

Title 11: Mississippi Department of Environmental Quality

Part 5: Underground Storage Tank Regulations

Part 5, Chapter: 3 Underground Storage Tank Regulations for the Certification of Persons Who Install, Alter, And Remove Underground Storage Tanks (Adopted January 24, 1990; Last Amended September 28, 1995)

TABLE OF CONTENTS

Rule 3.1 General Intent

Rule 3.2 Legal Authority

Rule 3.3 Definitions

Rule 3.4 Applicability

Rule 3.5 General Requirements

Rule 3.6 Certification Requirements

Rule 3.7 Testing

Rule 3.8 Certification

Rule 3.9 Certification Renewals

Rule 3.10 Continuing Education

Rule 3.11 Lapsed Certification

Rule 3.12 Revocation, Denial, And Non-Renewal Of Certificates

Rule 3.13 Enforcement And Appeals

Rule 3.14 Property Rights

Rule 3.1.General Intent.

The purpose of these Regulations is to provide for the certification and regulation of persons installing, altering, and removing underground storage tank (UST) systems which contain regulated substances. These regulations are promulgated to assure that UST systems are being installed, altered, and removed in a manner which will not cause or contribute to releases of regulated substances as defined in Section 49-17-403, Mississippi Annotated Code of 1972, and will protect the environment, the public health, safety, and welfare.

Source: Miss. Code Ann. §§ 49-17-429, 49-2-9(1)(b), 49-17-17(i), 49-17-401, et seq., 49-2-1, et seq. and 49-17-1, et seq.

Rule 3.2 Legal Authority.

These regulations are promulgated pursuant to the provisions of the Underground Storage Tank Act of 1988, particularly Section 49-17-429, Mississippi Code Annotated of 1972, requiring that beginning on July 1, 1990, all persons who install, alter, or remove underground storage tanks must be certified by the Commission on Environmental Quality. Authority to issue certifications is hereby delegated to the Department of Environmental Quality through these rules.

Source: Miss. Code Ann. §§ 49-17-429, 49-2-9(1)(b), 49-17-17(i), 49-17-401, et seq., 49-2-1, et seq. and 49-17-1, et seq.

Rule 3.3 Definitions. All the definitions found in Mississippi Underground Storage Tank Regulations, Section 49-17-403, are incorporated in these regulations. The following definitions also apply to these regulations:

- A. "Alter" means the correction or modification of a UST system, including but not limited to the replacement of piping, valves, fill pipes or vents and any repairs to the tank.
- B. "Certified Installation Contractor" means a person who has been certified by the Department to install, alter, and permanently close UST systems.
- C. "Certified Removal Contractor" means a person who has been certified by the Department to permanently close UST systems.
- D. "Critical Junctures," means the steps taken to install, alter, or permanently close a UST system which cause the greatest risk of release.
 - (1) In the case of installation, critical junctures shall at a minimum, include:
 - (a) preparation of the excavation immediately prior to receiving backfill, tank(s) and piping;
 - (b) setting of the tank(s) and piping, including placement of any anchoring devices, backfilling, and strapping;
 - (c) any time the components of the piping are disconnected or are being disconnected or connected;
 - (d) all pressure testing of the UST system performed during the installation;
 - (e) completion of backfill and filling of the excavation.
 - (2) In the case of alteration, critical juncture, shall, at a minimum, include:

- (a) all steps listed in D.(1) above;
 - (b) excavation of existing tank(s) or piping;
 - (c) actual performance of the alteration to the tank(s) or the piping;
 - (d) any time the components of the UST system are disconnected or are being disconnected, connected, repaired, or replaced; and
 - (e) any time during the testing of the UST system.
- (3) In the case of a removal, critical juncture, shall at a minimum include:
- (a) any removal and excavation of cover material and surrounding soil;
 - (b) removal of the tank(s) and/or piping in the case of physical removal;
 - (c) filling of the tank(s) and/or piping with an inert material;
 - (d) purging and inerting in the case of closing the tank; and sampling.
- E. "Department" means the Mississippi Department of Environmental Quality.
- F. "Full-time employee" means that the employee is paid by his employer for at least 40 hours per week and receives all of the same benefits from his employer that are afforded to all of the employer's other full-time employees.
- G. "Install" or "Installation" means the work involved in placing an underground storage tank system or any part thereof in the ground and preparing it to be placed in service.
- H. "Permanent closure" means the physical removal of an underground storage tank system or the closure of an underground storage tank system in place.
- I. "Remove or Removal" means permanent closure.
- J. "Sampling" means taking specimens during the permanent closure process according to sampling procedures found in guidelines established by the Department.
- K. "Underground Storage Tank" or "Underground Storage Tank System" shall have the same meaning as defined in Section 49-17 403(s) of the Mississippi Code Annotated of 1972.

Source: Miss. Code Ann. §§ 49-17-429, 49-2-9(1)(b), 49-17-17(i), 49-17-401, *et seq.*, 49-2-1, *et seq.* and 49-17-1, *et seq.*

Rule 3.4 Applicability.

- A. These regulations apply to all persons who install, alter, or remove underground storage tank systems in this state, except as provided in Rule 3.4.B below.

- B. The provisions of these regulations do not apply to the installation, alteration, or removal of any underground storage tank system exempt from regulation under 49-17-403, Mississippi Code of 1972, or exempt from these regulations.

Source: Miss. Code Ann. §§ 49-17-429, 49-2-9(1)(b), 49-17-17(i), 49-17-401 , *et seq.*, 49-2-1, *et seq.* and 49-17-1, *et seq.*

Rule 3.5 General Requirements.

- A. Beginning on July 1, 1990, no person may install, alter, or remove underground storage tank systems in this state unless that person holds current certification from the Department.

- B. A certified individual shall exercise supervisory control and be physically present at the work site during all critical junctures.

- C. The requirements of these regulations are in addition to and not in lieu of any other licensing and registration requirements imposed by the state or any other governing authority.

- D. A certified individual shall install, alter and remove underground storage tanks according to the Mississippi Underground Storage Tank Technical Regulations.

- E. A certified individual shall exercise reasonable care in the installation, alteration, and removal of UST systems so as to prevent and detect releases of regulated substance into the environment.

- F. A certified individual shall be responsible for all work performed under his certification.

Source: Miss. Code Ann. §§ 49-17-429, 49-2-9(1)(b), 49-17-17(i), 49-17-401, *et seq.*, 49-2-1, *et seq.* and 49-17-1, *et seq.*

Rule 3.6 Certification Requirements.

- A. To be a certified installation contractor or a certified removal contractor of underground storage tank systems, an applicant for certification must meet the following requirements:
 - (1) be at least 18 years of age;
 - (2) complete and submit an application provided by the Department;
 - (3) pass appropriate examination(s) developed and given by the Department, with a score of at least 75%;

- (4) submit current proof of financial responsibility in one of the following two ways if installing, altering, or removing tanks not owned by the applicant or company named on the certification application:
 - (a) Certificate of Insurance that must provide and reflect
 - (1) at least \$50,000 coverage of contractor's general liability insurance; and
 - (2) a 30- or 60-day cancellation notice period; and
 - (3) the Department as the certificate holder; or,
 - (b) a Certificate of Responsibility from the Mississippi Board of Contractors;
 - (5) submit letter from his employer stating that the applicant is a full-time employee of said company if both of the following conditions exist:
 - (a) applicant is an employee of company and not the owner;
 - (b) The applicant will install, alter, and/or remove tanks other than those owned by the company.
 - (6) be a full-time employee of only one company.
- B. If applying for certification to remove USTs, an applicant must provide a certificate showing completion of eight (8) hours of Department approved removal-related course work and meet the requirements in Rule 3.6.A of this rule.
- C. If applying for certification to install, alter, and remove USTs, an applicant must provide a certificate showing completion of eight (8) hours of Department approved installation-related course work and meet the requirements in subsections Rule 3.6.A. and B. of this rule.

Source: Miss. Code Ann. §§ 49-17-429, 49-2-9(1)(b), 49-17-17(i), 49-17-401, *et seq.*, 49-2-1, *et seq.* and 49-17-1, *et seq.*

Rule 3.7 Testing

- A. The Department shall prepare examinations to determine an applicant's knowledge, ability, and judgment.
- B. Applicants must meet all of the certification requirements within six (6) months from the date of receiving a passing score to receive certification. After six (6) months, an applicant must meet the requirements in Rule 3.6, Certification Requirements, and Rule 3.7, Testing.

- C. Examinations shall be held at places and times set by the Department.
- D. An applicant who fails an examination must wait at least 30 days before being retested.
- E. An applicant who fails three examinations within 12 months shall not be retested until at least one (1) year after the date of his last examination.
- F. An applicant for certification to install, alter, and remove underground storage tanks must first make a passing score of 75 percent or more on the closure test before taking the installation and alteration test.

Source: Miss. Code Ann. §§ 49-17-429, 49-2-9(1)(b), 49-17-17(i), 49-17-401, et seq., 49-2-1, et seq. and 49-17-1, et seq.

Rule 3.8 Certification.

- A. The Department shall issue certification to applicants who meet all certification requirements.
- B. Certification shall be issued for a period of two (2) years.
- C. A certified individual who changes employers must submit a revised certification application and meet the requirements in A.4, A.5, and A.6 in Rule 3.6, Certification Requirements, before a revised certificate will be issued.
- D. An individual certified to only remove UST systems who passes the installation and alteration test will be issued a certificate to install, alter, and remove UST systems for two years.

Source: Miss. Code Ann. §§ 49-17-429, 49-2-9(1)(b), 49-17-17(i), 49-17-401, et seq., 49-2-1, et seq. and 49-17-1, et seq.

Rule 3.9 Certification Renewals. Certificates must be renewed every two (2) years. An applicant for renewal must submit the following to the Department prior to his certification expiration date:

- A. a completed Certification Renewal Application provided by the Department; and
- B. proof that continuing education hours were taken during the current two-year certification period and meet the requirements found in Rule 3.10, Continuing Education.

Source: Miss. Code Ann. §§ 49-17-429, 49-2-9(1)(b), 49-17-17(i), 49-17-401, et seq., 49-2-1, et seq. and 49-17-1, et seq.

Rule 3.10 Continuing Education.

- A. Individuals certified to install, alter, and remove UST systems must receive at least sixteen (16) hours of related continuing education during the two (2) year certification period. Individuals who were certified before the effective date of these regulations must meet the 16 hours of continuing education during their next certification period.

- B. Individuals certified to only remove UST systems must receive at least eight (8) hours of related continuing education during the two (2) year certification period.
- C. Individuals will only receive credit for attending Department approved continuing education courses.
- D. Individuals certified to remove UST systems who later become certified to install and alter UST systems will receive credit for eight (8) hours of continuing education course work taken in accordance with the requirements in subsection C of this rule.

Source: Miss. Code Ann. §§ 49-17-429, 49-2-9(1)(b), 49-17-17(i), 49-17-401, *et seq.*, 49-2-1, *et seq.* and 49-17-1, *et seq.*

Rule 3.11 Lapsed Certification. If a Certified Installation Contractor or Removal Contractor wants to become certified after his certification expires, he must meet all of the certification requirements in:

- A. A.2,A.3,A.4,A.5,A.6, and B. and, if applicable, C. in Rule 3.6, Certification Requirements; and
- B. Rule 3.7, Testing.

Source: Miss. Code Ann. §§ 49-17-429, 49-2-9(1)(b), 49-17-17(i), 49-17-401, *et seq.*, 49-2-1, *et seq.* and 49-17-1, *et seq.*

Rule 3.12 Revocation, Denial, And Non-Renewal Of Certificates. The Commission may revoke any certificate or deny any application or renewal application for good cause. Good cause may include, but is not limited to:

- A. fraud or deception;
- B. failure to use reasonable care or judgement in the performance of duties;
- C. incompetence or inability to properly perform duties;
- D. failure to follow provisions of Rule 3.5, General Requirements; and
- E. other reasons as the Commission may deem appropriate.

Source: Miss. Code Ann. §§ 49-17-429, 49-2-9(1)(b), 49-17-17(i), 49-17-401, *et seq.*, 49-2-1, *et seq.* and 49-17-1, *et seq.*

Rule 3.13 Enforcement and Appeals.

- A. Any interested party, including the Department, may request a hearing before the Commission as provided in Sections 49-17-31, 49-17-33, 49-17-35, 49-17-37, or 49-17-

41 or other applicable provisions of law. Hearings may be requested regarding any of the provisions of these rules, including but not limited to:

- (1) revocation of a certificate;
 - (2) non-renewal of a certificate; and
 - (3) denial of an application for certification.
- B. A person who violates any provision of these regulations or of State law is subject to any actions and remedies allowed under State law.
- C. Enforcement and appeals shall be in accordance with the Mississippi Underground Storage Tank Act of 1988, 49-17-401, et seq., and the Mississippi Air and Water Pollution Control Law 49-17-1, et seq.

Source: Miss. Code Ann. §§ 49-17-429, 49-2-9(1)(b), 49-17-17(i), 49-17-31, 49-17-33, 49-17-35, 49-17-37, 49-17-41, 49-17-401, et seq., 49-2-1, et seq. and 49-17-1, et seq.

Rule 3.14 Property Rights

A certification issued by the Department or Commission does not convey any property rights in either real or personal property, or any exclusive privileges, nor does it authorize any injury to private property or any invasion of personal rights nor any infringement of federal, state, or local law.

Source: Miss. Code Ann. §§ 49-17-429, 49-2-9(1)(b), 49-17-17(i), 49-17-31, 49-17-33, 49-17-35, 49-17-37, 49-17-41, 49-17-401, et seq., 49-2-1, et seq. and 49-17-1, et seq.