

# **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, Test, and Permanently Close Underground Storage Tanks (Adopted January 24, 1990; Amended September 28, 1995; Last Amended August 23, 2018)**

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#### ***Rule 3.1 General Intent.***

The purpose of these Regulations is to provide for the certification and regulation of persons installing, altering, testing, and permanently closing underground storage tank (UST) systems which contain regulated substances. These regulations are promulgated to assure that UST systems are being installed, altered, tested, and permanently closed 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 permanently close underground storage tanks must be certified by the Commission on Environmental Quality. Pursuant to Section 49-17-429, beginning on (6 months from implementation of regulations), all persons who perform testing on underground storage tank components 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" or "Alteration" means the correction or modification of a UST system, including but not limited to the replacement and repair of piping, valves, tank risers, 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 test UST systems.
- C. "Certified Removal Contractor" or "Certified Permanent Closure Contractor" means a person who has been certified by the Department to permanently close UST systems.
- D. "Certified UST Technician" means a person who has been certified by the Department to perform testing and non-invasive repairs to UST systems.
- E. "Certified Cathodic Protection Tester" means a person who has been certified by the Department to have successfully completed a Department approved 3<sup>rd</sup> party examination to test Cathodic Protection on a UST system.
- F. "Critical Junctures," means the steps taken to install, alter, permanently close, or test 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 tank anchoring devices, backfilling, and strapping;
  - (c) any time the components of the piping below ground 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 F(1) above;
  - (b) excavation of existing tank(s), piping, secondary containment sumps, tank risers, spill buckets, or vents;
  - (c) actual performance of the alteration to the tank(s), piping below ground, tank risers, or vents; and
  - (d) any time the components of the UST system below ground are disconnected or are being disconnected, connected, repaired, or replaced excluding repairs classified as non-invasive.
- (3) In the case of a permanent closure, 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 or inerting the tank; and
  - (e) sampling.
- (4) In the case of testing, critical juncture, shall, at a minimum, include:
- (a) testing of the UST system; and
  - (b) any non-invasive repair required to test a UST system component or to non-invasively repair a component that failed during testing.

G. "Department" means the Mississippi Department of Environmental Quality.

H. "Employee" means any individual who installs, alters, permanently closes, or tests UST systems for their employer.

- I. "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.
- J. "Non-Invasive repair" means any repair that does not require a critical juncture equivalent to classification as an "Installation" or "Alteration". A non-invasive repair shall include removal or installation of: dispensers, line leak detectors, over fill devices, probes, sensors, or other UST components approved by the Department. A non-invasive repair shall include repair to existing: sump penetration fittings, anchoring of shear (impact) valves, spill buckets, or other UST components approved by the Department as a non-invasive repair. It shall not include removal or installation of submersible turbine pumps (STPs), shear (impact) valves, or any repair that requires excavation or drilling.
- K. "Permanent closure" means the physical removal of an underground storage tank system or the closure of an underground storage tank system in place whereas the underground storage tank system is made in-operable.
- L. "Remove or Removal" means permanent closure.
- M. "Sampling" means taking samples during the temporary or permanent closure process according to sampling procedures found in guidelines established by the Department.
- N. "Test" or "Testing" means any activity following manufactures specifications, Department guidelines, or a Department approved industry standard to confirm adequate functionality of a UST component. Some testing may require activity classified as a non-invasive repair.
- O. "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, test, or permanently close 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, testing, and permanent closure 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 permanently close underground storage tank systems in this state unless that person holds current certification from the Department.
- B. Beginning on February 23, 2019, no person may test or perform non-invasive repairs to underground storage tank systems in this state unless that person holds current certification

from the Department.

- C. A certified individual shall exercise supervisory control and be physically present at the work site during all critical junctures.
- D. 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.
- E. A certified individual shall install, alter, permanently close and test underground storage tank systems according to the Mississippi Underground Storage Tank Technical Regulations, industry standards, and follow all applicable manufacture requirements for UST equipment installed or altered and any UST equipment used to test UST systems.
- F. A certified individual shall ensure any UST equipment used to test UST systems are maintained, calibrated, and repaired in accordance with manufacture requirements.
- G. A certified individual shall exercise reasonable care in the installation, alteration, permanent closure, and testing of UST systems so as to prevent and detect releases of regulated substance into the environment.
- H. A certified individual shall be responsible for all work performed under their certification.
- I. A certified individual shall notify the owner/operator in writing of any testing of a UST system component that fails routine testing and notify the owner/operator of their reporting requirements according to the Mississippi Underground Storage Tank Technical Regulations.
- J. A certified individual shall be responsible for maintaining and making available upon request by the Department all applicable Department certifications and all applicable certifications from the manufacture (s) of the UST equipment they are installing or using to test a UST system specified in Rule 3.8 G.
- H. A certified individual shall follow all applicable manufacture requirements for UST equipment to be: installed, altered, non-invasively repaired, and/or used to test UST systems.

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, certified permanent closure contractor, or certified UST technician 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 and maintain during the certification period current proof of financial responsibility in one of the following two ways if installing, altering, permanently closing, or testing UST systems 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 their employer stating that the applicant is an employee of said company and the following conditions exist:
    - (a) applicant is an employee of company and not the owner;
    - (b) The applicant will install, alter, test, and/or permanently close UST systems other than those owned by the company.
  - (6) submit proof of experience with UST systems by letter of employer, W-2s, or Department approved equivalent to confirm the following:
    - (a) Two (2) years of experience under an MDEQ licensed Installation contractor to become certified to install or alter USTs, unless otherwise approved by the Department.
    - (b) Two (2) years of experience under an MDEQ licensed Removal contractor to become certified to permanently close USTs, unless otherwise approved by the Department.
    - (c) Six (6) months of experience under an MDEQ licensed Installation contractor or MDEQ licensed Technician to become certified to test and perform non-invasive repairs to USTs, unless otherwise approved by the Department.
    - (d) Six (6) months of experience under an MDEQ licensed Cathodic Protection Tester to become certified to test Cathodic Protection on USTs, unless otherwise approved by the Department.
- B. If applying for certification to permanently close USTs, an applicant must provide a certificate showing completion of eight (8) hours of Department approved permanent closure-related course work and meet the requirements in Rule 3.6.A and F. of this rule.
- C. If applying for certification to install, alter, or test USTs, an applicant must provide a certificate showing completion of eight (8) hours of Department approved installation, alteration, or testing related course work and meet the requirements in subsections Rule 3.6.A. and F. of this rule.

- D. If applying for certification to test USTs and perform non-invasive repairs, an applicant must provide a certificate showing completion of eight (8) hours of Department approved testing related course work and meet the requirements in subsections of Rule 3.6.A. and F. of this rule.
- E. If applying for certification to test Cathodic Protection, an applicant must provide a certificate showing completion of a Department approved third party examination to test Cathodic Protection on a UST system and meet the requirements in A.1, A.2, A.5, A.6, and F of this rule.
- F. Applicant must resolve any outstanding violations, applicable fees or penalties to be paid to the Department before certification or renewal certifications are issued by the Department.

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 and Rule 3.7.
- 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, unless otherwise approved by the Department.

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. Certifications for Installation Contractors, Permanent Closure Contractors, and UST Technicians shall be issued for a period of two (2) years.
- C. Certifications for Certified Cathodic Protection Testers shall be issued for a period not to exceed their corresponding Department approved third party Cathodic Protection licensure.
- D. 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, before a revised certificate will be issued.

- E. An individual certified to install alter UST systems will be considered to have met the requirements for classification as a certified UST Technician.
- F. An individual certified to install, and alter UST systems before (date of implementation of regulations), will be classified as a Certified Cathodic Protection Tester for a period of 2 years. After (two years from date of implementation of regulations), the individual certified to install and alter UST systems must be certified by the Department as a Cathodic Protection Tester to test Cathodic Protection.
- G. An individual certified by the Department as a “Certified Installation Contractor” or “Certified UST Technician” must maintain any applicable manufacture required certification and / or recertification of testing equipment, test procedure, installation methods or installation procedures.

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 issued by the Department as a Certified Installation Contractor, Certified Permanent Closure Contractor, and Certified UST Technician must be renewed every two (2) years. Certificates issued by the Department as a Certified Cathodic Protection Tester must be renewed before the date of expiration. An applicant for renewal must submit the following to the Department prior to their certification expiration date:

- A. a completed Certification Renewal Application provided by the Department;
- B. proof that continuing education hours were taken during the current two-year certification period and meet the requirements found in Rule 3.10, if applicable, and
- C. proof that certifications in Rule 3.8.G are current.

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, test, and permanently close UST systems must receive at least sixteen (16) hours of related continuing education during the two (2) year certification period unless otherwise approved by the Department.
- B. Individuals certified to only permanently close UST systems must receive at least eight (8) hours of related continuing education during the two (2) year certification period unless otherwise approved by the Department.

- C. Individuals certified to only install, alter, and test UST systems must receive at least (8) hours of related continuing education during the two (2) year certification period unless otherwise approved by the Department.
- D. Individuals certified to only test UST systems must receive at least eight (8) hours of related continuing education during the two (2) year certification period unless otherwise approved by the Department.
- E. Individuals certified to only test Cathodic Protection Systems must be recertified by the Department approved third party before the date of expiration listed on the current certification issued by the Department.
- F. Individuals will only receive credit for attending Department approved continuing education courses.

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, Permanent Closure Contractor, UST Technician, or Cathodic Protection Tester wants to become certified after their certification expires, they must meet all of the certification requirements in:

- A. Rule 3.6 A.2 – A.6, and F, and if applicable, B, C, D, or E in Rule 3.6,
- B. Rule 3.7 and
- C. Rule 3.8 G,

unless otherwise approved by the Department.

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 penalize, revoke any certificate, and 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;

- F. failure to follow provisions of Rule 3.6 A.4, and F; and
- F. 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 process.***

- 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) penalization of a certificate holder;
  - (2) revocation of a certificate;
  - (3) non-renewal of a certificate; and
  - (4) 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.*