

**CHAPTER 63 RIGHT OF ENTRY FOR INSPECTIONS MONITORING,
TESTING AND CORRECTIVE ACTION**

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6300 RIGHT OF ENTRY

- 6300.1 The Director shall have the right, upon presentation of appropriate credentials to the owner, operator or agent in charge, to enter without delay on any property where an underground storage tank is or has been located, or on any property where contamination from an underground storage tank is suspected, for the purpose of enforcing the Act or this subtitle, as set forth in this section.
- 6300.2 Appropriate credentials for making an inspection shall include, but are not limited to, the following:
- (a) A duly issued photo identification card or badge showing the name of the inspector and his or her employment with the Department; or
 - (b) Notice of inspection issued by the Director containing at least the following information:
 - (1) The name of the owner, operator, or agent in charge;
 - (2) The address to be inspected;
 - (3) The date of the inspection; and
 - (4) The signature of the inspector.
- 6300.3 Entry may be at any reasonable time with or without prior notice, as follows:
- (a) In emergency situations, which may include, situations where there is floating product on surface or ground-water, where there are ignition sources in the area, or where there is a potential immediate threat to public health or the environment, the Director shall have the right to enter at any hour; or
 - (b) In non-emergency situations, entry between the hours of 9 a.m. and 5 p.m. on weekdays, as well as entry during any hours in which the owner or operator is open for business shall be deemed "reasonable."

6301 ENTRIES FOR INSPECTION AND MONITORING

- 6301.1 Upon entry, the Director may do the following:
- (a) Inspect the premises where the tanks are or were located and surrounding

areas which may be impacted;

- (b) Inspect and obtain samples of any regulated substance contained in any tank;
- (c) Inspect and copy any record, report, information or test result required to be maintained pursuant to the Act or this subtitle, or relevant to the operation of any underground storage tank; and
- (d) Conduct monitoring or testing of any tank, associated equipment, contents, surrounding soils, air, surface water, or ground-water.

6301.2 Samples shall be handled as follows:

- (a) If the Director obtains any sample, prior to leaving the premises, he or she shall give the owner, operator, or agent in charge, a receipt that describes the sample obtained, and if requested, a portion of the sample equal in volume or weight to the portion obtained. If any analysis is made of a sample, a copy of the results of the analysis shall be furnished promptly to the owner, operator, or agent in charge; and
- (b) All samples obtained by the Director shall be labeled at the time the sample is collected. All samples shall be accompanied by a "Chain of Custody Manifest Form" each time the sample changes hands or is moved from one location to another. Samples shall be handled in accordance with the Department's Protocol.

6301.3 The Director may require the owner, operator or other responsible party to provide information or records, to conduct monitoring or testing, or take any necessary corrective action in accordance with the requirements of §5602 and Chapters 60 and 62.

6301.4 When requiring the owner, operator or a responsible party to take action pursuant to the Act or this Subtitle, the Director may issue a Directive, which shall advise the owner, operator or a responsible party of the action he or she is required to take and shall state the time period within which the action must be performed, or may take other enforcement actions pursuant to Chapter 66.

6301.5 The owner or operator of each UST system or another responsible party shall cooperate fully with inspections, monitoring, and testing conducted by the Director, as well as requests for document submission, testing, and monitoring by the owner, operator or responsible party pursuant to §9005 of Subtitle I of the Resource Conservation and Recovery Act, as amended (the "RCRA"), 42 USC §6901 *et seq.*

6301.6 Where the Director makes a written request for submission of records, documents or other information, required to be maintained by the owner, operator or another responsible party or in the possession of the owner, operator or another responsible party, the records or documents shall be submitted to the Director within twenty (20) days of a request, unless a different time period is specified by the Director. This subsection shall not affect the requirement for immediate production of records or documents during an inspection as provided for in

§6301.1(c).

6302 ENTRY FOR CORRECTIVE ACTION

6302.1 The Director may enter upon property to perform, or cause to be performed, release response and corrective actions which are necessary to protect human health or the environment in any of the following circumstances, upon compliance with the notice requirements of this section:

- (a) Where no person can be found within ninety (90) days who is an owner or operator subject to the requirements of Chapter 62, and capable of proper implementation of the required corrective action;
- (b) Where a situation exists which requires immediate action by the Director to protect human health and the environment;
- (c) Where corrective action costs at a facility exceed the amount of coverage required by the Director pursuant to the financial responsibility requirements and action by the Director is necessary to ensure an effective corrective action; or
- (d) Where the responsible party has failed or refused to comply with an order issued by the Director requiring compliance with the corrective action rules.

6302.2 Except as provided in §6302.4, the Director shall provide written notice of his or her intention to enter the property to take corrective action, at least ten (10) working days prior to commencing work, and shall serve the notice in the following manner:

- (a) By personal delivery to the owner, operator or agent in charge employed by the owner or operator, or to a person of suitable age and discretion, over sixteen (16) years of age, residing or employed at the address of the owner or operator at the premises;
- (b) By registered mail, return receipt requested to the last known address of the owner or operator; or
- (c) If service cannot be effected as provided in paragraph (a) or (b) of this subsection, then service shall be effected as follows:
 - (1) By publishing the notice once a week for three (3) weeks in a newspaper of general circulation in the District of Columbia, and
 - (2) By conspicuous posting of the notice on the property.

6302.3 Where the owner or operator is a corporation, any notice to be served, if served on the president, treasurer, general manager, or any principal officer of such corporation in the manner provided in §6302.2, shall be deemed to have been served on the corporation. If the owner or operator is a foreign corporation,

service on the registered agent of the corporation shall also be deemed service on the corporation.

6302.4 Where a release of a regulated substance from an underground storage tank creates an imminent threat to human health or the environment necessitating summary corrective action, and the emergency nature of the situation makes it impractical to give prior notice as provided in §6302.2, the Director may provide notice by conspicuous posting on the property at the earliest time feasible, prior to commencing work. Even if personal service or service by registered mail is effected, notice shall also be provided by posting.

6302.5 Except as provided in §6302.4, the written notice of intention to begin corrective action shall contain the following information:

- (a) The name and address of the owner of the property;
- (b) The name and address of the owner or operator or other responsible party to whom the notice is directed;
- (c) A statement of the authority pursuant to which the director is taking the corrective action;
- (d) A brief summary of the corrective actions to be taken and the conditions in need of correction;
- (e) A description of the location where work will take place, including both street address, and lot and square numbers or, where there are no lot and square numbers, the parcel number;
- (f) Notice of any applicable hearing rights to which the owner or operator is entitled under the Act or under Chapter 66, if such a notice has not already been served;
- (g) A statement that the Director will pursue cost recovery against the responsible party for all corrective action costs and related expenses;
- (h) The name, position, office address, and phone number of the employee issuing the notice and the name and phone number of the appropriate contact person within the Department; and
- (i) The signature of the Program Manager of the Toxic Substances Division, Environmental Protection Administration, or other designated representative of the Director.