



GUAM ENVIRONMENTAL PROTECTION AGENCY



AHENSIAN PRUTEKSION LINA'LA GUAHAN

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JAN 09 2009

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The Honorable Tina Muna Barnes
Senator and Secretary of the Legislature
I Mina' Trenta Na Liheslaturan Guahãn
155 Hessler Place
Hagåtña, Guam 96910

Subject: Proposed Amendments to 10 Guam Code Annotated (GCA), Health and Safety, Chapter 76, Underground Storage of Regulated Substances

Dear Senator Muna-Barnes:

Buenas yan Saluda! In conformance with the Administrative Adjudication Law, 5 GCA §9303(b), as amended by Public Law 24-27 (1997), the Guam Environmental Protection Agency hereby files the Original copy and one electronic copy of the subject above.

The proposed amendments to the Underground Storage Tank statute has been reviewed by Mr. David Highsmith, Assistant Attorney General of Guam, Mr. Eric Magnan, and their attorney Ms. Mimi Newton from the United States Environmental Protection Agency, shareholders, and from the general public.

Should you have any comments or questions, please feel free to contact Vincent J. Pereira or Michael S. O'Mallan, Hazardous Waste Management Program staff at 475-1658/9.

30-09-0037
01/18/09
2:30

Sincerely,

GEORGE LAI
Board Chairman Guam EPA

Enclosure:

CC: Governor of Guam
Speaker of the 30th Guam Legislature ✓

0039

1 **10 GCA HEALTH AND SAFETY**

2
3 **CHAPTER 76**

4
5 **UNDERGROUND STORAGE OF REGULATED SUBSTANCES**

6
7
8 **NOTE:** Public Law 20-106:1 added Storage of Hazardous Substances as Chapter 89 of Title 10
9 of the Guam Code Annotated (GCA); however, the Compiler of Law has assigned this Act to
10 Chapter 76 to place it in the Division of Title 10 GCA on Public Safety.

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56 **Section 76101. Title.**

57
58 This Chapter shall be known as the Underground Storage of Regulated Substances Act.

59 **Section 76102. Statement of Purpose.**

60
61 The purposes of this Chapter are to:

- 62
63 (a) Establish a program to prevent contamination from substances stored
64 underground;
65 (b) Ensure that newly constructed underground storage tanks meet appropriate
66 standards;
67 (c) Ensure that existing tanks be properly maintained, inspected, and tested by
68 licensed and certified professionals;
69 (d) Enact and establish regulations, guidelines, standards, and policies that ensure
70 consistent cleanup of regulated substances and mitigation of the damage they
71 cause.

72 **Section 76103. Definitions.**

- 73
74 (a) **Administrator** means the Administrator of the Guam Environmental Protection
75 Agency.
76
77 (b) **Agency** means the Guam Environmental Protection Agency.
78
79 (c) **Board** means the Board of Directors of the Guam Environmental Protection
80 Agency.
81
82 (d) **CERCLA** means Comprehensive Environmental Response, Compensation, and
83 Liability Act, commonly called Superfund, which was enacted by congress in December
84 11, 1980 and amended by Superfund Amendments and Reauthorization Act (SARA) on
85 October 17, 1986.
86
87 (e) **Corrective Action** means the investigation and cleanup of contamination from
88 solid and hazardous waste sites and includes action taken to minimize or mitigate the
89 impact of a release from a UST or tank system.
90
91 (f) **Gathering Lines** means any pipelines, equipment, facility, or building used in the
92 transportation of oil or gas during oil or gas production or gathering operations.
93
94 (g) **Guarantor** means any person, other than the owner or operator, who provides
95 evidence of financial responsibility for the UST.

- 96
97 (h) **Hazardous Substance Underground Storage Tank or Hazardous Substance**
98 **Underground Storage Tank System** means a UST or tank system that contains a
99 hazardous substance defined in Section 101(14) of the federal Comprehensive
100 Environmental Response, Compensation, and Liability Act (CERCLA) of 1980, as
101 amended, but not including any substance regulated as a hazardous waste under
102 Subtitle C of the federal Resource Conservation and Recovery Act (RCRA), as
103 amended, or any mixture of such substances and petroleum, and which is not a
104 petroleum UST or tank system.
105
- 106 (i) **Installation** means to add or replace equipment.
107
- 108 (j) **Installation Permit** means a written approval from the Administrator to construct,
109 install, or put into place, a UST system.
110
- 111 (k) **Maintenance** means the operational upkeep to prevent a UST system from
112 releasing product.
113
- 114 (l) **Motor Fuel** means petroleum or petroleum-based substance that is motor
115 gasoline, aviation gasoline, No.1 or No.2 diesel fuel, any grade of gasohol, any grade of
116 ethanol, or any grade of bio-diesel and that is used to operate a motor engine.
117
- 118 (m) **Operate** means to control or direct the function of a UST.
119
- 120 (n) **Operator** means any person in control of, or who is responsible for, the daily
121 operation of a UST.
122
- 123 (o) **Owner** shall mean:
124
- 125 (1) In the case of a UST system in use on November 8, 1984, or brought into use
126 on or after that date, any person who owns a UST system used for the
127 storage, use or dispensing of regulated substances; and
128
- 129 (2) In the case of a UST system in use before November 8, 1984, but no longer
130 in use after that date, any person who owned such UST system immediately
131 before the discontinuation of its use.
132
- 133 (p) **Permit** means Installation Permit.
134
- 135 (q) **Person** means an individual, trust firm, corporation, partnership, consortium, joint
136 venture, joint stock company, political subdivision of a state, any interstate body,
137 commercial entity, association, or agency, department, instrumentality of the Federal
138 government or the government of Guam, including autonomous agencies or any other
139 legal entity.
140

- 141 (r) **Petroleum Marketing Facilities** means all facilities at which petroleum is
142 produced or refined and all facilities from which petroleum is sold or transferred to other
143 petroleum marketers or to the public.
144
- 145 (s) **Pipe or Piping** means a hollow cylinder or the tubular conduit constructed of
146 non-earthen materials. **Pipe or Piping** includes elbows, couplings, unions, valves, or
147 other inline fixtures that contain and convey regulated substances from a UST to a
148 dispenser.
149
- 150 (t) **Pipeline Facility** (Including gathering lines) means new and existing pipe rights-
151 of-ways and any associated equipment, facilities, or buildings.
152
- 153 (u) **RCRA** means the Solid Waste Disposal Act of 1980 as amended by the
154 Resource Conservation and Recovery Act of 1984, as amended. (*Public Law 87-272,*
155 *Title II, §9001, as added Public Law 98-616, Title VI, §601(a), November 8, 1984, 98*
156 *Stat. 3277, and amended Public Law 99-499, Title II, §205(a), October 17, 1986, 100*
157 *Stat. 1696; Public Law 102-508, Title III, §302, October 24, 1992, 106 Stat. 3307; Public*
158 *Law 103-429, §7(d), October 31, 1994, 108 Stat. 4389; Public Law 109-58, Title XV,*
159 *§1532(a), 1533(1), August 8, 2005, 119 Stat. 1104, 1105; 42 U.S.C. §6991c, et. Seq.)*
160 as amended, and regulations promulgated pursuant thereto.
161
- 162 (v) **Regulated Substance** means any element, compound, mixture, solution, or
163 substance that, when released into the environment, may create substantial danger to
164 the public health, welfare, or the environment. They include:
165
- 166 (1) Any substance defined in Section 101(14) of CERCLA, Public Law 96-510 as
167 amended, but not including any substance regulated as a hazardous waste
168 under Subtitle C of RCRA, also known as Public Law 94-580, as amended; or
169
 - 170 (2) Petroleum, including crude oil or any fraction thereof, which is liquid at
171 standard conditions of temperature and pressure (60 degrees Fahrenheit and
172 14.7 pounds per square inch absolute);
173
 - 174 (3) Any grade of gasohol, ethanol, or bio-diesel; and
175
 - 176 (4) Any other substance as designated by the Administrator.
177
- 178 (w) **Release** means the spill, leak, emission, discharge, escape, leaching, or
179 disposing of a regulated substance from a UST.
180
- 181 (x) **Secondary Containment** refers to a component of a secondary containment
182 system and means a UST and its piping having inner and outer barriers.
183
- 184 (y) **Tank** means underground storage tank (UST).
185

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

191 **Section 76104. Power and Duties of the Administrator.**

192
193 The Administrator shall:

- 194
- 195 (a) Develop and administer a UST program for Guam pursuant to this Chapter;
 - 196
 - 197 (b) Provide technical assistance to local and federal agencies, and other persons,
198 and cooperate with appropriate local agencies and private organizations in
199 enforcing this Chapter;
 - 200
 - 201 (c) Serve as Guam's official representative for all purposes of Subtitle I of RCRA,
202 also known as Public Law 94-580 as amended, and for the purpose of any Guam
203 or federal legislation that regulates USTs;
 - 204
 - 205 (d) Enact, modify, update, repeal, and enforce rules and regulations governing UST
206 design, construction, installation, release detection and inventory control,
207 compatibility, record maintenance, reporting, corrective action, closure, and
208 financial responsibility in order to enforce this Chapter;
 - 209
 - 210 (e) Establish the procedures for the issuance and review of permits governing the
211 design, operation, and closure of USTs;
 - 212
 - 213 (f) Enact and enforce other rules and regulations as necessary to establish a UST
214 program which meets the requirements of Section 9004 of Subtitle I of RCRA;
 - 215
 - 216 (g) Issue, amend, rescind, and enforce orders as necessary to ensure compliance
217 with this Chapter or any rules and regulations enacted pursuant hereto, including,
218 but not limited to:
 - 219 (1) Administrative penalty orders;
 - 220
 - 221 (2) Require corrective actions as may be necessary or appropriate to this
222 Chapter; and
 - 223
 - 224 (3) Commence civil actions in the Superior Court of Guam, including actions
225 for a temporary or permanent injunction as needed to enforce this
226 Chapter.
227
228

- 229 (h) Establish an effective enforcement system (that includes, at a minimum, a field
230 citation program) for the prevention, control and abatement of UST pollution,
231 including specific conditions under the permit requirements and delivery
232 prohibition of product to ineligible USTs and through all appropriate
233 administrative and judicial courses of action;
234
235 (i) Establish a delivery prohibition program that describes, at a minimum, the criteria
236 and mechanism for prohibiting the delivery, deposit, and acceptance of product
237 to any UST system;
238
239 (j) Develop and establish operator training program requirements in cooperation
240 with UST owners and operators;
241
242 (k) Issue, continue in effect, modify, revoke, reissue, or deny permits;
243
244 (l) Ensure that all permit holders comply with applicable requirements mandated by
245 Federal and Guam statutes or rules; and
246
247 (m) Establish, accept, receive, and administer grants and other funds or fees from
248 public and private agencies including the Federal government, for carrying out
249 any purpose of this Chapter.

250 **Section 76105. Notification Requirement.**

- 251
252 (a) Except as otherwise provided in this section, each owner of an underground
253 storage tank shall notify the Agency in writing and shall specify the tank's age,
254 size, type, location, and use.
255
256 (b) For an underground storage tank that was taken out of operation on or before
257 January 1, 1974, regardless of whether the tank was removed from the ground,
258 the owner is exempt from giving notice.
259
260 (c) For an underground storage tank that was taken out of operation after January 1,
261 1974, but before November 8, 1984, and that was removed from the ground
262 before May 8, 1986, the owner is exempt from giving notice.
263
264 (d) For an underground storage tank that was taken out of operation after January 1,
265 1974, but before November 8, 1984, and that was not removed from the ground
266 before May 8, 1986, the owner shall specify the type and quantity of the
267 substances that were stored in the tank immediately before it was taken out of
268 operation. These requirements are in addition to the requirements for the notice
269 prescribed in Subsection A.
270
271 (e) For an underground storage tank that was taken out of operation after November
272 8, 1984, but before December 22, 1988, the Administrator may require the owner

273 to specify the age, size, location, and use of the tank, the type and quantity of the
274 substances that were stored in the tank immediately before it was taken out of
275 operation and the date the UST ceased operation.

276
277 (f) An owner who brings an underground storage tank into operation shall meet the
278 notification requirements of this section within thirty (30) days after the tanks are
279 brought into operation.

280
281 (g) A person who sells a tank for use as an underground storage tank shall notify the
282 purchaser of the notice requirements of Subsection F.

283
284 (h) The notice required by this section shall be made of forms prescribed by the
285 Agency.

286 **Section 76106. Tank Standards.**

287
288 From the effective date of this Chapter until the effective date of a new UST standards
289 enacted hereunder, all new and existing USTs shall:

290
291 (a) Prevent release of stored regulated substances due to corrosion or structural
292 failure for the operational life of the tank;

293
294 (b) Be cathodically protected against corrosion, constructed of non-corrosive
295 material, or designed to prevent the release of the stored regulated substance;
296 and

297
298 (c) Be constructed and lined with materials compatible with the substance stored.

299 **Section 76107. Secondary Containment System – Release Prevention and**
300 **Release Detection Standards.**

301
302 (a) The Administrator shall develop and implement a program that at least meets the
303 minimum requirements of the “Grant Guidelines to States for Implementing the
304 Secondary Containment Provision of the Energy Policy Act of 2005” (EPA-510-R-
305 06-001, November 2006) published by U.S. EPA and any subsequent modifications
306 thereto.

307
308 (b) The Administrator shall require secondary containment on all existing, new or
309 replaced UST and connected piping.

310
311 (c) The Administrator shall require under-dispenser containment on all motor fuel
312 dispenser systems.

313
314 (d) The Administrator shall require each existing, new, or replaced UST and piping
315 have a secondary containment system and be monitored for leaks.

316

317 **Section 76108. Delivery Prohibition Requirements.**

318

319 (a) The Administrator shall develop and implement a delivery prohibition program with
320 processes and procedures that at least meets the requirements set forth in "Grant
321 Guidelines to State for Implementing the Delivery Prohibition Provision of the
322 Energy Policy Act of 2005" (EPA-510-R-06-003, August 2006) published by U.S.
323 EPA and any subsequent modification thereto.

324

325 (b) The Administrator shall prohibit the delivery, deposit, or acceptance of regulated
326 substances to a UST for both equipment and operational violations.

327 **Section 76109. Operator Training.**

328

329 The Administrator shall develop and administer an operator training program that is at
330 least as stringent as the requirements set forth in the "Grant Guidelines to States for
331 Implementing the Operator Training Provision of the Energy Policy Act of 2005" (EPA-
332 510-D-07-002, August 2006) published by U.S. EPA and any subsequent modification
333 thereto. Operators shall participate in the UST operator training programs.

334 **Section 76110. Leak Detection and Record Maintenance.**

335

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

338

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

341 **Section 76111. Public Participation.**

342

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

349

350 (b) Any person may maintain an action for declaratory and equitable relief to restrain
351 any violation of this chapter. On a prima facie showing of a violation of this chapter,
352 a preliminary injunction shall be issued to restrain any further violation of the
353 chapter. No bond is required for an action under this subsection.

354

355 **Section 76112. Notification and Reporting Requirements on Releases.**

356
357 No later than twenty-four (24) hours after he/she suspects a release from a tank or
358 ancillary equipment has occurred, the owner and the operator of a UST shall notify the
359 Agency orally or in writing. Within fourteen (14) days after he/she suspects a leak, the
360 owner and operator shall report to the Agency in writing regarding the substance
361 released, the quantity released, the cause of the release, the time when the release
362 occurred and the corrective action taken as of the date of the report.

363 **Section 76113. Corrective Action.**

364
365 (a) The owner or operator of a UST shall stop a confirmed release within twelve (12)
366 hours of confirmation or knowledge that a release occurred. The owner and
367 operator shall take corrective action in response to a release to protect human
368 health and the environment, and shall restore the environment and the UST
369 and/or Pipeline Facility to a condition acceptable to the Administrator.

370
371 (b) The Administrator may require the owner and operator to undertake corrective
372 action, investigation, monitoring, surveying, testing, and research necessary and
373 appropriate to:

- 374
375 (1) Identify the existence and extent of the release;
376
377 (2) Identify the source and nature of the regulated substance involved;
378
379 (3) Evaluate the extent of the danger to human health, safety, welfare,
380 and the environment; and
381
382 (4) Develop and implement a corrective action plan.

383
384 (c) If the owner or operator does not take immediate action to complete actions
385 under this section and adequately complete the cleanup of a release or fails to
386 comply with an order of the Administrator, the Administrator may cleanup the
387 release or contract with a private entity to do so.

388
389 (d) If the Administrator is authorized to act under Subsection (b) here of, he/she may
390 undertake such investigation, monitoring, surveying, testing, and other
391 information gathering as he/she deems appropriate to identify the existence and
392 extent of danger to human health, safety, welfare, and the environment. In
393 addition, the Administrator may undertake or contract with a private entity to
394 undertake such planning, fiscal, economic, engineering, and other studies and
395 investigation he/she deems appropriate to plan and direct cleanup actions, and to
396 recover the costs and legal costs thereof.

397 **Section 76114. Underground Storage Tank Management Fund.**

398
399 There is hereby established a fund to be known as the Underground Storage Tank
400 Management Fund, hereinafter referred to as the UST-LUST Fund, a non-lapsing,
401 revolving fund.

402
403 (a) All fees, reimbursement, assessment, fines, forfeitures, and other funds collected or
404 received pursuant to this Chapter shall be deposited in the UST-LUST Fund.

405
406 (b) The Administrator shall administer the UST-LUST Fund and make disbursements
407 from the fund:

- 408
409 (1) To fund actions authorized by §76113 of this Chapter.
410 (2) To train Agency employees in the regulation of USTs and response to
411 release of regulated substances from USTs.
412 (3) To fund the administration, purchase of equipment, supplies, and
413 payment of personnel costs arising from enforcement of this Chapter.

414 **Section 76115. Financial Responsibility.**

415
416 (a) All owners and operators of UST systems, within 180 days of the effective date of
417 this chapter, shall establish and maintain evidence of financial responsibility, as
418 provided for in this section, for taking corrective action and compensating third
419 parties for bodily injury and property damage caused by accidental releases arising
420 from the operation of underground storage tanks in at least the following per
421 occurrence amounts:

- 422
423 1. For all owners or operators of petroleum underground storage tanks that are
424 located at petroleum marketing facilities or that own or operate five or more
425 tanks or that handle an average of more than 10,000 gallons of petroleum per
426 month based on annual throughput for the previous calendar year,
427 \$2,000,000.
428 2. For all other owners or operators of petroleum underground storage tanks:
429 \$500,000.

430
431 (b) Owners or operators of petroleum underground storage tanks shall demonstrate
432 financial responsibility for taking corrective action and for compensating third parties
433 for bodily injury and property damage caused by accidental release arising from the
434 operation of petroleum underground storage tanks in at least the following annual
435 aggregate amounts:

- 436
437 1. For owners or operators of four or fewer tanks, an annual aggregate amount
438 of \$1,000,000.
439 2. For owners or operators of five or more tanks, an annual aggregate amount of
440 \$2,000,000.

- 441 3. For owners and operators of 10 or more tanks, an annual aggregate amount
442 of at least \$2,000,000 or such other higher aggregate amount as set forth in
443 regulations promulgated by the Administrator.
444
- 445 (c) Subject to the approval of the Administrator, an owner or operator of an UST may
446 establish evidence of financial responsibility by any one, or a combination of the
447 following methods:
448
- 449 1. Commercial or private insurance, including risk retention group;
 - 450 2. Qualification as a self-insurer;
 - 451 3. A guarantee, surety bond, or letter of credit; or
 - 452 4. Any other reasonable and economically practicable means.
- 453
- 454 (d) The Administrator shall not approve any financial responsibility method or
455 combination of methods, unless the owner or operator has demonstrated that such
456 method(s):
457
- 458 1. Are valid and enforceable;
 - 459 2. Are issued by a provider that is qualified or licensed in Guam;
 - 460 3. Do not permit cancellation without allowing the Administrator to draw funds;
 - 461 4. Shall only be directly used for corrective action and 3rd party liability costs;
462 and
 - 463 5. Require the provider to notify the owner or operator and the Administrator of
464 any circumstances that would impair or suspend coverage.
- 465
- 466 (e) Surety bonds shall be payable to the Guam Environmental Protection Agency, to
467 include costs and expenses of the cleanup of any release, as well as damages
468 incurred by the Government, consistent with the provisions of this chapter. Any bond
469 filed with the Agency must be issued by a bonding company authorized to do
470 business within the territory. The Guam EPA is authorized to establish a special
471 account, escrow, standby trust, or other trust or account mechanism into which
472 funds established as financial assurance may be deposited when needed.
473 Notwithstanding any other provision of law, the Administrator may retain and use
474 such amounts for the purposes for which the financial assurance was established.
475
- 476 (f) To qualify as a self-insurer the UST system owner or operator shall
477
- 478 1. Demonstrate a tangible net worth of at least ten times:
479
 - 480 a. The total of the aggregate amount required in subsection (c) of this
481 section;
 - 482 b. The sum of the corrective action cost estimates, the current closure and
483 post-closure care cost estimates, and the amount of liability coverage
484 required under this chapter; and

- 485 c. The sum of plugging and abandonment cost estimates in effect for which
486 a financial test is used to demonstrate financial responsibility under this
487 chapter.
488
- 489 2. The owner or operator shall have a tangible net worth of at least \$10,000,000.
490 3. The owner or operator shall meet the requirement set forth in 40 CFR
491 280.95.
492
- 493 (g) The total liability of any guarantor is limited to the aggregate amount that the
494 guarantor has provided as evidence of financial responsibility to the UST system
495 owner or operator under this section. Nothing in this subsection may be construed to
496 limit any other territorial or federal statutory, contractual or common law liability of a
497 guarantor to its owner or operator including, but not limited to, the liability of such
498 guarantors for bad faith either in negotiating or in failing to negotiate the settlement
499 of any claim. For the purpose of this subsection, the term "guarantor" means any
500 person, other than the owner or operator, who provides evidence of financial
501 responsibility for an owner or operator pursuant to this section.
502
- 503 (h) Any claim costs incurred by the Agency for taking emergency, preventive, corrective
504 or enforcement action may be filed directly against the bonding company, the
505 insurer, the guarantor, or any other person providing evidence of financial
506 responsibility. Any amount collected or awarded under this subsection shall be paid
507 into Guam Environmental Protection Agency's UST-LUST Fund.
508
- 509 (i) An owner or operator of an UST system shall designate a person within Guam as
510 his/her resident agent for service of process, and such designation shall be filled in
511 accordance with rules and regulation promulgated by the Agency.
512
- 513 (j) The financial responsibility amounts required by this section, or any portion of such
514 amount, may be satisfied by utilization of Guam Environmental Protection Agency
515 UST-LUST Fund.

516 **Section 76116. Closure.**

517
518 The owner or operator shall close a UST so as to prevent future releases of regulated
519 substances. The owner and operator shall comply with the release response provisions
520 in this Chapter and other requirements promulgated by the Administrator before and
521 during removal of the USTs. The Administrator shall adopt requirements for change in-
522 service and temporary and permanent closure of USTs and tank systems.

523 **Section 76117. Permit Requirements.**

- 524
525 (a) No person shall own, install, or operate a UST without a permit issued by the
526 Administrator. An applicant for a permit shall pay a permit processing fee prescribed
527 by the regulations.

- 528
529 (b) Said permit shall be non-transferable and conditioned upon the observance of the
530 laws of Guam and related rules and regulations.
531
532 (c) A permit holder shall apply for the renewal of each permit he/she holds, upon forms
533 provided by the Administrator, not less than sixty (60) calendar days prior to the
534 permit's expiration.
535
536 (d) Each permit application and permit renewal application shall be submitted with
537 evidence of financial responsibility, in a sum established by the Administrator by
538 regulation.

539 **Section 76118. Inspection and Entry.**

540
541 The Administrator may inspect all USTs at reasonable times to take corrective action or
542 to ensure compliance with this Chapter and the rules and regulations enacted pursuant
543 hereto. The Administrator's authority to inspect shall include, but is not limited, to the
544 following:

- 545
546 (a) Requesting and obtaining from any owner or operator and deliverer and guarantor of
547 a UST, information relating to such tanks, their associated equipment, and their
548 contents;
549
550 (b) Conducting any study or performance of monitoring, and testing of tanks, their
551 associated equipment, or surrounding soils, air, surface water, or groundwater;
552
553 (c) Inspecting and copying all records relating to the USTs;
554
555 (d) Inspecting and obtaining samples of regulated substances contained in the USTs;
556 and
557
558 (e) Taking corrective action or performing site assessment activities at the location of
559 the UST.

560 **Section 76119. Confidentiality of Records.**

561
562 Reports and records submitted to the Agency by any person on the ownership,
563 installation, or operation of underground storage tanks or tank systems shall be
564 made available for inspection by the public during established office hours except as
565 provided in this section. Upon a showing satisfactory to the Agency that public
566 disclosure of records, reports, or information, or a particular part thereof, to which
567 the agency's representative has access to under this section would divulge
568 information entitled to protection under Guam's Sunshine Reform Act of 1999, the
569 Agency shall consider the information or particular portion thereof to be confidential.
570 No confidential information secured pursuant to this section by any official or

571 employee of the Agency within the scope of and of the official's or employee's
572 employment in the prevention, control, or abatement of releases from underground
573 storage tanks or tank systems, shall be disclosed by the official or employee with
574 following exceptions: the document or information may be disclosed to officers,
575 employees, or authorized representatives of the territory or of the United States,
576 including county government entities, who have been charged with carrying out this
577 chapter or Subtitle I of the federal Resource Conservation and Recovery Act, or
578 when relevant in any proceeding under this chapter. Where such information
579 constitutes confidential business information under federal law, it shall be submitted
580 as such to federal entities.

581 **Section 76120. Notice.**

582
583 Any notice or other official correspondence affecting the rights of any person under this
584 Chapter shall be delivered by personal service, or sent by registered mail with a return
585 receipt to the address of such person as shown by the Agency records. The return
586 receipt, signed by addressee, or his/her agent, shall be conclusive proof of delivery.

587 **Section 76121. Hearings.**

- 588
589 (a) Any person who received an order from the Administrator pursuant to this Chapter or
590 any person whose permit application is disapproved by the Administrator may, within
591 fifteen (15) calendar days after receipt thereof, file with the Board a notice of intent to
592 appeal and a verified petition describing the basis of such appeal.
593
594 (b) The Board shall, not more than sixty (60) days after receipt of such notice of intent to
595 appeal, hold a public hearing at which the appellant may appear and present
596 evidence supporting the petition.
597
598 (c) The Board may administer oaths and to issue subpoenas to compel the attendance
599 of witnesses and the production of evidence in all such hearings.
600
601 (d) The Board shall affirm, modify, or revoke the action appealed and shall notify the
602 appellant of its decision not more than thirty (30) days after the hearing. Said notice
603 shall be in writing and shall state the reasons for the decision.
604
605 (e) Any person may appeal such decision by filing a verified petition in Superior Court of
606 Guam within ten (10) days after he/she receives the notice required by Subsection
607 (d) hereof. The petitioner shall make a transcript of the proceeding at his/her
608 expense.

609 **Section 76122. Injunction.**

610
611 The Administrator may, in addition to the other powers conferred on him/her by this
612 Chapter, file an action in the Superior Court of Guam to immediately restrain any

613 violation or threatened violation of this Chapter or the rules and regulations enacted
614 pursuant hereto.
615

616 **Section 76123. Applicability to Government Agencies.**

617
618 All agencies of the Government of Guam and of the Government of the United States
619 shall comply with all provisions of this Chapter including permit requirements with the
620 exception of §§76114 and 76117(d).

621 **Section 76124. Penalties.**

- 622
- 623 (a) A person who violates any provisions of this Chapter, or rules or regulations enacted
624 pursuant hereto, or who refuses or neglects to comply with an order issued by the
625 Administrator to require compliance with this Chapter, shall pay the Agency a civil
626 penalty up to eleven thousand dollars (\$11,000) for each tank for each day of each
627 violation.
628
 - 629 (b) Any person with an interest that may be adversely affected by a violation of this
630 Chapter may intervene as a matter of right in any civil action brought by the
631 Administrator to require compliance with this Chapter.
632
 - 633 (c) A person who knowingly fails to notify the Administrator pursuant to §§76105 or
634 76112 or who make any false statement or representation in any UST notification,
635 permit application, or other document filed, maintained, or used for compliance with
636 this Chapter shall be guilty of a misdemeanor and may be subject to imprisonment
637 for up to twelve (12) months and fined up to eleven thousand dollars (\$11,000) per
638 day for each violation, or both.
639
 - 640 (d) Any person who denies, obstructs, or hampers the entrance, inspection, or conduct
641 of release response activity by a representative of the Agency at any building, place,
642 site, facility, vehicle, or structure that the representative is authorized to enter or
643 inspect or who fails to provide information requested by the Agency representative
644 as pursuant to §76110 may be fined not more than five hundred dollars (\$500.00) for
645 every day he denies, obstructs or hinders the acquisition of, or fails to provide, the
646 information requested, as determined in a civil action in the Superior Court of Guam.
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SECTION TWO

SECTION 76125. Appropriation.

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

SECTION 76126. Reserved.

SECTION 76127. Reserved.