FILE COPY

I MINA'TRENTA NA LIHESLATURAN GUÅHAN
2009 (FIRST) Regular Session

CERTIFICATION OF PASSAGE OF AN ACT TO *I MAGA'LAHEN GUÅHAN*

This is to certify that **Substitute Bill No. 80 (COR), "AN ACT TO *REPEAL* AND *RE-ENACT* CHAPTER 76 OF TITLE 10, GUAM CODE ANNOTATED, RELATIVE TO THE STORAGE OF HAZARDOUS MATERIALS,"** was on the 29th day of May 2009, duly and regularly passed.

Benjamin J.F. Cruz
Acting Speaker

Attested:

vicente c. pangelinan
Acting Legislative Secretary

This Act was received by *I Maga'lahen Guåhan* this 9 day of June, 2009, at 3:05 o'clock P.M.

Assistant Staff Officer
Maga'lahi's Office

APPROVED:

FELIX P. CAMACHO
I Maga'lahen Guåhan

Date: _____

Public Law No. _____

I MINA'TRENTA NA LIHESLATURAN GUÅHAN
2009 (FIRST) Regular Session

Bill No. 80 (COR)
As substituted by the Author,
and amended.

Introduced by: T. C. Ada
F. B. Aguon, Jr.
F. F. Blas, Jr.
E. J.B. Calvo
B. J.F. Cruz
J. V. Espaldon
Judith P. Guthertz, DPA
T. R. Muña Barnes
v. c. pangelinan
Adolpho B. Palacios, Sr.
M. J. Rector
R. J. Respicio
Telo Taitague
Ray Tenorio
Judith T. Won Pat, Ed.D.

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 GUAM:

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 Chapter 76, Title 10, Guam Code Annotated, is *repealed* and *re-enacted* to read:

"**CHAPTER 76**

UNDERGROUND STORAGE OF REGULATED SUBSTANCES

§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; and

(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.

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

(d) *CERCLA* means the Comprehensive Environmental Response, Compensation, and Liability Act, commonly called Superfund, which was enacted by Congress on December 11, 1980, and amended by the Superfund Amendments and Reauthorization Act (SARA) on October 17, 1986.

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

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

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

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

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

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

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

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

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

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

(o) *Owner* means:

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

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

(p) *Permit* means Installation Permit.

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

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

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

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

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

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

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

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

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

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

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

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

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

(z) *Underground Storage Tank or UST* means any one (1) or combination of tanks, including underground pipes connected thereto, used to contain an accumulation of regulated 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 or water.

§76104. Power and Duties of the Administrator.

The Administrator *shall*:

(a) develop and administer a UST program for Guam pursuant to this Chapter;

(b) provide technical assistance to local and federal agencies, and other persons, and cooperate with appropriate local agencies and private organizations in enforcing this Chapter;

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

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

(e) establish the procedures for the issuance and review of permits governing the design, operation, and closure of USTs;

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

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

(1) administrative penalty orders;

(2) require corrective actions as may be necessary or appropriate to this Chapter; and

(3) commence civil actions in the Superior Court of Guam, including, actions for a temporary or permanent injunction as needed to enforce this Chapter;

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

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

(j) develop and establish operator training program requirements in cooperation with UST owners and operators;

(k) issue, continue in effect, modify, revoke, reissue, or deny permits;

(l) ensure that all permit holders comply with applicable requirements mandated by Federal and Guam statutes or rules; and

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

§76105. Notification Requirement.

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

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

(c) For an underground storage tank that was taken out of operation after January 1, 1974, but before November 8, 1984, and

that was removed from the ground before May 8, 1986, the owner is exempt from giving notice.

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

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

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

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

(h) The notice required by this Section *shall* be made on forms prescribed by the Agency.

§76106. Tank Standards.

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

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

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

(c) be constructed and lined with materials compatible with the substance stored.

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

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

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

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

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

§76108. Delivery Prohibition Requirements.

(a) The Administrator *shall* develop and implement a delivery prohibition program with processes and procedures that at least meets the requirements set forth in "Grant Guidelines to States for Implementing the

Delivery Prohibition Provision of the Energy Policy Act of 2005" (EPA-510-R-06-003, August 2006) published by U.S. EPA and any subsequent modification thereto.

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

§76109. Operator Training.

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

§76110. Leak Detection and Record Maintenance.

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

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

§76111. Public Participation.

(a) Upon timely application, any person whose interests may be adversely affected by a release or threatened from a UST system *shall* be allowed to intervene as a right in any civil action when the applicant claims an interest relating to the property or transaction which is subject of the action, and the applicant is so situated that the

disposition of the action may as a practical matter impair or impede the applicant's ability to protect that interest.

(b) Any person may maintain an action for declaratory and equitable relief to restrain any violation of this Chapter. On *a prima facia* showing of a violation of this Chapter, a preliminary injunction *shall* be issued to restrain any further violation of this Chapter. *No* bond is required for an action under this Subsection.

§76112. Notification and Reporting Requirements on Releases.

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

§76113. Corrective Action.

(a) The owner or operator of a UST *shall* stop a confirmed release within twelve (12) hours of confirmation or knowledge that a release occurred. The owner and operator *shall* take corrective action in response to a release to protect human health and the environment, and *shall* restore the environment and the UST and/or pipeline facility to a condition acceptable to the Administrator.

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

(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 clean up the release or contract with a private entity to do so.

(d) If the Administrator is authorized to act under Subsection (b) hereof, 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) Notwithstanding the Central Accounting Act, all fees, reimbursements, assessments, fines, forfeitures, and other funds

collected or received pursuant to this Chapter, *shall* be deposited in the UST-LUST Fund. This Fund *shall* be kept in a bank licensed to do business on Guam, and funds *shall* be paid out *only* upon a request for payment or requisition submitted by the Director or Administrator and countersigned by the Chairman of the Board. All monies in this Fund *shall* require legislative appropriation.

(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; or

(3) to fund the administration, purchase of equipment, supplies, and payment of personnel costs arising from enforcement of this Chapter.

§76115. Financial Responsibility.

(a) All owners and operators of UST systems, within one hundred eighty (180) days of the effective date of this Chapter, *shall* establish and maintain evidence of financial responsibility, as provided for in this Section, for taking corrective action and compensating third parties for bodily injury and property damage caused by accidental releases arising from the operation of underground storage tanks in at least the following per occurrence amounts:

(1) For all owners or operators of petroleum underground storage tanks that are located at petroleum marketing facilities, or that own or operate five (5) or more tanks, or that handle an average of more than ten thousand (10,000) gallons of petroleum per month based on annual throughput for the previous calendar year: $2,000,000.

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

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

(1) For owners or operators of four (4) or fewer tanks, an annual aggregate amount of $1,000,000.

(2) For owners or operators of five (5) or more tanks, an annual aggregate amount of $2,000,000.

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

(c) Subject to the approval of the Administrator, an owner or operator of a UST *shall* establish evidence of financial responsibility by any one, or a combination of, the following methods in accordance with the rules and regulations promulgated by the Administrator:

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

(2) qualification as a self-insurer as specified in Subsection (f) of this Section;

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

(4) any other reasonable and economically practicable means.

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

(1) are valid and enforceable;

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

(3) do *not* permit cancellation without allowing the Administrator to draw funds;

(4) *shall only* be directly used for corrective action and third party liability costs; and

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

(e) Surety bonds *shall* be payable to the Guam Environmental Protection Agency, to include costs and expenses of the cleanup of any release, as well as, damages incurred by the government, consistent with the provisions of this Chapter. Any bond filed with the Agency must be issued by a bonding company authorized to do business within Guam. The Guam EPA is authorized

to establish a special account, escrow, standby trust, or other trust or account mechanism into which funds established as financial assurance may be deposited when needed. Notwithstanding any other provision of law, the Administrator may retain and use such amounts for the purposes for which the financial assurance was established.

(f) To qualify as a self-insurer, the UST system owner or operator *shall:*

(1) demonstrate a tangible net worth of at least ten (10) times:

(A) the total of the aggregate amount required in Subsection (c) of this Section;

(B) the sum of the corrective action cost estimates, the current closure and post-closure care cost estimates, and the amount of liability coverage required under this Chapter; and

(C) the sum of plugging and abandonment cost estimates in effect for which a financial test is used to demonstrate financial responsibility under this Chapter.

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

(3) The owner or operator *shall* meet the requirements set forth in 40 CFR 280.95.

(g) The total liability of any guarantor is limited to the aggregate amount that the guarantor has provided as evidence of financial responsibility to the UST system owner or operator under this Section. Nothing in this Subsection *shall* be construed to limit

any other territorial or federal statutory, contractual or common law liability of a guarantor to its owner or operator, including, but *not* limited to, the liability of such guarantors for bad faith either in negotiating or in failing to negotiate the settlement of any claim. For the purpose of this Subsection, the term "guarantor" means any person, other than the owner or operator, who provides evidence of financial responsibility for an owner or operator pursuant to this Section.

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

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

(j) The financial responsibility amounts required by this Section, or any portion of such amount, may be satisfied by utilization of the Guam Environmental Protection Agency's UST-LUST Fund.

§76116. Closure.

The owner or operator *shall* close a UST so as to prevent future releases of regulated substances. The owner and operator shall comply with the release response provisions in this Chapter and other requirements promulgated by the Administrator before and during removal of the USTs.

The Administrator *shall* adopt requirements for change-in-service and temporary and permanent closure of USTs and tank systems.

§76117. Permit Requirements.

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

For the purpose of this Chapter, and until such rules and regulations describing the UST Fee Schedule has been adopted, an interim annual fee of Two Hundred Fifty Dollars ($250.00) per tank *shall* be established as the permit fee and *shall* go into effect one hundred eighty (180) days after enactment of this Chapter.

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

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

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

§76118. Inspection and Entry.

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

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

(b) conducting any study or performance of monitoring, and testing of tanks, their associated equipment, or surrounding soils, air, surface water, or groundwater;

(c) inspecting and copying all records relating to the USTs;

(d) inspecting and obtaining samples of regulated substances contained in the USTs; and

(e) taking corrective action or performing site assessment activities at the location of the UST.

§76119. Confidentiality of Records.

Reports and records submitted to the Agency by any person on the ownership, installation, or operation of underground storage tanks or tank systems *shall* be made available for inspection by the public during established office hours, except as provided in this Section. Upon a showing satisfactory to the Agency that public disclosure of records, reports, or information, or a particular part thereof, to which the Agency's representative has access to under this Section would divulge information entitled to protection under 5GCA Chapter 10, Freedom of Information, the Agency *shall* consider the information or particular portion thereof to be confidential. *No* confidential information secured pursuant to this Section by any official or employee of the Agency within the scope of, and of the official's or employee's employment in the prevention, control, or abatement of releases from underground storage tanks or tank systems, shall be disclosed by the official or employee, with the following exceptions: the

document or information may be disclosed to officers, employees, or authorized representatives of the government of Guam or of the United States, including, county government entities, who have been charged with carrying out this Chapter or Subtitle I of the Federal Resource Conservation and Recovery Act, or when relevant in any proceeding under this Chapter. Where such information constitutes confidential business information under federal law, it *shall* be submitted as such to federal entities.

§76120. Notice.

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

§76121. Hearings.

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

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

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

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

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

§76122. Injunction.

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

§76123. Applicability to Government Agencies.

All agencies of the government of Guam, and of the Government of the United States, *shall* comply with all of the provisions of this Chapter pursuant to U.S. Public Law 94-580, RCRA, including permit requirements, with the exception of §§76114 and 76117(d).

§76124. Penalties.

(a) A person who violates any provisions of this Chapter, or rules or regulations enacted pursuant hereto, or who refuses or neglects to comply with an order issued by the Administrator to require compliance with this Chapter, *shall* pay the Agency a civil penalty *up to* Eleven Thousand Dollars ($11,000) for each tank for each day of each violation.

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

(c) A person who knowingly fails to notify the Administrator pursuant to §§76105 or 76112, or who makes any false statement or representation in any UST notification, permit application, or other document filed, maintained, or used for compliance with this Chapter, *shall* be guilty of a misdemeanor and may be subject to imprisonment for *up to* twelve (12) months and fined *up to* Eleven Thousand Dollars ($11,000) per day for each violation, or both.

(d) Any person who denies, obstructs, or hampers the entrance, inspection, or conduct of release response activity by a representative of the Agency at any building, place, site, facility, vehicle, or structure that the representative is authorized to enter, or any inspector who fails to provide information requested by the agency representative as pursuant to §76110 shall be fined up to Eleven Thousand Dollars ($11,000.00) for every day he denies, obstructs or hinders the acquisition of, or fails to provide, the information requested, as determined in a civil action in the Superior Court of Guam."

Section 2. Rules and Regulations. The Guam Environmental Protection Agency *shall* establish the applicable regulations, guidelines, standards and policies *no later than* three hundred sixty-five (365) days of enactment of this Act, during which time the Administrator shall make available to the Board a tri-annual

report of the milestones reached as related to the Regulation of Underground Storage Tanks on Guam.

Section 3. Severability. *If* any provision of this law, *or* the application thereof to any person or circumstance, is held invalid or contrary to law, such invalidity *shall not* affect any other provision *or* application of this law which can be given effect without the invalid provision *or* application, and to this end the provisions of this law are severable.