

CHAPTER 65-100

UNDERGROUND STORAGE TANK REGULATIONS

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Chapter Authority: 1 CMC §§ 2646–2649; 1 CMC § 2650; 2 CMC §§ 3101–3135.

Chapter History: Amdts Adopted 39 Com. Reg. 39158 (Jan. 30, 2017); Amdts Proposed 38 Com. Reg. 38915 (Nov. 29, 2016); Amdts Adopted 38 Com. Reg. 37908 (Apr. 28, 2016); Amdts Proposed 38 Com. Reg. 37613 (Feb. 28, 2016); Amdts Adopted 27 Com. Reg. 25748 (May 19, 2006); Amdts Proposed 27 Com. Reg. 25341 (Dec. 30, 2005); Amdts Adopted 14 Com. Reg. 9674 (Sept. 15, 1992); Amdts Proposed 14 Com. Reg. 9483 (July 15, 1992); Adopted 13 Com. Reg. 8281 (Nov. 15, 1991); Proposed 13 Com. Reg. 7870 (Sept. 15, 1991).

Commission Comment: For a complete history of the authority of the Division of Environmental Quality (DEQ), see the commission comment to NMIAC chapter 65-10.

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Executive Order No. 2013-24, promulgated at 35 Com. Reg. 34596 (Nov. 28, 2013), established a new Bureau of Environmental and Coastal Quality. This Order reorganized the Division of Environmental Quality as a division of the Bureau of Environmental and Coastal Quality, and provided that “all rules, orders, contracts, and agreements relating to the assigned functions lawfully adopted prior to the effective date of this Executive Order shall continue to be effective until revised, amended, repealed or terminated.”

In April 2016, pursuant to § 65-100-020, all rules and regulations in this chapter were superseded by new rules and regulations as proposed at 38 Com. Reg. 37613 (Feb. 28, 2016) and adopted at 38 Com. Reg. 37908 (Apr. 28, 2016). The Commission numbered and renumbered sections and subsections throughout this chapter pursuant to 1 CMC § 3806(a).

Part 001 - General Provisions

§ 65-100-001 Authority

(a) The regulations in this chapter have been promulgated by the Bureau of Environmental and Coastal Quality in accordance with the Commonwealth of the Northern Mariana Islands Public Law 3-23, the Commonwealth Environmental Protection Act, 2 CMC §§ 3101–3134. The regulations in this chapter and technical provisions shall have the force and effect of law and shall be binding on all persons and other legal entities subject to the jurisdiction of the Commonwealth of the Northern Mariana Islands.

(b) The Bureau of Environmental and Coastal Quality (BECQ) shall serve as the official representative for all purposes of Subtitle I of the Resource Conservation and Recovery Act of 1976, 42 U.S.C. §§ 6901–6992k (Public Law 94-580) as amended, and for the purpose of such other federal or local legislation as may hereafter be enacted to assist in the management of underground storage tanks in the Commonwealth of the Northern Mariana Islands.

Modified, 1 CMC § 3806(a), (g).

History: Amdts Adopted 38 Com. Reg. 37908 (Apr. 28, 2016); Amdts Proposed 38 Com. Reg. 37613 (Feb. 28, 2016); Amdts Adopted 14 Com. Reg. 9674 (Sept. 15, 1992); Amdts Proposed 14 Com. Reg. 9483 (July 15, 1992); Adopted 13 Com. Reg. 8281 (Nov. 15, 1991); Proposed 13 Com. Reg. 7870 (Sept. 15, 1991).

Commission Comment: The Commission numbered the paragraphs as subsections (a) and (b) pursuant to 1 CMC § 3806(a). The Commission changed “2 CMC §§ 3101 to 3134” in subsection (a) to “2 CMC §§ 3101–3134” and “42 USC §§ 6901 to 6992K” in subsection (b) to “42 USC §§ 6901–6992k” pursuant to 1 CMC § 3806(g). While this section references Public Law 94-580, Subtitle I of the Resource Conservation and Recovery Act of 1976 was added by Public Law 98-616 on November 8, 1984.

§ 65-100-005 Purpose

(a) The purpose of the regulations in this chapter is to establish a system of control and enforcement over the permitting, installation, compliance, use and monitoring of all underground storage tanks (USTs) containing regulated substances and prohibit the storage of hazardous substances or wastes in UST systems by persons within the CNMI as necessary to conserve the land and water resources of the CNMI, protect public health, and prevent environmental pollution, resource degradation and public nuisances.

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(b) The regulations in this chapter provide a means to protect the CNMI surface and groundwater resources, as stated in the Commonwealth Groundwater Management and Protection Act of 1988, 2 CMC §§ 3311–3333 (PL 6-12). Since the CNMI is dependent on groundwater for its drinking water supply, this chapter establishes a mechanism to protect this limited resource from contamination from petroleum products contained in underground storage tanks. Thus, the purpose of this chapter is to also establish leak detection, leak prevention, financial responsibility, and corrective action requirements for all UST containing regulated substances.

(c) The regulations in this chapter provide a means to protect marine resources and coastal areas under the Coastal Resources Management (CRM) Act, 2 CMC §§ 1501–1543 (PL 3-47). These UST regulations provide a mechanism to prevent the degradation or pollution of, or damage to the marine resources of the CNMI from underground storage tanks. The provisions stated in this chapter are consistent with the purpose and objective of the CRM Act.

(d) The Bureau of Environmental and Coastal Quality shall have primary jurisdiction to enforce this chapter in the CNMI. Additionally, the Environmental Protection Agency (EPA) Region IX Office, may independently enforce the regulations in this chapter without requiring BECQ action.

Modified, 1 CMC § 3806(a), (g).

History: Amdts Adopted 38 Com. Reg. 37908 (Apr. 28, 2016); Amdts Proposed 38 Com. Reg. 37613 (Feb. 28, 2016); Amdts Adopted 14 Com. Reg. 9674 (Sept. 15, 1992); Amdts Proposed 14 Com. Reg. 9483 (July 15, 1992); Adopted 13 Com. Reg. 8281 (Nov. 15, 1991); Proposed 13 Com. Reg. 7870 (Sept. 15, 1991).

Commission Comment: The Commission changed “2 CMC §§ 3111 to 3133” in subsection (b) to “2 CMC §§ 3101–3134” and “2 CMC §§ 1501 to 1543” in subsection (c) to “2 CMC §§ 1501–1543” pursuant to 1 CMC § 3806(g).

§ 65-100-010 Administration

(a) The Administrator is authorized to take such action as may be necessary in the administration and enforcement of the Underground Storage Tank Regulations for the CNMI.

(b) The Bureau of Environmental and Coastal Quality shall be responsible to prepare, adopt, promulgate, modify, update, repeal, and enforce rules and regulations governing underground storage tank design, construction, permitting, installation, release detection and inventory control, compatibility, record maintenance, reporting, corrective action, closure, and financial responsibility in order to protect human health and environment, and enable BECQ to carry out the purposes and provisions of this chapter.

Modified, 1 CMC § 3806(a).

History: Amdts Adopted 38 Com. Reg. 37908 (Apr. 28, 2016); Amdts Proposed 38 Com. Reg. 37613 (Feb. 28, 2016); Amdts Adopted 14 Com. Reg. 9674 (Sept. 15, 1992); Amdts Proposed 14 Com. Reg. 9483 (July 15, 1992); Adopted 13 Com. Reg. 8281 (Nov. 15, 1991); Proposed 13 Com. Reg. 7870 (Sept. 15, 1991).

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§ 65-100-015 Severability

Should any part, section, paragraph, sentence, clause, phrase, or application of the rules and regulations in this chapter be declared invalid or unconstitutional by a court of competent jurisdiction, the remainder or any other application of these rules and regulations shall not be affected in any way thereby, and shall remain in full force and effect.

Modified, 1 CMC § 3806(a).

History: Amdts Adopted 38 Com. Reg. 37908 (Apr. 28, 2016); Amdts Proposed 38 Com. Reg. 37613 (Feb. 28, 2016); Amdts Adopted 14 Com. Reg. 9674 (Sept. 15, 1992); Amdts Proposed 14 Com. Reg. 9483 (July 15, 1992); Adopted 13 Com. Reg. 8281 (Nov. 15, 1991); Proposed 13 Com. Reg. 7870 (Sept. 15, 1991).

§ 65-100-020 Supersedure

The rules and regulations in this chapter supersede all CNMI Division of Environmental Quality Underground Storage Tank Regulations in effect prior to the effective date of these rules and regulations.

Modified, 1 CMC § 3806(a).

History: Amdts Adopted 38 Com. Reg. 37908 (Apr. 28, 2016); Amdts Proposed 38 Com. Reg. 37613 (Feb. 28, 2016); Amdts Adopted 14 Com. Reg. 9674 (Sept. 15, 1992); Amdts Proposed 14 Com. Reg. 9483 (July 15, 1992); Adopted 13 Com. Reg. 8281 (Nov. 15, 1991); Proposed 13 Com. Reg. 7870 (Sept. 15, 1991).

Part 100 - Adoption by Reference

§ 65-100-101 Adoption by Reference

The provisions of 40 CFR Part 280 - UNDERGROUND STORAGE TANKS (UST) REGULATIONS are hereby adopted by reference, as published in the 2015 Federal Register 15914 (July 15, 2015; Volume 80, Number 135).

Modified, 1 CMC § 3806(a).

History: Amdts Adopted 38 Com. Reg. 37908 (Apr. 28, 2016); Amdts Proposed 38 Com. Reg. 37613 (Feb. 28, 2016); Amdts Adopted 14 Com. Reg. 9674 (Sept. 15, 1992); Amdts Proposed 14 Com. Reg. 9483 (July 15, 1992); Adopted 13 Com. Reg. 8281 (Nov. 15, 1991); Proposed 13 Com. Reg. 7870 (Sept. 15, 1991).

Part 200 - Definitions

§ 65-100-201 Definitions

(a) “Act” means the Commonwealth Environmental Protection Act, 2 CMC §§ 3101–3134 (Public Law 3-23).

(b) “Administrator” means the Administrator of the CNMI Bureau of Environmental & Coastal Quality.

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- (c) “Agency” means the Bureau of Environmental and Coastal Quality.
- (d) “Commonwealth” means the Commonwealth of the Northern Mariana Islands (CNMI).
- (e) “BECQ” means the Bureau of Environmental and Coastal Quality.
- (f) All other terms shall have the same meaning as set forth in the federal regulations referred to in Part 100

Modified, 1 CMC § 3806(a), (c), (g).

History: Amdts Adopted 38 Com. Reg. 37908 (Apr. 28, 2016); Amdts Proposed 38 Com. Reg. 37613 (Feb. 28, 2016); Amdts Adopted 14 Com. Reg. 9674 (Sept. 15, 1992); Amdts Proposed 14 Com. Reg. 9483 (July 15, 1992); Adopted 13 Com. Reg. 8281 (Nov. 15, 1991); Proposed 13 Com. Reg. 7870 (Sept. 15, 1991).

Commission Comment: The Commission created the title for this section. The Commission changed the reference number “Part 2” in subsection (f) to “Part 100” to agree with the renumbered part pursuant to 1 CMC § 3806(c). The Commission changed “2 CMC §§ 3101 to 3134” in subsection (b) to “2 CMC §§ 3101–3134” pursuant to 1 CMC § 3806(g).

Part 300 - Permits

§ 65-100-301 Permit Required

- (a) No person shall install or operate a UST system, without first obtaining a permit from the Administrator.
- (b) The Administrator shall approve an application for a permit to install or operate only if the applicant has submitted sufficient information to the satisfaction of the Administrator that the technical, financial, and other requirements of this chapter are or can be met and the installation and operation of the UST system will be done in a manner that is protective of human health and the environment.
- (c) A permit shall be issued by BECQ only in accordance with this chapter, and it shall be the duty of the owner to ensure compliance with the law in the installation and operation of the UST system.
- (d) Issuance of a permit shall not relieve any person of the responsibility to comply fully with all applicable laws.

Modified, 1 CMC § 3806(a), (g).

History: Amdts Adopted 38 Com. Reg. 37908 (Apr. 28, 2016); Amdts Proposed 38 Com. Reg. 37613 (Feb. 28, 2016); Amdts Adopted 14 Com. Reg. 9674 (Sept. 15, 1992); Amdts Proposed 14 Com. Reg. 9483 (July 15, 1992); Adopted 13 Com. Reg. 8281 (Nov. 15, 1991); Proposed 13 Com. Reg. 7870 (Sept. 15, 1991).

Commission Comment: The Commission changed “an UST” in subsection (a) to “a UST” pursuant to 1 CMC § 3806(g).

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§ 65-100-305 Application for a Permit

- (a) Every application for a permit to install or operate shall be submitted to the BECQ on forms prescribed by the BECQ.
- (b) A permit fee shall accompany each application for a permit.
- (1) The owner or operator shall pay a UST permit to install application fee of \$1,500 per tank (new and replacement) payable to the BECQ, at the time the UST permit to install application is submitted.
- (2) The owner or operator shall pay a UST permit to operate application fee of \$250 per tank (new, renewal, and replacement) payable to the BECQ at the time the application is submitted. Applications for UST permit to operate must be renewed yearly.
- (c) The applicant shall submit sufficient information to enable the Administrator to make a decision on the application. Information submitted shall include but not be limited to the following:
- (1) General information on involved parties, including the landowner, owner, and operator; identification of location of the tanks, piping, and other components that comprise the UST system; and basic description of the UST system;
- (2) Age, size, location, and uses of the UST system;
- (3) Other information required in forms prescribed by the BECQ for the application for a permit; and
- (4) Other information as determined by the Administrator.
- (d) Every application shall be signed by the owner and the operator and shall constitute an acknowledgement that the owner or operator assumes responsibility for the installation and operation of the UST system in accordance with this chapter and the conditions of the permit, if issued.

Modified, 1 CMC § 3806(a), (g).

History: Amdts Adopted 39 Com. Reg. 39158 (Jan. 30, 2017); Amdts Proposed 38 Com. Reg. 38915 (Nov. 29, 2016); Amdts Adopted 38 Com. Reg. 37908 (Apr. 28, 2016); Amdts Proposed 38 Com. Reg. 37613 (Feb. 28, 2016); Amdts Adopted 14 Com. Reg. 9674 (Sept. 15, 1992); Amdts Proposed 14 Com. Reg. 9483 (July 15, 1992); Adopted 13 Com. Reg. 8281 (Nov. 15, 1991); Proposed 13 Com. Reg. 7870 (Sept. 15, 1991).

§ 65-100-310 Underground Storage Tank Location Requirements

- (a) Island of Saipan – Groundwater Management Zones (From Part 2000 of the CNMI Well Drilling and Well Operations Regulations, NMIAC, Title 65, Chapter 140).
- (1) Island of Saipan Class I and Class II Groundwater Management Zone UST System Restrictions: No new USTs shall be permitted for installation or operation in Saipan's Class I or Class II Groundwater Management Zones.
- (2) Island of Saipan Class III Groundwater Management Zone Restrictions. Minimum downgradient and upgradient UST system setback requirements from existing public and private drinking water wells for new USTs:

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- (i) Boundary of UST facility. Wellhead setback requirement:
 - (A) Upgradient 500 feet.
 - (B) Downgradient 500 feet.
- (ii) Downgradient and upgradient UST system facility setback requirements for seawater wells and wells undergoing reverse osmosis treatment may be reduced as allowed under § 65-140-1105 and § 65-140-1205 of the CNMI Well Drilling and Well Operations Regulations.
- (3) There shall be no tanks installed in the following locations:
 - (i) Within a wetland or within 500 feet of a wetland boundary;
 - (ii) Within 500 feet of surface water bodies, such as a reservoir, spring, or cave, from which public drinking water supply is collected;
 - (iii) Within 500 feet of inland waters;
 - (iv) Within 500 feet of the shoreline (as measured from the mean high water mark) or navigable waters;
 - (v) Within tidal or storm water inundation areas; or
 - (vi) Any area determined as unsuitable by the Administrator of BECQ.
- (4) The Administrator of BECQ may, on a site specific basis, waive the requirements of (a)(1)–(3) for the replacement of an existing permitted UST if it can be demonstrated to the Administrator’s satisfaction that such a waiver will not adversely impact human health or the environment. An application for such a waiver must be supported in writing by the owner or operator with the following information:
 - (i) The particular conditions which make compliance with (a)(1)–(3) unfeasible for a facility with an existing permitted UST (e.g., why an aboveground storage tank would not be an acceptable substitute for a UST).
 - (ii) With the exception of (a)(4), the project design shall fully meet all the requirements of this section, and provide additional measures for leak prevention and leak detection to ensure adequate protection of those locations listed in (b)(1)–(3). Such measures may include but are not limited to: UST system design (e.g., double-walled, non-corrodible tanks and piping) or additional compliance monitoring (e.g., weekly or daily versus monthly leak detection check).
 - (iii) When granting a waiver to the requirements in (a)(1)–(3), the Administrator of BECQ may impose additional conditions necessary to assure adequate protection of human health and the environment.
- (b) Islands of Tinian and Rota – CNMI Groundwater Recharge Zones.
 - (1) Until such time as the DEQ promulgates groundwater management zones for the islands of Tinian and Rota, the existing groundwater recharge zone categories (primary, secondary, and brackish) as defined in CNMI Water Quality Standards 2014 (NMIAC, Title 65, Chapter 130) shall be used to determine acceptable locations for placement of new USTs.
 - (2) To determine the groundwater recharge zone in the location of the proposed UST placement, the applicant must prove a determination of the underlying geology, aquifer characteristics, groundwater quality, location and proximity of all nearby wells, and current and potential future use of the underlying groundwater for public water supply based on a review of available information including United States Geological Survey (USGS) maps and reports, Commonwealth Utility Corporation (CUC) well field maps,

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and nearby well drilling records. DEQ may assist the applicant in making such determination where sufficient information exists. The applicant may provide a determination on the basis of a professional hydrogeologist.

(3) Primary Groundwater Recharge Zone. No new USTs shall be permitted for installation or operation in areas determined to meet one or more of the following primary groundwater recharge zone criteria:

(i) Areas contributing surface infiltration to a geologic formation that is saturated with fresh groundwater that is not in contact with seawater (i.e., “perched” groundwater) and is capable of transmitting quantities of fresh water in sufficient quantity to sustain a public water supply well;

(ii) Areas that can reasonably be considered, on the basis of maps provided by USGS or CUC, to be within active or future public water supply well fields;

(iii) Areas contributing surface infiltration to a geologic formation that discharges to a known spring or stream that currently is or is capable of transmitting quantities of fresh water in sufficient quantity to be used as a public water supply.

(4) Secondary Groundwater Recharge Zone.

(i) No new USTs shall be permitted for installation or operation in areas determined to meet the secondary groundwater recharge zone criteria.

(ii) Secondary groundwater recharge zones are defined as areas designated as contributing surface infiltration to a geologic formation that is saturated with groundwater less than 500 parts per million total dissolved solids, and currently or are capable of transmitting quantities of water in sufficient quantities to sustain a public water supply well; or areas with groundwater surface elevation equal to or greater than one foot as mapped by the USGS.

(5) Brackish Groundwater Recharge Zone.

(i) New USTs may be installed and operated in areas which are determined to meet the brackish groundwater recharge zone criteria provided.

(ii) Brackish groundwater recharge zones are defined as areas contributing surface water infiltration to a geologic formation that is saturated with greater than 500 parts per million total dissolved solids; or areas with groundwater surface elevation less than one foot as mapped by USGS.

(6) New USTs must meet the following wellhead setbacks:

(i) Minimum downgradient and upgradient UST system setback requirements from existing public and private drinking water wells.

(ii) Boundary of UST facility. Wellhead setback requirement:

(A) Upgradient 500 feet

(B) Downgradient 500 feet

(iii) Downgradient and upgradient UST system facility setback requirements for seawater wells and wells undergoing reverse osmosis treatment may be reduced as allowed under § 65-140-1105 and § 65-140-1205 of the CNMI Well Drilling and Well Operations Regulations.

(7) No UST systems shall be installed in the following locations:

(i) Within a wetland or within 500 feet of a wetland boundary;

(ii) Within 500 feet of surface water bodies, such as a reservoir or cave, from which public drinking water supply is collected;

(iii) Within 500 feet of inland waters;

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- (iv) Within 500 feet of the shoreline (as measured from the mean high water mark);
- (v) Within tidal or storm water inundation areas; or
- (vi) Any areas as determined unsuitable by the Administrator of BECQ.
- (8) The Administrator of BECQ may, on a site specific basis, waive the requirements of (b)(1)–(7) for the replacement of existing permitted USTs if it can be demonstrated to the Director’s satisfaction that such a waiver will not adversely impact human health or the environment. An application for such a waiver must be supported in writing by the owner or operator with the following information:
 - (i) The particular conditions which make compliance with (b)(1)–(7) unfeasible for a facility with an existing permitted UST (e.g., why an aboveground storage tank would not be an acceptable substitute for a UST).
 - (ii) With the exception of (b)(8), project design shall fully meet all the requirements of this section, and provide additional measures for leak prevention and leak detection to ensure adequate protection for those locations listed in (b)(1)–(7). Such measures may include but are not limited to: UST system design (e.g., double-walled, non-corrodible tanks and piping) or additional compliance monitoring (e.g., weekly or daily versus monthly leak detection check).
 - (iii) When granting a waiver to the requirements in (b)(1)–(7), the Administrator of BECQ may impose additional conditions necessary to assure adequate protection of human health and the environment.

Modified, 1 CMC § 3806(a), (d), (f)–(g).

History: Adopted 39 Com. Reg. 39158 (Jan. 30, 2017); Proposed 38 Com. Reg. 38915 (Nov. 29, 2016).

Commission Comment: The Commission numbered this section, and renumbered subsequent sections in Part 300 pursuant to 1 CMC § 3806(a). The Commission substituted “(a)(1)–(3)” for “this section, Part 4 (B)(5)(a)(1-3)” in (a)(4), (a)(4)(i), and (a)(4)(iii); “(a)(4)” for “this section, Part 4 (B)(5)” in (a)(4)(ii); “section” for “subchapter” in (a)(4)(ii) and (b)(8)(ii); “(b)(1)–(7)” for “this section, Part 4 (B)(5)(a)(1)-(3)” in (b)(8), (b)(8)(i), and (b)(8)(iii); and “(b)(8)” for “this section, Part 4 (B)(5)” in (b)(8)(ii) pursuant to 1 CMC § 3806(d), (g).

§ 65-100-315 Permit

- (a) Upon approval of an application for a permit to install the owner or operator shall have six months from the issuance of the permit to install a UST system. If the installation is not completed within six months, the permit expires and the owner or operator must apply for a new permit.
- (b) A permit to operate may be issued by the Administrator for a period of one year.
- (c) The BECQ, where practicable and appropriate, may issue one permit to the owner or operator of a UST system for the purpose of combining all USTs, piping, and any ancillary equipment constituting that UST system under one permit, irrespective of the number of individual USTs, so long as that UST system is part of one reasonably physical location.

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- (d) BECQ shall inspect and approve all installation procedures and verify that all federal and local specifications have been met and followed.
- (e) All ports, vents, or other apparatuses that could in anyway be construed as a fill port must be:
 - (1) properly identified by labeling which is easily visible and
 - (2) locked to prevent accidental spills due to human error.
- (f) There will be a twenty-one day processing period for any permit to be issued, from the time all requirements in this chapter have been completed and BECQ determines the application complete.
- (g) All BECQ UST permits shall be kept at the UST site and be readily available at all times for inspection by the Administrator or BECQ UST inspector.
- (h) The Administrator may set permitting fees as appropriate. Fees shall be specified in writing and published in the Commonwealth Register.

Modified, 1 CMC § 3806(a), (e), (g).

History: Amdts Adopted 39 Com. Reg. 39158 (Jan. 30, 2017); Amdts Proposed 38 Com. Reg. 38915 (Nov. 29, 2016); Amdts Adopted 38 Com. Reg. 37908 (Apr. 28, 2016); Amdts Proposed 38 Com. Reg. 37613 (Feb. 28, 2016); Amdts Adopted 14 Com. Reg. 9674 (Sept. 15, 1992); Amdts Proposed 14 Com. Reg. 9483 (July 15, 1992); Adopted 13 Com. Reg. 8281 (Nov. 15, 1991); Proposed 13 Com. Reg. 7870 (Sept. 15, 1991).

Commission Comment: The Commission struck the figure “(21)” in subsection (f) as a mere repetition of written words pursuant to 1 CMC § 3806(e). The Commission changed “an UST” in subsections (a) and (c) to “a UST”; “verifies” in subsection (d) to “verify”; and “are” in subsection (e) to “be:” pursuant to 1 CMC § 3806(g).

In codifying 39 Com. Reg. 39158 (Jan. 30, 2017), the Commission renumbered this section pursuant to 1 CMC § 3806(a).

§ 65-100-320 Permit to Operate (Renewals)

- (a) A permit to operate may be renewed for a term of one year.
- (b) A renewal fee shall accompany each application for renewal of a permit. The owner or operator shall pay a UST permit to operate application fee of \$250 per tank (new, renewal, and replacement) payable to the BECQ at the time the application is submitted. Applications for UST permit to operate must be renewed yearly.
- (c) An application for a renewal shall be received by the BECQ at least 30 days prior to the expiration of the existing permit and shall be submitted on forms prescribed by the Agency.
- (d) Failure to submit a renewal application more than 30 days after the date of expiration may result in penalty.

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Modified, 1 CMC § 3806(a).

History: Amdts Adopted 39 Com. Reg. 39158 (Jan. 30, 2017); Amdts Proposed 38 Com. Reg. 38915 (Nov. 29, 2016); Amdts Adopted 38 Com. Reg. 37908 (Apr. 28, 2016); Amdts Proposed 38 Com. Reg. 37613 (Feb. 28, 2016); Amdts Adopted 14 Com. Reg. 9674 (Sept. 15, 1992); Amdts Proposed 14 Com. Reg. 9483 (July 15, 1992); Adopted 13 Com. Reg. 8281 (Nov. 15, 1991); Proposed 13 Com. Reg. 7870 (Sept. 15, 1991).

Commission Comment: The Commission renumbered this section pursuant to 1 CMC § 3806(a).

§ 65-100-325 Permit Conditions

The Administrator may impose conditions on a permit that the Administrator deems reasonably necessary to ensure compliance with this chapter and any other relevant requirement, including conditions relating to equipment, work practice, or operation. Conditions may include, but not be limited to, the requirement that devices for measurement or monitoring of regulated substances be installed and maintained and the results reported to the Administrator. All costs and expenses related to any permit condition imposed by the Administrator shall be borne by the applicant.

Modified, 1 CMC § 3806(a).

History: Amdts Adopted 39 Com. Reg. 39158 (Jan. 30, 2017); Amdts Proposed 38 Com. Reg. 38915 (Nov. 29, 2016); Amdts Adopted 38 Com. Reg. 37908 (Apr. 28, 2016); Amdts Proposed 38 Com. Reg. 37613 (Feb. 28, 2016); Amdts Adopted 14 Com. Reg. 9674 (Sept. 15, 1992); Amdts Proposed 14 Com. Reg. 9483 (July 15, 1992); Adopted 13 Com. Reg. 8281 (Nov. 15, 1991); Proposed 13 Com. Reg. 7870 (Sept. 15, 1991).

Commission Comment: The Commission renumbered this section pursuant to 1 CMC § 3806(a).

§ 65-100-330 Permit Transfers

- (a) No permit shall be transferred, unless approved by the Agency. Request for approval to transfer a permit from one owner to another owner must be made by the new owner. Request for approval to transfer a permit from one operator to another operator must be made by the new owner.
- (b) An application for the transfer shall be received by the BECQ at least 60 days prior to the proposed effective date of the transfer and shall be submitted on forms prescribed by the Agency.
- (c) The approval of transfer is dependent upon meeting all technical, financial, and other requirements of this chapter.
- (d) The transferred permit will be effective for the remaining life of the original permit.

Modified, 1 CMC § 3806(a).

History: Amdts Adopted 39 Com. Reg. 39158 (Jan. 30, 2017); Amdts Proposed 38 Com. Reg. 38915 (Nov. 29, 2016); Amdts Adopted 38 Com. Reg. 37908 (Apr. 28, 2016); Amdts Proposed 38 Com. Reg. 37613 (Feb. 28, 2016); Amdts Adopted 14 Com. Reg. 9674 (Sept. 15, 1992); Amdts Proposed 14 Com. Reg. 9483

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(July 15, 1992); Adopted 13 Com. Reg. 8281 (Nov. 15, 1991); Proposed 13 Com. Reg. 7870 (Sept. 15, 1991).

Commission Comment: The Commission renumbered this section pursuant to 1 CMC § 3806(a).

Part 400 – Spill Reporting

§ 65-100-401 Spill Reporting

(a) All petroleum spills that occur within the Commonwealth of the Northern Mariana Islands must be reported to the Bureau of Environmental and Coastal Quality within two hours of discovery, except spills which meet all of the following criteria:

- (1) The quantity is known to be less than five gallons;
- (2) The spill is contained and under the control of the spiller;
- (3) The spill has not and will not reach the CNMI's water or any land; and
- (4) The spill is cleaned up within two hours of discovery.

(b) Notification requirements.

(1) Notice should be given by telephone at the earliest practicable moment and should include:

- (i) Name of reporter.
- (ii) Name and address of carrier represented by reporter.
- (iii) Phone number where reporter can be contacted.
- (iv) Date, time, and location of incident.
- (v) The extent of injuries, if any.
- (vi) Classification, name, and quantity of hazardous materials involved, if available.
- (vii) Type of incident and nature of hazardous material involved and whether a continuing danger to life exists at scene.

(2) As soon as practicable after the release, a follow-up notification must be given by providing the following information:

- (i) Actions taken to respond to and contain the release.
- (ii) Health risks.
- (iii) Advice on medical attention for exposed individuals.

(c) Any person who knowingly gives or causes to be given any false information as a part of, or in response to, any claim made pursuant to this section or who fails to comply with any duty created by this section shall be liable for a penalty.

Modified, 1 CMC § 3806(a), (g).

History: Adopted 39 Com. Reg. 39158 (Jan. 30, 2017); Proposed 38 Com. Reg. 38915 (Nov. 29, 2016).

Commission Comment: The Commission changed “this regulation” to “this section” and “to” to “for” in (c) pursuant to 1 CMC § 3806(g).

Part 500 - Records and Public Information

§ 65-100-501 Record Maintenance

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All records must be kept in accordance with federal regulations pursuant to Part 100.

Modified, 1 CMC § 3806(a), (c), (f).

History: Amdts Adopted 39 Com. Reg. 39158 (Jan. 30, 2017); Amdts Proposed 38 Com. Reg. 38915 (Nov. 29, 2016); Amdts Adopted 38 Com. Reg. 37908 (Apr. 28, 2016); Amdts Proposed 38 Com. Reg. 37613 (Feb. 28, 2016); Amdts Adopted 14 Com. Reg. 9674 (Sept. 15, 1992); Amdts Proposed 14 Com. Reg. 9483 (July 15, 1992); Adopted 13 Com. Reg. 8281 (Nov. 15, 1991); Proposed 13 Com. Reg. 7870 (Sept. 15, 1991).

Commission Comment: The Commission created the title for this section. The Commission changed the reference number “part 2” to “part 100” to agree with the renumbered part pursuant to 1 CMC § 3806(c). The Commission changed the capitalization of “part” for the purpose of conformity pursuant to 1 CMC § 3806(f).

In adopting 39 Com. Reg. 39158, the Commission renumbered this part and section pursuant to 1 CMC § 3806(a).

§ 65-100-505 Records Available to DEQ

(a) All records shall be made immediately available to the Administrator or BECQ staff member upon request.

(b) Willful withholding of requested information shall be subject to enforcement procedures specified in Part 700.

Modified, 1 CMC § 3806(a), (c), (f).

History: Amdts Adopted 39 Com. Reg. 39158 (Jan. 30, 2017); Amdts Proposed 38 Com. Reg. 38915 (Nov. 29, 2016); Amdts Adopted 38 Com. Reg. 37908 (Apr. 28, 2016); Amdts Proposed 38 Com. Reg. 37613 (Feb. 28, 2016); Amdts Adopted 14 Com. Reg. 9674 (Sept. 15, 1992); Amdts Proposed 14 Com. Reg. 9483 (July 15, 1992); Adopted 13 Com. Reg. 8281 (Nov. 15, 1991); Proposed 13 Com. Reg. 7870 (Sept. 15, 1991).

Commission Comment: The Commission changed the reference number “part 7” in subsection (b) to “part 500” to agree with the renumbered part pursuant to 1 CMC § 3806(c). The Commission changed the capitalization of “part” in subsection (b) for the purpose of conformity pursuant to 1 CMC § 3806(f).

In adopting 39 Com. Reg. 39158, the Commission renumbered this section pursuant to 1 CMC § 3806(a).

§ 65-100-510 Release Information Available

Information regarding the nature and quality of releases from a UST or associated piping otherwise reportable pursuant to this part shall be available to the public.

Modified, 1 CMC § 3806(a).

History: Amdts Adopted 39 Com. Reg. 39158 (Jan. 30, 2017); Amdts Proposed 38 Com. Reg. 38915 (Nov. 29, 2016); Amdts Adopted 38 Com. Reg. 37908 (Apr. 28, 2016); Amdts Proposed 38 Com. Reg. 37613 (Feb. 28, 2016); Amdts Adopted 14 Com. Reg. 9674 (Sept. 15, 1992); Amdts Proposed 14 Com. Reg. 9483 (July 15, 1992).

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Commission Comment: The Commission renumbered this section pursuant to 1 CMC § 3806(a).

Part 600 – Delivery Prohibition

§ 65-100-601 Delivery Prohibition

- (a) It shall be unlawful to deliver to, deposit into, or accept a regulated substance into an underground storage tank at a facility that has been identified by the BECQ as ineligible for fuel delivery or deposit.
- (1) In order to prevent the delivery of a regulated substance into an underground storage tank that has been identified by the BECQ as ineligible for fuel delivery or deposit, a tamper-proof red tag (“red tag”) shall be affixed to the fill pipe of the ineligible underground storage tank.
- (2) This affixed red-tag shall serve as written notification to the owner, operator, and the product delivery industry of the delivery prohibition to the underground storage tank.
- (3) No owner or operator shall receive any regulated substance into any underground storage tank to which written notification of delivery prohibition (“red tag”) has been made.
- (4) No person selling any regulated substance shall deliver or cause to be delivered a regulated substance into any underground storage tank to which notification of delivery prohibition (“red tag”) has been made.
- (5) It shall be unlawful for any person, other than an authorized representative of the BECQ, to remove, tamper with, destroy, or damage a “red tag” affixed to the fill pipe of an underground storage tank.
- (6) The following violations shall render a UST as ineligible to receive or accept a regulated substance:
- (i) Failure to properly operate or maintain release detection equipment;
 - (ii) Failure to properly install, operate, or maintain spill prevention equipment;
 - (iii) Failure to properly install, operate, or maintain overfill equipment;
 - (iv) Failure to properly install, operate, or maintain corrosion protection equipment;
 - (v) Failure to protect a buried metal flexible connector from corrosion;
 - (vi) Failure to maintain financial responsibility;
 - (vii) Recalcitrance – the owner or operator has a history of non-compliance and not responding to previous enforcement or compliance assistance and currently in violation of UST laws;
 - (viii) Actions that pose a serious threat to human health, safety, or the environment; or
 - (ix) Failure to obtain a valid permit to operate from the BECQ.
- (b) The BECQ, in its discretion, may delay the affixing of a “red tag” to an underground storage tank for up to 180 days upon determination that no urgent threat to public health exists and such an action would jeopardize the availability of, or access to, fuel for the local community.

Modified, 1 CMC § 3806(a), (g).

History: Adopted 39 Com. Reg. 39158 (Jan. 30, 2017); Proposed 38 Com. Reg. 38915 (Nov. 29, 2016).

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§ 65-100-605 Notification

- (a) BECQ shall notify the UST owner or operator of BECQ's intent to prohibit deliveries to the UST.
- (b) The UST owner or operator shall have 30 calendar days to correct violations as stated in BECQ's notice of intent to prohibit deliveries.
- (c) After the 30-day period, BECQ shall issue a written statement addressed to the UST owner and operator that the UST is ineligible for fuel delivery or deposit. This written statement is known as the Notification of Delivery Prohibition. BECQ shall also affix the "red tag" to the fill pipe.
- (d) If the owner or operator is not present at the facility at the time the UST is identified as ineligible, the BECQ shall notify the employee(s) at the facility that the UST is ineligible for fuel delivery or deposit.
- (e) The written statement of ineligibility for fuel delivery or deposit, or Notification of Delivery Prohibition, shall include a compliance period, not to exceed 30 calendar days.
- (f) The BECQ may also post a written statement of ineligible for fuel delivery or deposit, or Notification of Delivery Prohibition, on the main entrance of the facility or at a conspicuous location within the facility.
- (g) The BECQ may provide a copy of the written statement of ineligible for fuel delivery or deposit, or Notification of Delivery Prohibition, by letter, fax, or email to product deliverers or fuel delivery providers doing business in the CNMI.

Modified, 1 CMC § 3806(a), (g).

History: Adopted 39 Com. Reg. 39158 (Jan. 30, 2017); Proposed 38 Com. Reg. 38915 (Nov. 29, 2016).

§ 65-100-610 Fines

The UST owner shall also be assessed a \$100 penalty per day during which the facility is ineligible for fuel delivery or deposit.

Modified, 1 CMC § 3806(a).

History: Adopted 39 Com. Reg. 39158 (Jan. 30, 2017); Proposed 38 Com. Reg. 38915 (Nov. 29, 2016).

§ 65-100-615 Reclassification

- (a) In order for an owner or operator of an UST that has received a Notification of Delivery Prohibition ("red tag") to have the tank reclassified by the BECQ as eligible to receive delivery of a regulated substance, the owner or operator must provide a written statement to the BECQ that the deficiencies listed in the notice of noncompliance have been corrected.

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(b) The BECQ will determine whether the deficiencies have been corrected as soon as practicable, but no longer than five business days after receipt of the owner's written statement of compliance.

(c) Upon verification of compliance, BECQ personnel will reclassify the tank as eligible to receive product by removing the "red tag" and shall also provide a written statement that the UST has been reclassified to receive product or fuel delivery.

Modified, 1 CMC § 3806(a), (g).

History: Adopted 39 Com. Reg. 39158 (Jan. 30, 2017); Proposed 38 Com. Reg. 38915 (Nov. 29, 2016).

§ 65-100-620 Enforcement of Delivery Prohibition

The owner or operator of a UST that has a "red tag" shall have the right to appeal BECQ's determination as set forth in § 65-100-705, but filing an appeal shall not toll the assessment of fines or entitle the owner or operator of the UST to receive fuel delivery to the relevant UST prior to the final decision.

Modified, 1 CMC § 3806(a), (d).

History: Adopted 39 Com. Reg. 39158 (Jan. 30, 2017); Proposed 38 Com. Reg. 38915 (Nov. 29, 2016).

Part 700 - Enforcement

§ 65-100-701 Civil Actions

The Administrator may institute civil actions through the Commonwealth courts and/or by administrative orders issued by the Administrator.

Modified, 1 CMC § 3806(a).

History: Amdts Adopted 39 Com. Reg. 39158 (Jan. 30, 2017); Amdts Proposed 38 Com. Reg. 38915 (Nov. 29, 2016); Amdts Adopted 38 Com. Reg. 37908 (Apr. 28, 2016); Amdts Proposed 38 Com. Reg. 37613 (Feb. 28, 2016); Amdts Adopted 14 Com. Reg. 9674 (Sept. 15, 1992); Amdts Proposed 14 Com. Reg. 9483 (July 15, 1992); Adopted 13 Com. Reg. 8281 (Nov. 15, 1991); Proposed 13 Com. Reg. 7870 (Sept. 15, 1991).

Commission Comment: The Commission renumbered this section pursuant to 1 CMC § 3806(a).

§ 65-100-705 Procedures for Administrative Orders

Procedures for administrative orders shall be conducted as follows:

(a) The Administrator may issue an order to enforce compliance with the Act; any regulations adopted pursuant to the Act; any permit or license issued pursuant to the Act or regulations; any order issued pursuant to the Act, permits, or regulations. Such orders may include but are not limited to a payment of a civil fine, take corrective action, or to cease and desist. The administrative order shall serve as a complaint.

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(b) The Administrator may suspend, revoke, or modify any permit or license issued by the BECQ for violation of the Act, any regulations adopted pursuant to the Act, any permit or license issued pursuant to the Act and such regulations.

(c) Any person who is subject to civil penalties, revocation, or suspension pursuant to Part 700 shall be served an administrative order and may upon written request seek a hearing before the Administrator or his designee. Request for a hearing must be served upon the BECQ within seven calendar days from the receipt of the notice of violation or the right to a hearing is waived.

(d) The written request for a hearing shall serve as the answer to the complaint. The request for hearing or “answer” shall clearly and directly admit, deny, or explain each of the factual allegations contained in the complaint with regard to which the alleged violator (respondent) has any knowledge. Where respondent has no knowledge of a particular factual allegation and so states, the allegation is deemed denied. The answer shall also state the circumstances or arguments which are alleged to constitute the grounds of defense, the facts which respondent intends to place at issue, and whether a hearing is requested. Failure to admit, deny, or explain any material factual allegation contained in the complaint constitutes an admission of the allegations.

(e) The respondent may also request an informal settlement conference. An informal settlement conference shall not affect the respondent’s obligation to file a timely request for hearing.

(f) If a hearing is conducted the Administrator or his designee will preside over the hearing. The Administrator shall control the taking of testimony and evidence and shall cause to be made an audio, audio-video, or stenographic record of the hearing. The type of record made shall be the discretion of the Administrator. Evidence presented at such a hearing need not conform with the prescribed rules of evidence, but may be limited by the Administrator in any manner she/he reasonably determines to be just and efficient and promote the ends of justice. The Administrator shall issue a written decision within ten working days of the close of the enforcement hearing. The decision shall include written findings of fact and conclusions of law. The standard of proof for such a hearing and decisions shall be the preponderance of the evidence.

(g) For filing deadline purposes counting of the days shall start on the day after issuance or receipt (whichever is specified). If any filing date falls on a Saturday, Sunday, or Commonwealth holiday, the filing date shall be extended to the next working day.

(h) The Administrator’s decision shall be final. An appeal from the final enforcement decision shall be to the Commonwealth Superior Court under the Commonwealth Administrative Procedure Act within thirty calendar days following service of the final agency decision.

Modified, 1 CMC § 3806(a), (c), (e).

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History: Amdts Adopted 39 Com. Reg. 39158 (Jan. 30, 2017); Amdts Proposed 38 Com. Reg. 38915 (Nov. 29, 2016); Amdts Adopted 38 Com. Reg. 37908 (Apr. 28, 2016); Amdts Proposed 38 Com. Reg. 37613 (Feb. 28, 2016); Amdts Adopted 14 Com. Reg. 9674 (Sept. 15, 1992); Amdts Proposed 14 Com. Reg. 9483 (July 15, 1992); Adopted 13 Com. Reg. 8281 (Nov. 15, 1991); Proposed 13 Com. Reg. 7870 (Sept. 15, 1991).

Commission Comment: The Commission changed the reference number “Part 7” in subsection (b) to “Part 500” to agree with the renumbered part pursuant to 1 CMC § 3806(c). The Commission struck the figures “(10)” and “(30)” in subsections (f) and (h), respectively, as a mere repetition of written words pursuant to 1 CMC § 3806(e).

In adopting 39 Com. Reg. 39158, the Commission renumbered this section pursuant to 1 CMC § 3806(a).

§ 65-100-710 Responsibility of Administrator

The Administrator shall have the responsibility to prepare, issue, modify, revoke and enforce orders for compliance with any of the provisions of this chapter or of any rules and regulations issued pursuant thereto and requiring the taking of such remedial measures for underground storage tank management as may be necessary or appropriate to implement or effectuate the provisions and purposes of this chapter.

Modified, 1 CMC § 3806(a).

History: Amdts Adopted 39 Com. Reg. 39158 (Jan. 30, 2017); Amdts Proposed 38 Com. Reg. 38915 (Nov. 29, 2016); Amdts Adopted 38 Com. Reg. 37908 (Apr. 28, 2016); Amdts Proposed 38 Com. Reg. 37613 (Feb. 28, 2016); Amdts Adopted 14 Com. Reg. 9674 (Sept. 15, 1992); Amdts Proposed 14 Com. Reg. 9483 (July 15, 1992); Adopted 13 Com. Reg. 8281 (Nov. 15, 1991); Proposed 13 Com. Reg. 7870 (Sept. 15, 1991).

Commission Comment: The Commission renumbered this section pursuant to 1 CMC § 3806(a).

§ 65-100-715 Civil Actions through Commonwealth Courts

Nothing in Part 700, § 65-100-705 above shall limit the remedy of civil actions through the Commonwealth courts. At the request of the Administrator, the Attorney General shall institute a civil action in the Commonwealth Superior Court for a temporary restraining order, injunction, or other appropriate remedy to enforce any provision of the Act; this chapter; any term of a permit issued under the authority of the Act or this chapter; or any order issued to enforce the Act, this chapter, a term of a permit, or prior order.

Modified, 1 CMC § 3806(a), (c), (f).

History: Amdts Adopted 39 Com. Reg. 39158 (Jan. 30, 2017); Amdts Proposed 38 Com. Reg. 38915 (Nov. 29, 2016); Amdts Adopted 38 Com. Reg. 37908 (Apr. 28, 2016); Amdts Proposed 38 Com. Reg. 37613 (Feb. 28, 2016); Amdts Adopted 14 Com. Reg. 9674 (Sept. 15, 1992); Amdts Proposed 14 Com. Reg. 9483 (July 15, 1992); Adopted 13 Com. Reg. 8281 (Nov. 15, 1991); Proposed 13 Com. Reg. 7870 (Sept. 15, 1991).

Commission Comment: In April 2016, BECQ adopted this section with modifications from the proposed regulations. 38 Com. Reg. 37908 (Apr. 28, 2016). The section presented above, was proposed by BECQ as

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§ 7(D) and renumbered by the Commission to 65-100-515 pursuant to 1 CMC § 3806(a). 38 Com. Reg. 37613 (Feb. 28, 2016). In its adoption notice at 38 Com. Reg. 37908 (Apr. 28, 2016), BECQ states:

BECQ is modifying Part 7, Enforcement, of the proposed regulations to refer to the Commonwealth Superior Court, rather than continuing to use the outdated reference to the Commonwealth Trial Court in Part 7.

The Commission changed the reference number “Part 7” to “Part 500” and “Section B” to “§ 65-100-505” to agree with the renumbered part and section pursuant to 1 CMC § 3806(c).

In adopting 39 Com. Reg. 39158, the Commission renumbered this section pursuant to 1 CMC § 3806(a).

§ 65-100-720 Searches of Property

(a) If the Administrator has probable cause to believe there has been a violation of this chapter, upon receipt of an order or warrant from the Commonwealth Superior Court or the District Court, BECQ may enter upon and search any property, take necessary samples or readings therefrom, seize evidence found therein, and examine or impound any book or record found therein or specified in such order or warrant.

(b) The Administrator or an authorized representative may enter upon any property for the purposes set forth in 2 CMC § 3132(c) without an order or warrant if the chief or authorized representative has probable cause to believe:

- (1) that a violation described in the subsection has occurred or is imminent,
- (2) that the violation poses a serious, substantial, and immediate threat to the public health or welfare, and
- (3) that the delay in obtaining a court order or warrant would prolong or increase the threat, or would prevent, hinder, or delay the discovery of evidence of the violation or the taking of any necessary mitigating or remedial measure.

Modified, 1 CMC § 3806(a), (g).

History: Amdts Adopted 39 Com. Reg. 39158 (Jan. 30, 2017); Amdts Proposed 38 Com. Reg. 38915 (Nov. 29, 2016); Amdts Adopted 38 Com. Reg. 37908 (Apr. 28, 2016); Amdts Proposed 38 Com. Reg. 37613 (Feb. 28, 2016); Amdts Adopted 14 Com. Reg. 9674 (Sept. 15, 1992); Amdts Proposed 14 Com. Reg. 9483 (July 15, 1992); Adopted 13 Com. Reg. 8281 (Nov. 15, 1991); Proposed 13 Com. Reg. 7870 (Sept. 15, 1991).

Commission Comment: In April 2016, BECQ adopted this section with modifications from the proposed regulations. 38 Com. Reg. 37908 (Apr. 28, 2016). The section presented above, was proposed by BECQ as § 7(E) and renumbered by the Commission to 65-100-520 pursuant to 1 CMC § 3806(a). 38 Com. Reg. 37613 (Feb. 28, 2016). In its adoption notice at 38 Com. Reg. 37908 (Apr. 28, 2016), BECQ states:

BECQ is modifying Part 7, Enforcement, of the proposed regulations to refer to the Commonwealth Superior Court, rather than continuing to use the outdated reference to the Commonwealth Trial Court in Part 7.

The Commission changed the capitalization of “That” in subsections (b)(1)–(3) for the purpose of conformity pursuant to 1 CMC § 3806(f). The Commission changed “2 CMC 3132(c)” in subsection (b) to “2 CMC § 3132(c)” pursuant to 1 CMC § 3806(g).

In adopting 39 Com. Reg. 39158, the Commission renumbered this section pursuant to 1 CMC § 3806(a).

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§ 65-100-725 EPA Enforcement

Nothing in this section shall prevent US EPA from enforcing applicable rules and regulations.

Modified, 1 CMC § 3806(a).

History: Amdts Adopted 39 Com. Reg. 39158 (Jan. 30, 2017); Amdts Proposed 38 Com. Reg. 38915 (Nov. 29, 2016); Amdts Adopted 38 Com. Reg. 37908 (Apr. 28, 2016); Amdts Proposed 38 Com. Reg. 37613 (Feb. 28, 2016); Amdts Adopted 14 Com. Reg. 9674 (Sept. 15, 1992); Amdts Proposed 14 Com. Reg. 9483 (July 15, 1992); Adopted 13 Com. Reg. 8281 (Nov. 15, 1991); Proposed 13 Com. Reg. 7870 (Sept. 15, 1991).

Commission Comment: The Commission renumbered this section pursuant to 1 CMC § 3806(a).

§ 65-100-730 Penalties and Fines

If any person fails to comply with any provision of this chapter, or any regulation or order issued under this chapter, or any term of a permit granted pursuant to this chapter, after notice of failure and the expiration of any reasonable period allowed for corrective action, the person is liable for a civil penalty of not more than \$25,000 for each day of the continuance of the violation. A person is liable for an additional penalty for any amount expended by any agency of the Commonwealth in taking any necessary action to reverse or reduce any significant adverse effect of the violation when the person is unwilling or unable to do so. If appropriate, any permit granted to a person pursuant to this chapter may be revoked, suspended, or modified for continuing violations or as otherwise deemed necessary. The director may assess, collect, and compromise any penalty. No penalty shall be assessed until the person charged with a violation has been given an opportunity for a hearing before the director or a person designated by the director for that purpose; provided, in emergencies the director may summarily suspend a permit pending proceedings under this subsection.

Modified, 1 CMC § 3806(a).

History: Amdts Adopted 39 Com. Reg. 39158 (Jan. 30, 2017); Amdts Proposed 38 Com. Reg. 38915 (Nov. 29, 2016); Amdts Adopted 38 Com. Reg. 37908 (Apr. 28, 2016); Amdts Proposed 38 Com. Reg. 37613 (Feb. 28, 2016); Amdts Adopted 14 Com. Reg. 9674 (Sept. 15, 1992); Amdts Proposed 14 Com. Reg. 9483 (July 15, 1992); Adopted 13 Com. Reg. 8281 (Nov. 15, 1991); Proposed 13 Com. Reg. 7870 (Sept. 15, 1991).

Commission Comment: The Commission renumbered this section pursuant to 1 CMC § 3806(a).

§ 65-100-735 Criminal Prosecutions

Any person who knowingly and willfully makes any false statement, representation, or certification in any application, records, report, plan or other documentation filed or required to be maintained under this chapter, or by any certification, or order issued under this chapter, or who falsifies, tampers with or knowingly renders inaccurate any monitoring device or method required to be maintained pursuant to this chapter or any certification or order of the Administrator pursuant to this chapter shall be subject to

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criminal prosecution and upon conviction shall be assessed fines not to exceed fifty thousand dollars per day or imprisoned not less than six months and not more than one year or both.*

*See Commission Comment.

Modified, 1 CMC § 3806(a).

History: Amdts Adopted 39 Com. Reg. 39158 (Jan. 30, 2017); Amdts Proposed 38 Com. Reg. 38915 (Nov. 29, 2016); Amdts Adopted 38 Com. Reg. 37908 (Apr. 28, 2016); Amdts Proposed 38 Com. Reg. 37613 (Feb. 28, 2016); Amdts Adopted 14 Com. Reg. 9674 (Sept. 15, 1992); Amdts Proposed 14 Com. Reg. 9483 (July 15, 1992); Adopted 13 Com. Reg. 8281 (Nov. 15, 1991); Proposed 13 Com. Reg. 7870 (Sept. 15, 1991).

Commission Comment: In April 2016, BECQ adopted this section with modifications from the proposed regulations. 38 Com. Reg. 37908 (Apr. 28, 2016). The section presented above, was proposed by BECQ as § 7(H) and renumbered by the Commission to 65-100-535 pursuant to 1 CMC § 3806(a). 38 Com. Reg. 37613 (Feb. 28, 2016). In its adoption notice at 38 Com. Reg. 37908 (Apr. 28, 2016), BECQ states:

2) BECQ is amending § 7(H) of the proposed regulations regarding criminal penalties to reflect the exact language of the enabling legislation, the Commonwealth Environmental Protection Act, 2 CMC § 3131(d)(3). Section 7(H) shall now state that criminal violations may be punished “by a fine of not more than \$50,000, or by imprisonment for not more than one year, or both.”

In adopting 39 Com. Reg. 39158, the Commission renumbered this section pursuant to 1 CMC § 3806(a).