  
29 underground storage tanks or tank systems, shall be disclosed by the official or employee  
30 with following exceptions: the document or information may be disclosed to officers,  
31 employees, or authorized representatives of the territory or of the United States, including  
32 county government entities, who have been charged with carrying out this chapter or Subtitle  
33 I of the federal Resource Conservation and Recovery Act, or when relevant in any  
34 proceeding under this chapter. Where such information constitutes confidential business  
35 information under federal law, it shall be submitted as such to federal entities.

36 **§ 76120. Notice.**

37  
38 Any notice or other official correspondence affecting the rights of any person under this  
39 Chapter shall be delivered by personal service, or sent by registered mail with a return receipt to  
40 the address of such person as shown by the Agency records. The return receipt, signed by  
41 addressee, or his/her agent, shall be conclusive proof of delivery.

1           **§ 76121.       Hearings.**

2  
3           (a) Any person who received an order from the Administrator pursuant to this  
4 Chapter or any person whose permit application is disapproved by the  
5 Administrator may, within fifteen (15) calendar days after receipt thereof, file  
6 with the Board a notice of intent to appeal and a verified petition describing the  
7 basis of such appeal.

8  
9           (b) The Board shall, not more than sixty (60) days after receipt of such notice of  
10 intent to appeal, hold a public hearing at which the appellant may appear and  
11 present evidence supporting the petition.

12  
13           (c) The Board may administer oaths and to issue subpoenas to compel the  
14 attendance of witnesses and the production of evidence in all such hearings.

15  
16           (d) The Board shall affirm, modify, or revoke the action appealed and shall notify  
17 the appellant of its decision not more than thirty (30) days after the hearing. Said  
18 notice shall be in writing and shall state the reasons for the decision.

19  
20           (e) Any person may appeal such decision by filing a verified petition in Superior  
21 Court of Guam within ten (10) days after he/she receives the notice required by  
22 Subsection (d) hereof. The petitioner shall make a transcript of the proceeding at  
23 his/her expense.

24           **§ 76122.       Injunction.**

25  
26           The Administrator may, in addition to the other powers conferred on him/her by this  
27 Chapter, file an action in the Superior Court of Guam to immediately restrain any violation or  
28 threatened violation of this Chapter or the rules and regulations enacted pursuant hereto.  
29

30           **§ 76123.       Applicability to Government Agencies.**

31  
32           All agencies of the Government of Guam and of the Government of the United States  
33 shall comply with all provisions of this Chapter including permit requirements with the  
34 exception of §§76114 and 76117(d).

35           **§ 76124.       Penalties.**

36  
37           (a) A person who violates any provisions of this Chapter, or rules or  
38 regulations enacted pursuant hereto, or who refuses or neglects to comply with an  
39 order issued by the Administrator to require compliance with this Chapter, shall  
40 pay the Agency a civil penalty up to eleven thousand dollars (\$11,000) for each  
41 tank for each day of each violation.  
42

1 (b) Any person with an interest that may be adversely affected by a violation  
2 of this Chapter may intervene as a matter of right in any civil action brought by  
3 the Administrator to require compliance with this Chapter.  
4

5 (c) A person who knowingly fails to notify the Administrator pursuant to  
6 §§76105 or 76112 or who make any false statement or representation in any UST  
7 notification, permit application, or other document filed, maintained, or used for  
8 compliance with this Chapter shall be guilty of a misdemeanor and may be  
9 subject to imprisonment for up to twelve (12) months and fined up to eleven  
10 thousand dollars (\$11,000) per day for each violation, or both.  
11

12 (d) Any person who denies, obstructs, or hampers the entrance, inspection, or  
13 conduct of release response activity by a representative of the Agency at any  
14 building, place, site, facility, vehicle, or structure that the representative is  
15 authorized to enter or inspect or who fails to provide information requested by the  
16 Agency representative as pursuant to §76110 may be fined not more than five  
17 hundred dollars (\$500.00) for every day he denies, obstructs or hinders the  
18 acquisition of, or fails to provide, the information requested, as determined in a  
19 civil action in the Superior Court of Guam.  
20

21  
22 **Section 2.**  
23

24 **§ 76125. Appropriation.** The sum of Twenty-Five Thousand Dollars (\$25,000.00)  
25 is hereby appropriated from the General Fund to the UST-LUST Fund.  
26

27 **§ 76126. Reserved.**  
28

29 **§ 76127. Reserved.**  
30  
31  
32  
33