

Miss. Code Ann. § 49-17-401

Current with 2023 Regular Session legislation effective July 1, 2023. The final official version of the statutes affected by 2023 legislation will appear on Lexis Advance and Lexis+ in the fall of 2023.

Mississippi Code 1972 Annotated > Title 49. Conservation and Ecology (Chs. 1 — 39) > Chapter 17. Pollution of Waters, Streams, and Air (§§ 49-17-1 — 49-17-775) > Mississippi Underground Storage Tank Act of 1988 (§§ 49-17-401 — 49-17-435)

§ 49-17-401. Short title.

Sections 49-17-401 through 49-17-433 shall be known as the Mississippi Underground Storage Tank Act of 1988.

History

Laws, 1988, ch. 547, § 1, eff from and after July 1, 1988.

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Miss. Code Ann. § 49-17-403

Current with 2023 Regular Session legislation effective July 1, 2023. The final official version of the statutes affected by 2023 legislation will appear on Lexis Advance and Lexis+ in the fall of 2023.

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§ 49-17-403. Definitions.

For the purposes of Sections 49-17-401 through 49-17-433, the following shall have the meaning ascribed in this section:

- (a) “Active site” means a site of an underground storage tank where an owner can be identified and where the tank is available for use in the management and handling of motor fuels, including tanks currently in service, tanks temporarily closed and tanks temporarily out of service.
- (b) “Bonded distributor” means any person holding a distributor’s permit issued under either Section 27-55-7 or Section 27-55-507.
- (c) “Commission” means the Mississippi Commission on Environmental Quality.
- (d) “Contamination” means the presence or discharge of regulated substances in or on the land or in the waters of the state.
- (e) “Department” means the Mississippi Department of Environmental Quality.
- (f) “Director” means the Executive Director of the Mississippi Department of Environmental Quality.
- (g) “Groundwater” means water located beneath the land surface located wholly or partially within the boundaries of the state.
- (h) “Motor fuels” means gasoline and aviation gasoline as defined in Section 27-55-5 and special fuel as defined in Section 27-55-505, except for those “motor fuels” used in electric power generating plants for the commercial production of electricity.
- (i) “Operator” means any person in control of, or having responsibility for, the daily operation of an underground storage tank.
- (j) “Owner of an underground storage tank” means:

- (i) In the case of an underground storage tank in use on November 8, 1984, or brought into use after that date, any person who owns an underground storage tank used for the storage, use or dispensing of regulated substances; and
- (ii) In the case of an underground storage tank in use before November 8, 1984, but no longer in use on that date, any person who owned such tank immediately before the discontinuation of its use.
- (k) “Person” means an individual, trust, firm, joint-stock company, federal agency, corporation, state municipality, commission, political subdivision of a state, any interstate body, a consortium, a joint venture, a commercial entity or the United States government.
- (l) “Regulated substance” means:

 - (i) Any substance defined in Section 101(14) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980, Public Law No. 96-510, as amended and extended (but not including any substance regulated as a hazardous waste under Section 17-17-1 et seq., Mississippi Code of 1972); and
 - (ii) Petroleum, including crude oil or any fraction thereof, which is liquid at standard conditions of temperature and pressure (sixty (60) degrees Fahrenheit and fourteen and seven-tenths (14-7/10) pounds per square inch absolute).
- (m) “Release” means any spilling, leaking, emitting, discharging, escaping, leaching or disposing from an underground storage tank into groundwater, surface water or subsurface soils.
- (n) “Response action” means any activity, including evaluation, planning, design, engineering, construction and ancillary services, which is carried out in response to any discharge, release or threatened release of motor fuels.
- (o) “Response action contractor” means a person who has been approved by the commission and is carrying out any response action, including a person retained or hired by such person to provide services relating to a response action.
- (p) “Retailer” means any person other than a bonded distributor who sells motor fuel as defined in this section.
- (q) “Substantial compliance” means that an owner or operator of an underground storage tank has registered that tank with the department, and has made a good-faith effort to comply with the law; and the rules and regulations adopted pursuant thereto.

(r) “Third-party claim” means any civil action brought or asserted by any person against any owner of any underground storage tank for damages to person or property which damages are the direct result of a release of motor fuels from an underground storage tank.

(s) “Underground storage tank” means any one (1) or combination of containers including tanks, vessels, enclosures or structures together with appurtenances thereto used to contain an accumulation of regulated substances, and the volume of which, including the volume of the underground pipes connected thereto, is ten percent (10%) or more beneath the surface of the ground. Such term does not include any:

- (i)** Farm or residential tanks of one thousand one hundred (1,100) gallons or less capacity used for storing motor fuel for noncommercial purposes;
- (ii)** Tanks used for storing heating oil for consumptive use on the premises where stored;
- (iii)** Septic tanks;
- (iv)** Pipeline facilities (including gathering lines regulated under:
 - 1.** The Natural Gas Pipeline Safety Act of 1968, Public Law No. 90-481, 49 USCS 1671-1684, as amended and extended,
 - 2.** The Hazardous Liquid Pipeline Safety Act of 1979, Public Law No. 96-129, 49 USCS 2001 et seq., as amended and extended, or
 - 3.** An intrastate pipeline facility regulated under state laws comparable to the provisions of law in Clause 1 or 2 of this subparagraph);
- (v)** Surface impoundments, pits, ponds or lagoons;
- (vi)** Storm water or wastewater collection systems;
- (vii)** Flow-through process tanks;
- (viii)** Liquid traps or associated gathering lines directly related to oil or gas production and gathering operation;
- (ix)** Storage tanks situated in an underground area such as a basement, cellar, mine working, drift, shaft or tunnel if the storage tank is situated upon or above the surface of the floor;
- (x)** Other tanks exempted by the Administrator of the federal Environmental Protection Agency; and
- (xi)** Piping connected to any of the above exemptions.

(t) “User” means any person who purchases or acquires motor fuels as defined in this section for consumption.

History

Laws, 1988, ch. 547, § 2; Laws, 1989, ch. 346, § 1; Laws, 1993, ch. 470, § 3; Laws, 1999, ch. 461, § 43, eff from and after July 1, 1999; Laws, 2018, ch. 397, § 1, eff from and after July 1, 2018.

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Miss. Code Ann. § 49-17-405

Current with 2023 Regular Session legislation effective July 1, 2023. The final official version of the statutes affected by 2023 legislation will appear on Lexis Advance and Lexis+ in the fall of 2023.

Mississippi Code 1972 Annotated > Title 49. Conservation and Ecology (Chs. 1 — 39) > Chapter 17. Pollution of Waters, Streams, and Air (§§ 49-17-1 — 49-17-775) > Mississippi Underground Storage Tank Act of 1988 (§§ 49-17-401 — 49-17-435)

§ 49-17-405. Groundwater protection fund; supplemental funding; duties of executive director; liability of tank owners; limitation on provisions of chapter and section.

(1) There is hereby created the Mississippi Groundwater Protection Trust Fund, hereinafter referred to as the “fund” to be administered by the Executive Director of the Department of Environmental Quality. The commission shall adopt regulations for administering this fund.

(2) The commission shall expend or utilize monies up to One Million Dollars (\$1,000,000.00) annually in the fund by an annual appropriation approved by the Legislature to supplement all reasonable direct and indirect costs associated with the development and administration of the Underground Storage Tank (UST) Program if the annual tank regulatory fee in Section 49-17-421 does not adequately cover the costs associated with Sections 49-17-401 through 49-17-435. All reasonable direct and indirect costs associated with development and administration of the UST Program, including, but not limited to, the reasonable costs of the following activities as they relate to the UST Program:

- (a) Preparing generally applicable regulations or guidance regarding the UST Program or its implementation or enforcement;
- (b) Administering the UST Program, including the supporting and tracking of UST owners/operators and associated UST systems, compliance with UST regulations, the fund, UST-certified contractors, tank fees and related data entry;
- (c) Implementing and enforcing the terms of the UST regulations; and
- (d) Investigation, assessment and rehabilitation of contamination sites with restoration or replacement of potable water supplies.

At no time shall an annual fund appropriation result in more than supplemental funding for the current annual cost of administering the UST Program.

- (3) Whenever in the executive director's determination a release of motor fuels at an active site may pose a threat to the environment or the public health, safety or welfare, the department shall obligate monies available in the fund to provide for:
- (a) Investigation and assessment of contamination sites;
 - (b) Restoration or replacement of potable water supplies;
 - (c) Rehabilitation of contamination sites, which may consist of cleanup of affected soil, groundwater and inland surface waters, using cost-effective alternatives that are technologically feasible and reliable, and that provide adequate protection of the public health, safety and welfare and minimize environmental damage, in accordance with the site selection and clean-up criteria established by the commission, except that nothing herein shall be construed to authorize the commission to obligate funds for payment of costs which may be associated with, but are not integral to, site rehabilitation, such as the cost for retrofitting or replacing underground storage tanks.
- (4) Whenever the commission has expended funds from the fund created by Sections 49-17-401 through 49-17-433, the owner of the underground storage tank shall not be liable to the department for such costs if the owner was in substantial compliance on the date on which the discharge of the motor fuels which necessitates the cleanup was reported to the department. Otherwise owners are responsible for reimbursement and the reimbursed monies shall go back into the fund. In such circumstances the commission is authorized to take any necessary action to recover these monies from responsible owners.
- (5) Any provisions of this section and chapter regarding liability for the costs of cleanup, removal, remediation or abatement of any pollution, hazardous waste or solid waste shall be limited as provided in Section 49-17-42 and rules adopted thereto.

History

Laws, 1988, ch. 547, § 3; Laws, 1995, ch. 627, § 7, eff from and after July 1, 1995; Laws, 2022, ch. 460, § 1, eff from and after passage (approved April 18, 2022).

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Miss. Code Ann. § 49-17-407

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§ 49-17-407. Environmental protection fee on motor fuels; deposit of fees; limits on use of fund; third-party claims.

(1)

- (a)** An environmental protection fee of Four-tenths of One Cent ($\frac{4}{10}$ of 1¢) per gallon is hereby levied upon any bonded distributor, as defined by Sections 49-17-401 through 49-17-433, who sells or delivers motor fuels to a retailer or user in this state.
- (b)** Every person, other than a bonded distributor, who shall purchase or acquire motor fuels within this state on which the environmental protection fee has not accrued, shall be liable for the environmental protection fee.
- (c)** The environmental protection fee shall be imposed only one (1) time on motor fuels sold in the state.
- (d)** The environmental protection fee shall be collected by the Department of Revenue and shall be designated separately from the excise taxes on fuels.
- (e)** Any person liable for the environmental protection fee shall be subject to the same requirements and penalties as distributors under the provisions of the Mississippi Special Fuel Tax Law.
- (f)** Any person liable for the environmental protection fee shall file a report and remit any fees due at the same time provided for filing reports under Section 27-55-523, on forms prescribed by the Department of Revenue.
- (g)** The Department of Revenue is hereby authorized and empowered to promulgate all rules and regulations necessary for the administration of the environmental protection fee.

(2)

- (a)** On or before the fifteenth day of each month the environmental protection fees collected during the previous month shall be deposited into the Mississippi Groundwater Protection Trust Fund established in Section 49-17-405. When the unobligated balance in the fund reaches or exceeds Ten Million Dollars (\$10,000,000.00), the administrator of the fund shall notify in writing the Department of Revenue no later than the twenty-fifth day of the month to revise the distribution of the environmental protection fee and the Department of Revenue shall deposit the fee into the State Highway Fund. Such distribution shall become effective on the last day of the month succeeding the month in which such notice was given. All environmental protection fees accrued shall be reported and paid.
- (b)** When the fund balance is reduced below Six Million Dollars (\$6,000,000.00), the fee shall again be deposited into the Mississippi Groundwater Protection Trust Fund until such time as the fund shall reach or exceed Ten Million Dollars (\$10,000,000.00). The administrator of the fund shall notify, no later than the twenty-fifth day of the month, the Department of Revenue to deposit the environmental protection fee into the Mississippi Groundwater Protection Trust Fund and such distribution shall become effective on the first day of the second month succeeding the month in which the notice to deposit the fee into the fund was given.
- (3)** This fund shall be used for the purposes set forth in Sections 49-17-401 through 49-17-435 and for no other governmental purposes, nor shall any portion hereof ever be available to borrow from by any branch of government; it being the intent of the Legislature that this fund and its increments shall remain intact and inviolate. Any interest earned on monies in this fund shall remain in this fund.
- (4)** Monies held in the fund established under Sections 49-17-401 through 49-17-435 shall be used for supplemental funding of the Underground Storage Tank (UST) Program as described in Section 49-17-405 and only at an active site and shall be disbursed in accordance with the commission requirements and as follows:
- (a)** Payments shall be made to any third party who brings a third-party claim against any owner of an underground storage tank and the commission as trustee of the Mississippi Groundwater Protection Trust Fund and who obtains a final judgment in such action which is valid and enforceable in this state against such parties. Payment shall be paid to the third party upon filing by such party an application with the department attaching the original or a certified copy of the final judgment.
- (b)** Payments shall be made in reasonable amounts to approved response action contractors and other parties involved in the site study and cleanup. Payment

shall be made to the party incurring the costs by filing of a sworn application with the department indicating the fair and reasonable value of the costs of site rehabilitation, subject to the regulations and limitations as set by the department.

(5) Payments from the fund are limited as follows:

(a) For cleanup purposes, a maximum of One Million Five Hundred Thousand Dollars (\$1,500,000.00) may be disbursed from the fund for any one (1) site, per confirmed release occurrence.

(b) For third-party judgments, a maximum of One Million Dollars (\$1,000,000.00) may be disbursed from the fund for any one (1) site, per confirmed release occurrence.

(c) Nothing in Sections 49-17-401 through 49-17-435 shall establish or create any liability or responsibility on the part of the department or the State of Mississippi to pay any cleanup costs or third-party claims if the fund created herein is insufficient to do so.

(6) Monies held in the fund established under Sections 49-17-401 through 49-17-435 shall not be used for purchases of equipment needed to assist in cleanup operations.

(7) Nothing in Sections 49-17-401 through 49-17-435 shall serve to limit any recovery against an owner of an underground storage tank in excess of the fund payment limits established under this section.

(8) Substantial compliance shall in no way be construed to be an absolute defense to civil liability.

History

Laws, 1988, ch. 547, § 4; Laws, 1990, ch. 512, § 1; Laws, 1992, ch. 397, § 1; Laws, 1993, ch. 470, § 1; Laws, 1995, ch. 404, § 1; Laws, 1999, ch. 385, § 1; Laws, 1999, ch. 461, § 44; Laws, 2009, ch. 429, § 1, eff from and after July 1, 2009; Laws, 2018, 1st Ex Sess, ch. 1, § 10, eff from and after passage (approved August 29, 2018); Laws, 2022, ch. 460, § 2, eff from and after passage (approved April 18, 2022).

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Miss. Code Ann. § 49-17-409

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§ 49-17-409. Reports of contamination incidents; no recourse against tank owner; exceptions.

The commission is authorized to establish requirements for the written reporting of motor fuel contamination incidents from underground storage tanks. All sites involving incidents of motor fuel contamination from underground storage tanks, where the owner of such tanks is in substantial compliance and files a written report with the commission of such incident, shall be qualified sites for the expenditure of funds from the Mississippi Groundwater Protection Trust Fund created by Sections 49-17-401 through 49-17-433. Any funds so expended shall be absorbed at the expense of the fund, without recourse to reimbursement or recovery from any underground storage tank owner, subject to the following exceptions:

- (a) The provisions of this section shall not apply to any site where the department has initiated any cleanup or civil enforcement action prior to the passage of Sections 49-17-401 through 49-17-433.
- (b) The provisions of this section shall not apply to any site where the department has been denied site access to implement the provisions of Sections 49-17-401 through 49-17-433.
- (c) The provisions of this section shall not be construed to authorize or require reimbursement from the fund for costs expended prior to the passage of Sections 49-17-401 through 49-17-433.
- (d) The commission may determine, in its discretion, that the owner of an underground storage tank is not in substantial compliance for the purposes of this section and Section 49-17-405, if such owner of an underground storage tank has been delinquent in the payment of tank regulatory fees for more than three (3) months after such fee is due and payable.

(e) Any provisions of this section and chapter regarding liability for the costs of clean-up, removal, remediation or abatement of any pollution, hazardous waste or solid waste shall be limited as provided in Section 49-17-42 and rules adopted thereto.

History

Laws, 1988, ch. 547, § 5; Laws, 1990, ch. 512, § 2; Laws, 1992, ch. 397, § 2; Laws, 1995, ch. 627, § 8, eff from and after July 1, 1995.

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Miss. Code Ann. § 49-17-411

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§ 49-17-411. Compliance with regulations.

No person shall own, install or operate an underground storage tank without complying with the applicable regulations of the commission.

History

Laws, 1988, ch. 547, § 6, eff from and after July 1, 1988.

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Miss. Code Ann. § 49-17-413

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§ 49-17-413. Rules and regulations.

- (1) The commission shall promulgate rules and regulations governing underground storage tanks, which shall include, but not be limited to:
 - (a) Notification of abandoned underground storage tanks;
 - (b) Registration of underground storage tanks currently under operation;
 - (c) Standards for underground storage tanks. The commission shall distinguish in such standards between requirements appropriate for new tanks, for tanks in existence on the date of the promulgation of the standards and for abandoned tanks. These standards shall include, but not be limited to, design, construction, installation, release detection, and compatibility standards;
 - (d) Release detection, prevention and corrective action;
 - (e) Tank closure requirements;
 - (f) Standards for monitoring, testing, reporting and record keeping;
 - (g) Requirements for financial responsibility. The commission shall adopt requirements to insure financial responsibility for corrective action and compensation of third parties required by releases arising from the operation of an underground storage tank, except that such requirements shall not exceed those established by the United States Environmental Protection Agency (EPA). Financial responsibility may be established by any one (1) or combination of the following: insurance; guarantee; surety bond; letter of credit; qualification as a self-insurer; for owners of underground storage tanks containing motor fuels, use of the Mississippi Groundwater Protection Trust Fund; or any other financial assurance mechanism which shall be allowed under EPA regulations governing underground storage tanks; and

(h) Requirements to implement the National Energy Policy Act of 2005 (EPACT), 42 USC 15801.

(2) Variances and temporary emergency variances may be granted by the commission from any regulation adopted pursuant to Section 49-17-401 et seq.

History

Laws, 1988, ch. 547, § 7; Laws, 2008, ch. 308, § 1, eff from and after passage (approved Mar. 17, 2008.).

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Miss. Code Ann. § 49-17-415

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§ 49-17-415. Obligations of owners and operators of tanks; powers of commission or representatives.

For the purposes of identifying the source of known or suspected pollution, developing or assisting in the development of any regulation, conducting any study, taking corrective action or enforcing the provisions of Sections 49-17-401 through 49-17-433, any owner or operator of an underground storage tank shall, upon the request of any duly authorized representative of the commission: furnish information relating to such tanks, including tank equipment and contents; conduct monitoring or testing; and permit the designated representative at all reasonable times to have access to and to copy all records relating to such tanks. For the purposes of identifying the source of known or suspected pollution, developing or assisting in the development of any regulation, conducting any study, or enforcing the provisions of Sections 49-17-401 et seq., any duly authorized representatives of the commission are authorized:

- (a) To enter at reasonable times any establishment or place where an underground storage tank is located;
- (b) To inspect and obtain samples from any person of any regulated substances contained in such tank; and
- (c) To conduct monitoring or testing of the tanks, associated equipment, contents or surrounding soils, air, surface water or groundwater.

History

Laws, 1988, ch. 547, § 8, eff from and after July 1, 1988.

End of Document

Miss. Code Ann. § 49-17-417

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§ 49-17-417. Repealed.

Repealed by its own terms by Laws, 1988, ch. 547, § 9, eff from and after July 1, 1994.

[Laws, 1988, ch. 547, § 9]

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Miss. Code Ann. § 49-17-419

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§ 49-17-419. Authority of commission to take timely and effective corrective action; use of funds from pollution emergency fund.

Nothing contained in the Mississippi Underground Storage Tanks Act of 1988 (Sections 49-17-401 through 49-17-433) shall prevent the commission from requiring any owner of an underground storage tank from taking timely and effective corrective action.

The commission may use the Pollution Emergency Fund for emergency or remedial cleanup of underground storage tank leaks when the tank owner will not take timely and effective action. In the event of the necessity for such immediate remedial or cleanup action, the commission may contract for same and advance funds from the Pollution Emergency Fund to pay the costs thereof, such advancements to be repaid to the Pollution Emergency Fund upon recovery by the commission from the tank owner.

History

Laws, 1988, ch. 547, § 10, eff from and after July 1, 1988.

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Miss. Code Ann. § 49-17-421

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§ 49-17-421. Annual tank regulatory fee; computation of fee.

(1) After receiving the annual report and recommendation of the Underground Storage Tank (UST) Advisory Council, the commission may assess and collect an annual tank regulatory fee in an amount sufficient to administer Sections 49-17-401 through 49-17-435, but not to exceed Two Hundred Dollars (\$200.00) per tank. The fee, as set by the commission, shall be assessed per tank per year and shall be collected from the owner of each underground storage tank available for use in Mississippi on July 1, 1988, or brought into use or available for use after that date, as provided in the Mississippi Underground Storage Tank Act of 1988 (Sections 49-17-401 through 49-17-435). The fee assessed under this section is a debt due by the owner of each tank in use in Mississippi on July 1, 1988, or brought into use after that date.

(2) The commission shall establish the amount of the tank regulatory fee to cover the costs of the Underground Storage Tank Program. The fee for each state fiscal year shall be set by order of the commission, which shall include:

- (a) A receipt of the report and recommendations of the UST Advisory Council, and
- (b) A public notice to allow the public a period of at least thirty (30) days to provide comments regarding the underground storage tank fee report and recommendation, or to request a public hearing in accordance with Section 49-17-29(4)(a).

The department may conduct a public hearing on the tank regulatory fee when a significant level of public interest exists or when warranted by other factors. Notwithstanding the provisions of this subsection (2), the commission may proceed with entry of the order if the UST Advisory Council fails to submit its report in a timely manner.

The tank regulatory fee shall be due July 1 of each year, and if any part of the fee is not paid within thirty (30) days after the due date, a penalty of fifty percent (50%) of the amount due shall accrue at once and be added to the fee, unless the owner of the underground storage tank demonstrates to the commission that the failure to make timely payment was unavoidable due to financial hardship or otherwise beyond the control of the owner.

Monies collected under this section shall be deposited in a special fund which is created in the State Treasury. Unexpended amounts remaining in the special fund at the end of the fiscal year shall not lapse into the General Fund and any interest earned on amounts in the special fund shall be credited to the special fund by the Treasurer. The fund may receive monies from any available public or private source, including, but not limited to, the fund, collection of fees, interest, grants, taxes, public or private donations and judicial actions. Monies in this special fund shall be expended by annual appropriation approved by the Legislature to administer Sections 49-17-401 through 49-17-435.

History

Laws, 1988, ch. 547, § 11; Laws, 1993, ch. 470, § 2; Laws, 1996, ch. 334, § 1, eff from and after July 1, 1996; Laws, 2018, ch. 397, § 2, eff from and after July 1, 2018; Laws, 2022, ch. 460, § 3, eff from and after passage (approved April 18, 2022).

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Miss. Code Ann. § 49-17-422

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§ 49-17-422. Underground Storage Tank (UST) Advisory Council; creation; composition.

(1) An Underground Storage Tank (UST) Advisory Council is created to consult with the commission on all matters relating to the UST program, to conduct an independent study of the development and administration costs of the program and to conduct an annual review of administering such program. The costs to be included in the study for the program shall be those costs as provided in Section 49-17-421. The council shall include in the study the type and quantity of underground storage tanks in the state that are covered by the program. After completing a study of the needs and costs of the program, the council shall recommend an equitable fee system for the program that is based on the type and quantity of underground storage tanks. The annual review for the program shall determine if the fee system is collecting sufficient funds to meet program needs and include any recommendation by the council regarding changes to the fee system. Each annual review report shall be due January 1 of each year to the commission and the executive director of the department.

(2) The UST Advisory Council shall be comprised of the following five (5) members:

(a) The President of the Mississippi Petroleum Marketers and Convenience Store Association (MPMCSA) or his or her designee;

(b) A member of the MPMCSA appointed by the Board of Directors of the MPMCSA for a term of four (4) years;

(c) A representative appointed by the President of the Mississippi Engineering Society, experienced in the assessment and remediation of petroleum contamination, for a term of four (4) years;

(d) A representative appointed by the Governor, of any company doing business in Mississippi in the installation, closure and/or testing of underground storage tanks; and

(e) A representative appointed by the Lieutenant Governor, of any company doing business in Mississippi in the installation, closure and/or testing of underground storage tanks.

The council members who are appointed by the Governor and Lieutenant Governor shall have terms that are concurrent with the term of the appointing official.

(3) Original appointments to the UST Advisory Council must be made no later than January 1, 2019, and vacancies on the council shall be filled by appointment in the same manner as the original appointments. The council shall convene within sixty (60) days following the date of the appointment of the members, and must select from their membership a chairperson to preside over meetings and a vice chairperson to preside in the absence of the chairperson or when the chairperson is excused. The council shall adopt procedures governing the manner of conducting its business. A majority of the members constitutes a quorum to do business.

(4) Members of the UST Advisory Council shall serve without salary, but shall be entitled to receive a reimbursement of their actual travel and expenses, as provided in Section 25-3-41, that are incurred while performing in the scope of their duties as council members. These expenses are to be paid on an itemized statement that is approved by the State Fiscal Officer from fees collected under Section 49-17-421.

(5) The executive director of the department shall provide technical, clerical and other support services, including service by contract, as the council requires in the performance of its functions.

History

Laws, 2018, ch. 397, § 3, eff from and after July 1, 2018.

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Miss. Code Ann. § 49-17-423

Current with 2023 Regular Session legislation effective July 1, 2023. The final official version of the statutes affected by 2023 legislation will appear on Lexis Advance and Lexis+ in the fall of 2023.

Mississippi Code 1972 Annotated > Title 49. Conservation and Ecology (Chs. 1 — 39) > Chapter 17. Pollution of Waters, Streams, and Air (§§ 49-17-1 — 49-17-775) > Mississippi Underground Storage Tank Act of 1988 (§§ 49-17-401 — 49-17-435)

§ 49-17-423. Commission to administer funds from Leaking Underground Storage Tank Trust Fund.

The commission shall administer the expenditure of any funds made available from the Leaking Underground Storage Tank Trust Fund established by the Federal Superfund Amendments and Reauthorization Act of 1986, Public Law No. 99-499, October 17, 1986, Public Law No. 99-563, October 27, 1986, 42 USCS Sections 9671-9675, and shall have authority to promulgate any rules and regulations necessary to administer this program.

History

Laws, 1988, ch. 547, § 12, eff from and after July 1, 1988.

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Miss. Code Ann. § 49-17-425

Current with 2023 Regular Session legislation effective July 1, 2023. The final official version of the statutes affected by 2023 legislation will appear on Lexis Advance and Lexis+ in the fall of 2023.

Mississippi Code 1972 Annotated > Title 49. Conservation and Ecology (Chs. 1 — 39) > Chapter 17. Pollution of Waters, Streams, and Air (§§ 49-17-1 — 49-17-775) > Mississippi Underground Storage Tank Act of 1988 (§§ 49-17-401 — 49-17-435)

§ 49-17-425. Disclosure of records, reports, and information.

The disclosure of any records, reports or information obtained pursuant to Sections 49-17-401 et seq. shall be governed by the Mississippi Public Records Act of 1983, Section 25-61-1 and Section 49-17-39, Mississippi Code of 1972, and the regulations of the commission promulgated thereunder.

History

Laws, 1988, ch. 547, § 13, eff from and after July 1, 1988.

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Miss. Code Ann. § 49-17-427

Current with 2023 Regular Session legislation effective July 1, 2023. The final official version of the statutes affected by 2023 legislation will appear on Lexis Advance and Lexis+ in the fall of 2023.

Mississippi Code 1972 Annotated > Title 49. Conservation and Ecology (Chs. 1 — 39) > Chapter 17. Pollution of Waters, Streams, and Air (§§ 49-17-1 — 49-17-775) > Mississippi Underground Storage Tank Act of 1988 (§§ 49-17-401 — 49-17-435)

§ 49-17-427. Proceedings before commission; penalties for violations of Sections 49-17-401 through 49-17-433; penalty consideration factors; limitations on liability.

- (1) Whenever the commission or an employee thereof has reason to believe that a violation of any provision of this chapter, or of any order of the commission, or of any regulation promulgated pursuant to this chapter has occurred, the commission shall initiate proceedings in the same manner as provided in Sections 49-17-31 through 49-17-41, Mississippi Code of 1972.
- (2) Any person found by the commission violating any of the provisions of Sections 49-17-401 through 49-17-433, or any rule or regulation or written order of the commission shall be subject to a civil penalty of not more than Twenty-five Thousand Dollars (\$25,000.00) for each violation per day, such penalty to be assessed and levied by the commission as provided in Sections 49-17-1 through 49-17-43, Mississippi Code of 1972.
- (3) In determining the amount of any penalty under this chapter, the commission shall consider at a minimum:
 - (a) The willfulness of the violation;
 - (b) Any damage to air, water, land or other natural resources of the state or their uses;
 - (c) Costs of restoration or abatement;
 - (d) Economic benefit as a result of noncompliance;
 - (e) The seriousness of the violation, including any harm to the environment and any hazard to the health, safety and welfare of the public;
 - (f) Past performance history; and
 - (g) Whether the noncompliance was discovered and reported as the result of a voluntary self-evaluation. If a person discovers as a result of a voluntary self-

evaluation, information related to noncompliance with an environmental law and voluntarily discloses that information to the department, commission or any employee thereof, the commission shall, to the greatest extent possible, reduce a penalty, if any, determined by the commission, except for economic benefit as a result of noncompliance, to a de minimis amount if all of the following are true:

- (i) The disclosure is made promptly after knowledge of the information disclosed is obtained by the person;
- (ii) The person making the disclosure initiates the appropriate corrective actions and pursues those corrective actions with due diligence;
- (iii) The person making the disclosure cooperates with the commission and the department regarding investigation of the issues identified in the disclosure;
- (iv) The person is not otherwise required by an environmental law to make the disclosure to the commission or the department;
- (v) The information was not obtained through any source independent of the voluntary self-evaluation or by the department through observation, sampling or monitoring;
- (vi) The noncompliance did not result in a substantial endangerment threatening the public health, safety or welfare or the environment; and
- (vii) The noncompliance is not a repeat violation occurring at the same facility within a period of three (3) years. “Repeat violation” in this subparagraph means a second or subsequent violation, after the first violation has ceased, of the same statutory provision, regulation, permit condition, or condition in an order of the commission.

(4) Any provisions of this section and chapter regarding liability for the costs of cleanup, removal, remediation or abatement of any pollution, hazardous waste or solid waste shall be limited as provided in Section 49-17-42 and rules adopted thereto.

History

Laws, 1988, ch. 547, § 14; Laws, 1995, ch. 627, § 9; Laws, 2003, ch. 301, § 3, eff from and after passage (approved Jan. 20, 2003.).

End of Document

Miss. Code Ann. § 49-17-429

Current with 2023 Regular Session legislation effective July 1, 2023. The final official version of the statutes affected by 2023 legislation will appear on Lexis Advance and Lexis+ in the fall of 2023.

Mississippi Code 1972 Annotated > Title 49. Conservation and Ecology (Chs. 1 — 39) > Chapter 17. Pollution of Waters, Streams, and Air (§§ 49-17-1 — 49-17-775) > Mississippi Underground Storage Tank Act of 1988 (§§ 49-17-401 — 49-17-435)

§ 49-17-429. Certification to install, alter or remove underground storage tanks.

No person may install, alter or remove an underground storage tank after July 1, 1990, without first having been certified by the Commission on Natural Resources. The commission shall adopt rules and regulations setting forth the requirements for such certification which shall include but not be limited to a certification examination.

History

Laws, 1988, ch. 547, § 15, eff from and after July 1, 1988.

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Miss. Code Ann. § 49-17-431

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Mississippi Code 1972 Annotated > Title 49. Conservation and Ecology (Chs. 1 — 39) > Chapter 17. Pollution of Waters, Streams, and Air (§§ 49-17-1 — 49-17-775) > Mississippi Underground Storage Tank Act of 1988 (§§ 49-17-401 — 49-17-435)

§ 49-17-431. Appeal rights.

Any person aggrieved by any decision by the commission or the director relating to any provision of Sections 49-17-401 through 49-17-433 shall have the right to appeal as provided in Section 49-17-41, Mississippi Code of 1972.

History

Laws, 1988, ch. 547, § 16, eff from and after July 1, 1988.

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Miss. Code Ann. § 49-17-433

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Mississippi Code 1972 Annotated > Title 49. Conservation and Ecology (Chs. 1 — 39) > Chapter 17. Pollution of Waters, Streams, and Air (§§ 49-17-1 — 49-17-775) > Mississippi Underground Storage Tank Act of 1988 (§§ 49-17-401 — 49-17-435)

§ 49-17-433. Savings clause.

The provisions of Sections 49-17-401 through 49-17-433 are severable. If any part of Sections 49-17-401 through 49-17-433 is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

History

Laws, 1988, ch. 547, § 17, eff from and after July 1, 1988.

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Miss. Code Ann. § 49-17-435

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Mississippi Code 1972 Annotated > Title 49. Conservation and Ecology (Chs. 1 — 39) > Chapter 17. Pollution of Waters, Streams, and Air (§§ 49-17-1 — 49-17-775) > Mississippi Underground Storage Tank Act of 1988 (§§ 49-17-401 — 49-17-435)

§ 49-17-435. Annual report on status of underground storage tank program and groundwater protection trust fund.

Before November 15 of each year, the department shall report to the appropriate environmental committees of the Senate and House of Representatives on the status of the Underground Storage Tank Program and the Groundwater Protection Trust Fund. The report shall include at a minimum any recommendations for improvement of the program and for ensuring the soundness of the fund and, to the extent practicable, an assessment of any changes in the retail price of motor fuels caused by the environmental protection fee.

History

Laws, 1993, ch. 470, § 4; Laws, 1995, ch. 404, § 2, eff from and after July 1, 1995.

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