

By: Representative Mims

To: Public Health and Human Services

COMMITTEE SUBSTITUTE
FOR
HOUSE BILL NO. 719

1 AN ACT TO REENACT SECTIONS 41-67-1 THROUGH 41-67-29 AND
2 41-67-33 THROUGH 41-67-39, MISSISSIPPI CODE OF 1972, WHICH ARE THE
3 MISSISSIPPI INDIVIDUAL ON-SITE WASTEWATER DISPOSAL LAW; TO AMEND
4 REENACTED SECTION 41-67-2, MISSISSIPPI CODE OF 1972, TO REVISE
5 CERTAIN DEFINITIONS AND ADD NEW DEFINITIONS; TO AMEND REENACTED
6 SECTION 41-67-3, MISSISSIPPI CODE OF 1972, TO REVISE THE GENERAL
7 POWERS AND DUTIES OF THE STATE BOARD OF HEALTH AND THE STATE
8 DEPARTMENT OF HEALTH REGARDING INDIVIDUAL ON-SITE WASTEWATER
9 DISPOSAL SYSTEMS; TO AMEND REENACTED SECTION 41-67-4, MISSISSIPPI
10 CODE OF 1972, TO REVISE THE AUTHORITY OF THE DEPARTMENT FOR
11 DETERMINING THE FEASIBILITY OF ESTABLISHING CENTRALIZED WASTEWATER
12 TREATMENT SYSTEMS; TO AMEND REENACTED SECTION 41-67-5, MISSISSIPPI
13 CODE OF 1972, TO INCLUDE THE CURRENT LANGUAGE PROHIBITING PUBLIC
14 UTILITIES SUPPLYING WATER FROM MAKING CONNECTION TO ANY RESIDENCE
15 WITHOUT THE PRIOR WRITTEN APPROVAL OF THE DEPARTMENT CERTIFYING
16 THAT THE PLAN FOR THE SEWAGE TREATMENT AND DISPOSAL SYSTEM AT THE
17 LOCATION OF THE PROPERTY COMPLIES WITH THIS LAW; TO AMEND
18 REENACTED SECTION 41-67-6, MISSISSIPPI CODE OF 1972, TO INCLUDE
19 THE CURRENT LANGUAGE THAT THIS LAW DOES NOT PRECLUDE A CERTIFIED
20 PROFESSIONAL EVALUATOR OR LICENSED PROFESSIONAL ENGINEER FROM
21 PROVIDING SERVICES RELATING TO THE DESIGN OF AN INDIVIDUAL ON-SITE
22 WASTEWATER DISPOSAL SYSTEM TO COMPLY WITH THIS LAW; TO INCLUDE THE
23 CURRENT LANGUAGE REQUIRING THAT ALL REGULATIONS SHALL BE APPLIED
24 UNIFORMLY IN ALL AREAS OF THE STATE AND SHALL TAKE INTO
25 CONSIDERATION AND MAKE PROVISION FOR DIFFERENT TYPES OF SOIL IN
26 THE STATE WHEN PERFORMING SOIL AND SITE EVALUATIONS; TO AMEND
27 REENACTED SECTION 41-67-7, MISSISSIPPI CODE OF 1972, TO INCLUDE
28 THE CURRENT LANGUAGE THAT APPROVAL OF THE DESIGN, CONSTRUCTION OR
29 INSTALLATION OF AN INDIVIDUAL ON-SITE WASTEWATER DISPOSAL SYSTEM
30 BY THE DEPARTMENT IS REQUIRED, AND THE CURRENT LANGUAGE SPECIFYING
31 THE PROCEDURE FOR OBTAINING DEPARTMENT APPROVAL; TO REVISE THE
32 REQUIREMENTS FOR WHEN INDIVIDUAL ON-SITE WASTEWATER DISPOSAL
33 SYSTEMS WILL BE CONSIDERED ACCEPTABLE; TO INCLUDE THE CURRENT
34 LANGUAGE ON THE PROCEDURE FOR A FINAL APPROVAL REQUEST BY THE



35 PROPERTY OWNER AFTER CONSTRUCTION OR INSTALLATION OF AN INDIVIDUAL
36 ON-SITE WASTEWATER DISPOSAL SYSTEM; TO INCLUDE THE CURRENT
37 LANGUAGE AUTHORIZING THE BOARD TO LEVY AN ADMINISTRATIVE FINE IF A
38 PERSON OR CERTIFIED INSTALLER FAILS TO OBTAIN FINAL APPROVAL OR
39 SUBMIT AN AFFIDAVIT OF PROPER INSTALLATION TO THE DEPARTMENT IN
40 THE INSTALLATION OF THE SYSTEM; TO INCLUDE THE CURRENT LANGUAGE
41 THAT REQUIRES THE PROPERTY OWNER TO KEEP A CONTINUING MAINTENANCE
42 AGREEMENT WITH A CERTIFIED INSTALLER OR QUALIFIED HOMEOWNER
43 MAINTENANCE PROVIDER ON ALL ADVANCED TREATMENT SYSTEMS IN
44 PERPETUITY; TO AMEND REENACTED SECTION 41-67-9, MISSISSIPPI CODE
45 OF 1972, TO GRANDFATHER IN ALL EXISTING INDIVIDUAL ON-SITE
46 WASTEWATER DISPOSAL SYSTEMS ON JULY 1, 2014, UNTIL A VALID
47 COMPLAINT IS REGISTERED OR UNTIL A PROPERTY OWNER REQUESTS AN
48 INSPECTION BY THE DEPARTMENT; TO REVISE THE REQUIREMENTS FOR
49 EXISTING INDIVIDUAL ON-SITE WASTEWATER DISPOSAL SYSTEMS TO BE
50 CONSIDERED ACCEPTABLE; TO AMEND REENACTED SECTION 41-67-10,
51 MISSISSIPPI CODE OF 1972, TO PROVIDE THAT ADVANCED TREATMENT
52 SYSTEMS MAY BE INSTALLED ONLY IF THEY HAVE BEEN TESTED AND ARE
53 LISTED BY AN AMERICAN NATIONAL STANDARDS INSTITUTE (ANSI)
54 THIRD-PARTY CERTIFYING PROGRAM AT THE TIME OF INSTALLATION; TO
55 AMEND REENACTED SECTION 41-67-11, MISSISSIPPI CODE OF 1972, TO
56 REVISE THE PROVISIONS GOVERNING WHEN INDIVIDUAL ON-SITE WASTEWATER
57 DISPOSAL SYSTEMS MAY BE APPROVED IN AN AREA WHERE INDIVIDUAL
58 ON-SITE WASTEWATER DISPOSAL SYSTEMS OTHERWISE WOULD NOT BE
59 APPROVED BECAUSE OF THE AVAILABILITY OR FEASIBILITY OF CONNECTION
60 TO A CENTRALIZED WASTEWATER TREATMENT SYSTEM; TO AMEND REENACTED
61 SECTION 41-67-12, MISSISSIPPI CODE OF 1972, TO PROVIDE FOR A FEE
62 FOR ANNUAL CERTIFICATION OF PUMPERS; TO AMEND REENACTED SECTION
63 41-67-21, MISSISSIPPI CODE OF 1972, TO INCLUDE THE CURRENT
64 LANGUAGE REGARDING THE REQUIREMENTS FOR REPAIRING AN EXISTING
65 RESIDENTIAL INDIVIDUAL ON-SITE WASTEWATER DISPOSAL SYSTEM THAT IS
66 MALFUNCTIONING AND DELETE THE CURRENT LANGUAGE REQUIRING
67 REPLACEMENT OF THE SYSTEM; TO CONFORM THE MAXIMUM AMOUNT OF THE
68 CIVIL PENALTIES AUTHORIZED FOR MALFUNCTIONING SYSTEMS; TO AMEND
69 REENACTED SECTION 41-67-27, MISSISSIPPI CODE OF 1972, TO REQUIRE
70 REGISTRATION OF MANUFACTURERS OF COMPONENTS USED IN AN INDIVIDUAL
71 ON-SITE WASTEWATER DISPOSAL SYSTEM; TO AMEND REENACTED SECTION
72 41-67-33, MISSISSIPPI CODE OF 1972, TO INCLUDE THE CURRENT
73 LANGUAGE REGARDING THE PROCEDURE BY WHICH HOMEOWNERS MAY OBTAIN A
74 VARIANCE FOR A PROPOSED WASTEWATER TREATMENT SYSTEM FROM THE
75 DEPARTMENT BY SHOWING THAT THE PROPOSED SYSTEM WILL PROPERLY TREAT
76 AND MAINTAIN WASTEWATER ON THE PROPERTY; TO REPEAL SECTION
77 41-67-35, MISSISSIPPI CODE OF 1972, WHICH PROHIBITS A PERSON FROM
78 OPERATING AS A MAINTENANCE PROVIDER UNLESS THE PERSON IS CERTIFIED
79 AS ONE BY THE DEPARTMENT OR IS A CERTIFIED INSTALLER; TO AMEND
80 REENACTED SECTION 41-67-39, MISSISSIPPI CODE OF 1972, TO REVISE
81 THE REQUIREMENTS FOR CERTIFICATION AS A PUMPER; TO CREATE NEW
82 SECTION 41-67-41, MISSISSIPPI CODE OF 1972, TO CREATE THE
83 WASTEWATER ADVISORY COUNCIL FOR THE PURPOSE OF ADVISING THE
84 DEPARTMENT REGARDING INDIVIDUAL ON-SITE WASTEWATER DISPOSAL
85 SYSTEMS; TO AMEND SECTION 41-67-31, MISSISSIPPI CODE OF 1972, TO



86 EXTEND THE DATE OF THE REPEALER ON THE MISSISSIPPI INDIVIDUAL
87 ON-SITE WASTEWATER DISPOSAL LAW; TO AMEND REENACTED SECTIONS
88 41-67-1, 41-67-19, 41-67-23, 41-67-25, 41-67-28 AND 41-67-37,
89 MISSISSIPPI CODE OF 1972, TO CONFORM TO THE PRECEDING PROVISIONS;
90 AND FOR RELATED PURPOSES.

91 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

92 **SECTION 1.** Section 41-67-1, Mississippi Code of 1972, is
93 reenacted and amended as follows:

94 41-67-1. (1) This chapter shall be known and may be cited
95 as the "Mississippi Individual On-Site Wastewater Disposal System
96 Law."

97 (2) It is the purpose of the Legislature through this
98 chapter to protect human health and the environment while
99 providing for reasonable use of individual on-site wastewater
100 disposal systems. The Legislature finds that continued
101 installation and operation of individual on-site wastewater
102 disposal systems in a faulty or improper manner, in a manner that
103 lacks essential maintenance for the system, or in areas where
104 unsuitable soil and population density adversely affect the
105 efficiency and functioning of these systems, has a detrimental
106 effect on the public health and welfare and the environment
107 through contamination of land, groundwater and surface waters.
108 The Legislature, therefore, expresses a general preference for the
109 installation and operation of centralized * * * wastewater
110 treatment systems in Mississippi, where feasible. The Legislature
111 recognizes, however, that individual on-site wastewater treatment
112 and disposal systems help meet the needs of the state's citizens,
113 especially in rural locations, and can be rendered ecologically



114 safe and protective of the public health if the systems are
115 designed, installed, constructed, maintained and operated
116 properly. It is the intent of the Legislature to allow the
117 continued installation, use and maintenance of individual on-site
118 wastewater disposal systems in a manner that will not jeopardize
119 public health and welfare or the environment.

120 **SECTION 2.** Section 41-67-2, Mississippi Code of 1972, is
121 reenacted and amended as follows:

122 41-67-2. For purposes of this chapter, the following words
123 shall have the meanings ascribed herein unless the context clearly
124 indicates otherwise:

125 (a) "Advanced treatment * * * system" means an
126 individual on-site wastewater treatment * * * system that * * *
127 complies with Section 47-67-10.

128 (b) * * * "Board" means the Mississippi State Board of
129 Health.

130 (* * * c) "Centralized * * * wastewater treatment
131 system" means * * * a wastewater collection and treatment system
132 that consists of collection sewers and a centralized treatment
133 facility other than an individual on-site wastewater disposal
134 system.

135 (* * * d) "Certified installer" means any person who
136 has met the requirements of Section 41-67-25.

137 (* * * e) "Certified manufacturer" means any person
138 registered with the department who holds a written certification



139 issued by the department allowing the manufacturer to sell on-site
140 wastewater products in the state.

141 (* * *f) "Certified professional evaluator" means any
142 person who has met the requirements of Section 41-67-37 or a * * *
143 licensed professional engineer.

144 (* * *g) "Certified pumper" means any person
145 registered with the department who holds a written certification
146 issued by the department allowing the person to engage in the
147 removal and disposal of sludge, grease and waste and who has met
148 the requirements of Section 41-67-39.

149 (h) "Cluster system" means a wastewater collection and
150 treatment system under some form of common or private ownership
151 and management that provides treatment and dispersal/discharge of
152 wastewater from two (2) or more homes or buildings but less than a
153 subdivision.

154 (i) "Conventional system" means an individual on-site
155 wastewater disposal system consisting of a septic tank and
156 subsurface disposal field.

157 (j) "Department" means the Mississippi State Department
158 of Health.

159 (k) "Decentralized wastewater treatment system" means
160 any commercial wastewater treatment for fewer than ten (10) lots.

161 (l) "Effluent" means sewage, water, or other liquid,
162 partially or completely treated or in its natural state, flowing



163 out of a septic tank, advanced treatment system, or other
164 treatment system or system component by the department.

165 (* * *m) "Final approval" means an issuance of a
166 document from the department stating that a determination has been
167 made by the department that the individual on-site wastewater
168 disposal system * * * recommended/designed has been installed and
169 fulfills all requirements under this chapter or any variance that
170 has been granted by the department.

171 (* * *n) "Generator" means any person whose act or
172 process produces sewage or other material suitable for disposal in
173 an individual on-site wastewater disposal system.

174 (* * *o) "Individual on-site wastewater disposal
175 system" means a sewage treatment and effluent disposal system that
176 does not discharge into waters of the state, that serves only one
177 (1) legal tract, that accepts only residential waste and similar
178 waste streams maintained on the property of the generator, and
179 that is designed and installed in accordance with this law and
180 regulations of the board.

181 (* * *p) "Notice of intent" means notification by an
182 applicant to the department prior to construction and submission
183 of all required information, which is used by the department
184 to * * * initiate the process to evaluate the property for the
185 suitability of an individual on-site wastewater disposal system.

186 (* * *q) "Performance-based system" means an
187 individual on-site wastewater disposal system designed to meet



188 standards established to designate a level of treatment of
189 wastewater that an individual on-site wastewater disposal system
190 must meet, including, but not limited to, biochemical oxygen
191 demand, total suspended solids, nutrient reduction and fecal
192 coliform.

193 (r) "Permit/recommendation" means that a person has
194 filed a notice of intent with the department and the department
195 has made a determination of the suitability of the property for
196 the use of an individual on-site wastewater disposal system.

197 (* * *s) "Person" means any individual, trust, firm,
198 joint-stock company, public or private corporation (including a
199 government corporation), partnership, association, state, or any
200 agency or institution thereof, municipality, commission, political
201 subdivision of a state or any interstate body, and includes any
202 officer or governing or managing body of any municipality,
203 political subdivision, or the United States or any officer or
204 employee thereof.

205 (t) "Plot plan" means a property drawing reflecting
206 property lines, site features (such as ponds, wells, etc.),
207 dwelling and any other intended uses of the property therein
208 including encumbrances.

209 (* * *u) "Property of the generator" means land owned
210 by or under permanent legal easement or lease to the generator.

211 (* * *y) "Qualified homeowner * * * maintenance
212 provider" means the current owner of a specific residence where



213 that homeowner resides and where the homeowner has met the
214 requirements of the rules and regulations of the department * * *
215 to provide maintenance for his or her system.

216 (* * * w) " * * * Licensed professional engineer" means
217 any person who has met the requirements under Section 73-13-23(1)
218 and who has been issued a certificate of registration as a
219 professional engineer.

220 (x) "Septage" means the liquid, solid, and semisolid
221 material that results from wastewater pretreatment in a septic
222 tank, portable toilet, or grease trap, which must be pumped,
223 hauled, treated and disposed of properly.

224 (* * * y) "Subdivision" means any tract or combination
225 of adjacent tracts of land that is subdivided into ten (10) or
226 more tracts, sites or parcels for the purpose of commercial or
227 residential development.

228 **SECTION 3.** Section 41-67-3, Mississippi Code of 1972, is
229 reenacted and amended as follows:

230 41-67-3. (1) The * * * board * * * and/or the department
231 shall have the following duties and responsibilities:

232 (a) To exercise general supervision over the
233 design, * * * installation, operation and maintenance of
234 individual on-site wastewater disposal systems, decentralized
235 wastewater treatment systems and cluster systems;

236 (b) To adopt, modify, repeal and promulgate rules and
237 regulations, after due notice and hearing, and where not otherwise



238 prohibited by federal or state law, to make exceptions to, to
239 grant exemptions from and to enforce rules and regulations
240 implementing or effectuating the duties of the board under this
241 chapter to protect the public health. The board may grant
242 variances from rules and regulations adopted under this chapter,
243 including requirements for buffer zones, or from setbacks required
244 under Section 41-67-7 where the granting of a variance shall not
245 subject the public to unreasonable health risks or jeopardize
246 environmental resources;

247 (c) To provide or deny certification for persons
248 engaging in the business for hire of the * * * installation,
249 operation or maintenance of individual on-site wastewater disposal
250 systems and persons engaging in the removal and disposal of the
251 sludge and liquid waste from those systems;

252 (d) To suspend or revoke certifications issued to
253 persons engaging in the business for hire of the * * *
254 installation, operation or maintenance of individual on-site
255 wastewater disposal systems or persons engaging in the removal and
256 disposal of the sludge and liquid waste from those systems, when
257 it is determined the person has violated this chapter or
258 applicable rules and regulations;

259 (e) To require the submission of information deemed
260 necessary by the department to determine the suitability of
261 individual lots for individual on-site wastewater disposal systems
262 for the purpose of commercial or residential development; and



263 (f) To adopt, modify, repeal and promulgate rules and
264 regulations, after due notice and hearing, and where not otherwise
265 prohibited by federal or state law, as necessary to determine the
266 suitability of individual on-site wastewater disposal systems in
267 subdivisions.

268 * * *

269 (* * *2) To assure the effective and efficient
270 administration of this chapter, the board shall adopt rules
271 governing the design, construction or installation, operation and
272 maintenance of individual on-site wastewater disposal systems,
273 including rules concerning the:

274 (a) Review and approval of individual on-site
275 wastewater disposal systems in accordance with Section 41-67-6;

276 (b) Certification of installers * * *;

277 (c) * * * Certification of pumpers;

278 (d) Certification of manufacturers;

279 (* * *e) Certification of * * * professional
280 evaluators; and

281 (* * *f) Creation of regulations that authorize the
282 original and any subsequent homeowner to be trained by * * *
283 certified installers as defined in Section 41-67-25(2) or other
284 factory representatives in order to educate the homeowner with the
285 necessary knowledge to provide maintenance to the homeowner's
286 system; no fees shall be charged to the homeowner for such



287 training, thus allowing the homeowner to meet the requirements of
288 Section * * * 41-67-7(5).

289 (* * *3) In addition, the board shall adopt rules
290 establishing performance standards for individual on-site
291 wastewater disposal systems for single family residential
292 generators and rules concerning the operation and maintenance of
293 individual on-site wastewater disposal systems designed to meet
294 those standards. The performance standards shall be consistent
295 with the federal Clean Water Act, maintaining the wastes on the
296 property of the generator and protection of the public health.
297 Rules for the operation and maintenance of individual on-site
298 wastewater disposal systems designed to meet performance standards
299 shall include rules concerning the following:

300 (a) A standard application form and requirements for
301 supporting documentation;

302 (b) Application review;

303 (c) Approval or denial of authorization for proposed
304 systems;

305 (d) Requirements, as deemed appropriate by the board,
306 for annual renewal of authorization;

307 (e) Enforcement of the requirements and conditions of
308 authorization; and

309 (f) Inspection, monitoring, sampling and reporting on
310 the performance of the system.



311 Any system proposed for authorization in accordance with
312 performance standards must be designed and certified by a licensed
313 professional engineer * * * in the State of Mississippi and must
314 be authorized by the * * * department before installation.

315 (* * * 4) To the extent practicable, all rules and
316 regulations adopted under this chapter shall give maximum
317 flexibility to persons installing individual on-site wastewater
318 disposal systems and * * * all options consistent with the federal
319 Clean Water Act, consistent with maintaining the wastes on the
320 property of the generator and consistent with protection of the
321 public health. In addition, all rules and regulations, to the
322 extent practicable, shall encourage the use of economically
323 feasible systems, including * * * all techniques and technologies
324 for individual on-site wastewater disposal.

325 (* * * 5) All regulations shall be applied uniformly in all
326 areas of the state and shall take into consideration and make
327 provision for different types of soil in the state when performing
328 soil and site evaluations.

329 * * *

330 **SECTION 4.** Section 41-67-4, Mississippi Code of 1972, is
331 reenacted and amended as follows:

332 41-67-4. (1) The * * * department shall determine the
333 feasibility of establishing * * * centralized wastewater treatment
334 systems upon the submission by the developer of a preliminary
335 design and feasibility study prepared by a licensed professional



336 engineer. The developer may request and obtain a hearing before
337 the board if the developer is dissatisfied with the board's
338 determination of feasibility. The determination that a * * *
339 centralized wastewater treatment system must be established shall
340 be made without regard to whether the establishment of a * * *
341 centralized wastewater treatment system is authorized by law or is
342 subject to approval by one or more state or local government or
343 public bodies. Whenever a developer requests a determination of
344 feasibility, the * * * department must make the determination
345 within * * * thirty (30) days after receipt of the preliminary
346 design and feasibility study from the developer. The * * *
347 department shall state in writing the reasons for its
348 determination. If the * * * department does not make a
349 determination within * * * thirty (30) days, all sites within the
350 subdivision shall be approved, if a certified installer attests or
351 a department environmentalist determines that each site can be
352 adequately served by an individual on-site wastewater disposal
353 system.

354 (2) Where * * * subdivisions are proposed * * * that are
355 composed of fewer than thirty-five (35) building sites, and no
356 centralized wastewater treatment system * * * is available * * *,
357 the * * * department may waive the requirement for a feasibility
358 study. If the feasibility study is waived, all sites within the
359 subdivision shall be approved, if a certified installer attests or
360 a department environmentalist determines that each site can be



361 adequately served by an individual on-site wastewater disposal
362 system.

363 (3) No feasibility study or * * * centralized wastewater
364 treatment system shall be required for subdivisions designed, laid
365 out, platted or partially constructed before July 1, 1988, or for
366 any subdivision that was platted and recorded during the period
367 from July 1, 1995, through June 30, 1996.

368 (4) "Feasibility study" means a written evaluation and
369 analysis of the potential of a proposed project that is based on
370 investigation and research by a licensed professional engineer to
371 give cost comparison between centralized or decentralized
372 treatment and disposal and individual on-site wastewater disposal
373 systems.

374 **SECTION 5.** Section 41-67-5, Mississippi Code of 1972, is
375 reenacted and amended as follows:

376 41-67-5. (1) No owner, lessee or developer shall construct
377 or place any mobile, modular or permanently constructed residence,
378 building or facility, which may require the installation of an
379 individual on-site wastewater disposal system, without having
380 first submitted a notice of intent to the department. Upon
381 receipt of a notice of intent, the department shall provide the
382 owner, lessee or developer with complete information on individual
383 on-site wastewater disposal systems, including, but not limited
384 to, applicable rules and regulations regarding the design, * * *
385 installation, operation and maintenance of individual on-site



386 wastewater disposal systems and known requirements of lending
387 institutions for approval of the systems.

388 (2) * * * No public utility supplying water shall make
389 connection to any dwelling, house, mobile home or residence
390 without the prior written approval of the department certifying
391 that the plan for the sewage treatment and disposal system at the
392 location of the property complies with this chapter. Connections
393 of water utilities may be made during construction if the
394 department has approved a plan for a sewage treatment and disposal
395 system and the owner of the property has agreed to have the system
396 inspected and approved by the department before the use or
397 occupancy of the property.

398 (3) The department shall furnish to the county tax assessor
399 or collector, upon request, the name and address of the person
400 submitting a notice of intent and the section, township and range
401 of the lot or tract of land on which the individual on-site
402 wastewater disposal system will be installed.

403 **SECTION 6.** Section 41-67-6, Mississippi Code of 1972, is
404 reenacted and amended as follows:

405 41-67-6. (1) Nothing in this chapter shall preclude a
406 certified professional evaluator or licensed professional engineer
407 from providing services relating to the design of an individual
408 on-site wastewater disposal system to comply with this chapter,
409 except for performance-based systems as specified in Section
410 41-67-3(3). A certified professional evaluator or licensed



411 professional engineer shall notify the department in writing of
412 those services being provided, including the type of treatment,
413 the type of disposal, and the property address for the treatment
414 and disposal system. Construction or installation shall not begin
415 before authorization by the department. The department shall
416 respond within ten (10) business days with authorization that the
417 certified professional evaluator or licensed professional engineer
418 fulfills the requirements of the law.

419 (* * *2) Within five (5) working days following receipt of
420 the notice of intent and plot plan by an owner, lessee or
421 developer of any lot or tract of land, the department shall
422 conduct a soil and site evaluation, except in cases where a
423 certified professional evaluator or * * * licensed professional
424 engineer provides services relating to the design, construction or
425 installation of an individual on-site wastewater disposal system
426 to comply with this chapter. All regulations shall be applied
427 uniformly in all areas of the state and shall take into
428 consideration and make provision for different types of soil in
429 the state when performing soil and site evaluations. Within ten
430 (10) additional working days, the department shall make
431 recommendations to the owner, lessee or developer of the type or
432 types of individual on-site wastewater disposal systems suitable
433 for installation on the lot or tract, unless there are conditions
434 requiring further investigation that are revealed in the initial
435 evaluation. In making recommendations on the type or types of



436 individual on-site wastewater disposal systems suitable for
437 installation on a lot or tract, personnel of the department shall
438 use best professional judgment based on rules and regulations
439 adopted by the board, considering the type or types of systems
440 which are installed and functioning on lots or tracts near the
441 subject lot or tract. To the extent practicable, the
442 recommendations shall give the owner, lessee or developer maximum
443 flexibility and * * * all options consistent with the federal
444 Clean Water Act, consistent with maintaining the wastes on the
445 property of the generator and consistent with protection of the
446 public health. The system or systems recommended shall be
447 environmentally sound and cost-effective. The department, a
448 licensed professional engineer or a certified professional
449 evaluator shall provide complete information, including all
450 applicable requirements and regulations on all systems
451 recommended. The owner, lessee or developer shall have the right
452 to choose among systems. The department shall provide the owner,
453 lessee or developer with a * * * permit/recommendation that
454 specifies all types of individual on-site wastewater disposal
455 systems that are suitable for installation on the lot or
456 tract * * *. * * *

457 (* * *3) Within thirty (30) days of receipt of a request
458 for determination of suitability of individual on-site wastewater
459 disposal systems in a subdivision, the department shall advise the
460 developer in writing either that all necessary information needed



461 for determination of suitability has been received or state the
462 additional information needed by the department for determination
463 of suitability.

464 (* * * 4) Whenever a developer requests a determination of
465 suitability of individual on-site wastewater disposal systems in a
466 subdivision, the department must make the determination
467 within * * * thirty (30) days after receipt of all necessary
468 information needed for the determination of suitability from the
469 developer. The department shall state in writing the reasons for
470 its determination.

471 (* * * 5) (a) The certified installer * * * shall notify
472 the department at least twenty-four (24) hours before
473 beginning * * * installation of an individual on-site wastewater
474 disposal system and, at that time, schedule a time for inspection
475 of the system with the appropriate county department of health.

476 (b) * * * A certified installer, or designated agent
477 thereof, shall not cover his work with soil or other surface
478 material unless the installer has received authorization to cover
479 the system after an inspection by a * * * department * * *
480 environmentalist, or unless a * * * department environmentalist
481 does not arrive for inspection * * * within thirty (30) minutes of
482 the designated and agreed upon time, in which case * * * a
483 certified installer, or designated agent thereof, may submit an
484 affidavit of proper installation to the department for final
485 approval.



486 (* * *6) A person may not design, construct or install, or
487 cause to be designed, constructed or installed an individual
488 on-site wastewater disposal system that does not comply with this
489 chapter and rules and regulations of the board.

490 * * *

491 (* * *7) Any lot or tract that is two (2) acres or larger
492 shall be exempt from the requirements of this chapter and
493 regulations of the department relating to approval of individual
494 on-site wastewater disposal systems by the department, and shall
495 be exempt from the provisions of Section 41-67-5(2), provided
496 that:

497 (a) All wastewater is contained on the lot or tract;

498 (b) No * * * watercourse, as defined in Section
499 51-3-3(h), of Mississippi or the United States is impacted; and

500 (c) * * * The person who installed the individual
501 on-site wastewater disposal system provides the department with a
502 signed affidavit attesting that the requirements of paragraphs (a)
503 and (b) are met.

504 **SECTION 7.** Section 41-67-7, Mississippi Code of 1972, is
505 reenacted and amended as follows:

506 41-67-7. (1) Approval of the design, construction or
507 installation of an individual on-site wastewater disposal system
508 by the department is required, except as otherwise provided in
509 Section 41-67-6(7). Upon completion of installation of the
510 system, the department shall approve the design, construction or



511 installation of that system, as requested, if the system is
512 designed, constructed and installed, as the case may be, in
513 accordance with the rules and regulations of the board. Whenever
514 a person requests approval of an individual on-site wastewater
515 disposal system and has met the requirements in subsection (3) of
516 this section, the department must approve or disapprove the
517 request within five (5) working days. If the department
518 disapproves the request, the department shall state in writing the
519 reasons for the disapproval. If the department does not respond
520 to the request within ten (10) calendar days, the request for
521 approval of the individual on-site wastewater disposal system
522 shall be deemed approved.

523 * * *

524 (* * *2) Individual on-site wastewater disposal
525 systems * * * shall be considered acceptable, provided the
526 following requirements are met:

527 (a) * * * Centralized wastewater treatment systems are
528 not available or feasible;

529 (b) The existing disposal systems in the area are
530 functioning satisfactorily;

531 (c) Soil types, soil texture, seasonal water tables and
532 other limiting factors are satisfactory for underground
533 absorption; * * *

534 (d) Any private water supply is located at a higher
535 elevation or it must be properly protected and at least fifty (50)



536 feet from the individual on-site wastewater disposal system and at
537 least one hundred (100) feet from the disposal field of the
538 system * * *; and

539 * * *

540 (* * *e) The systems meet applicable water quality
541 requirements of * * * Section 41-67-10.

542 (3) After construction or installation of the individual
543 on-site wastewater disposal system, the property owner or his
544 agent shall provide a final approval request containing the
545 following to the department:

546 (a) A signed affidavit from the installer that the
547 system was installed in compliance with all requirements,
548 regulations and permit conditions applicable to the system
549 installed; and

550 (b) For any advanced treatment system, an affidavit
551 from the property owner agreeing to a continuing maintenance
552 agreement on the installed system at the end of the required
553 manufacturer's maintenance agreement.

554 (4) If any person or certified installer fails to obtain
555 final approval or submit an affidavit of proper installation to
556 the department in the installation of the system, the board, after
557 due notice and hearing, may levy an administrative fine not to
558 exceed Ten Thousand Dollars (\$10,000.00). Each wastewater system
559 installed not in compliance with this chapter or applicable rules
560 and regulations of the board may be considered a separate offense.



561 (5) The property owner, if not a qualified homeowner
562 maintenance provider, shall keep a continuing maintenance
563 agreement with a certified installer on all advanced treatment
564 systems in perpetuity. Any person violating this subsection shall
565 be subject to the penalties and damages as provided in Section
566 41-67-28(5).

567 **SECTION 8.** Section 41-67-9, Mississippi Code of 1972, is
568 reenacted and amended as follows:

569 41-67-9. (1) * * * All existing individual on-site
570 wastewater disposal systems on July 1, 2014, shall be
571 grandfathered in until a valid complaint is registered with a
572 county department of health or until a property owner requests an
573 inspection by the department.

574 * * *

575 (2) * * * All existing individual on-site wastewater disposal
576 systems shall be considered acceptable provided the following
577 requirements are met:

578 (a) The existing individual on-site wastewater disposal
579 system and all treated effluent is contained on the property of
580 the generator;

581 (b) No evidence that any insufficiently treated
582 effluent is leaving the property of the generator or has been
583 seeping to the surface of the ground;

584 (c) Centralized wastewater treatment systems are not
585 available;



586 (d) If a private water supply well is present, the well
587 should be located at a higher elevation than the disposal system
588 and is protected from surface contamination by a concrete slab of
589 a thickness of at least four (4) inches extending at least two (2)
590 feet in all directions from the well casing * * *; and

591 (e) If an advanced treatment system is used, the
592 property owner shall be required to contact an authorized
593 representative of a certified manufacturer of the specific
594 advanced treatment system to provide a continuous maintenance
595 agreement or provide the property owner training to become a
596 qualified homeowner maintenance provider.

597 (3) Owners of property on which an existing individual
598 on-site wastewater disposal system does not meet the requirements
599 of subsection (2) of this section shall be required by the
600 department to meet Section 41-67-6 or Section 41-67-21.

601 **SECTION 9.** Section 41-67-10, Mississippi Code of 1972, is
602 reenacted and amended as follows:

603 41-67-10. (1) Advanced * * * treatment systems may be
604 installed only if they have been tested and are listed by * * *
605 an American National Standards Institute (ANSI) third-party
606 certifying program at the time of installation. Advanced * * *
607 treatment systems shall be in compliance with standards for a
608 Class I system as defined by the most current revision of American
609 National Standards Institute/National Sanitation Foundation
610 (ANSI/NSF) International Standard Number 40, which are



611 incorporated by reference. An approved ANSI third-party
612 certifying program shall comply with the following provisions for
613 systems which it has certified to be installed in Mississippi:

614 (a) Be accredited by the American National Standards
615 Institute;

616 (b) Have established procedures which send
617 representatives to distributors in Mississippi on a recurring
618 basis to conduct evaluations to assure that distributors of
619 certified advanced treatment systems are providing proper
620 maintenance, have sufficient replacement parts available and are
621 maintaining service records;

622 (c) Notify the department of the results of monitoring
623 visits to manufacturers and distributors within sixty (60) days of
624 the conclusion of the monitoring; and

625 (d) Submit completion reports on testing and any other
626 information as the department may require for its review.

627 (2) All manufacturers of advanced treatment systems
628 certified in Mississippi shall provide technical training staff to
629 the department as needed.

630 **SECTION 10.** Section 41-67-11, Mississippi Code of 1972, is
631 reenacted and amended as follows:

632 41-67-11. (1) * * * Individual on-site wastewater disposal
633 systems may be approved in an area where individual on-site
634 wastewater disposal systems otherwise would not be approved
635 because of the availability or feasibility of connection to a



636 centralized * * * wastewater treatment system only after a
637 contract has been awarded or other definite commitments as are
638 deemed sufficient to the department are formalized for the
639 construction of * * * a centralized wastewater treatment system
640 that upon completion will adequately serve the property. * * *
641 Individual on-site wastewater disposal systems shall only be
642 approved when the * * * centralized wastewater treatment system
643 will be completed and available for use within thirty-six (36)
644 months. The department may approve the installation of a * * *
645 system under these circumstances only if the system will comply
646 with the requirements of Section 41-67-5(1) and comply with all
647 construction requirements of the * * * department. The * * *
648 system may be installed only after the developer has signed a
649 written agreement with the centralized * * * wastewater treatment
650 provider stating that the developer will connect to the
651 centralized * * * wastewater treatment system when it becomes
652 available, and the provider of the centralized * * * wastewater
653 treatment system being constructed certifies that the
654 centralized * * * wastewater treatment system will have adequate
655 capacity to accept the sewage to be produced by the * * *
656 individual on-site wastewater disposal systems. The developer
657 shall install an internal sewage collection system from each lot
658 to the connection point to the * * * centralized wastewater
659 treatment system as he develops the streets of the subdivision.
660 Upon completion of the * * * construction of the centralized



661 wastewater treatment system, all individual on-site wastewater
662 disposal systems shall be abandoned and all residences, buildings
663 or facilities connected to the * * * centralized wastewater
664 treatment system.

665 (2) The * * * department may approve the * * * use of a
666 sewage holding * * * tank for the purpose of providing sewage
667 services. * * * The * * * department shall require * * * the
668 proper abandonment and removal of the sewage holding tank and
669 connection to a centralized wastewater treatment system when that
670 system is available, or the usage is no longer needed.

671 **SECTION 11.** Section 41-67-12, Mississippi Code of 1972, is
672 reenacted and amended as follows:

673 41-67-12. (1) The department shall assess fees in the
674 following amounts for the following purposes:

675 (a) A fee of Fifty Dollars (\$50.00) shall be levied for
676 soil and site evaluation and recommendation of individual on-site
677 wastewater disposal systems.

678 (b) A fee of Fifty Dollars (\$50.00) shall be levied
679 annually for the certification of installers and * * * pumpers.

680 (c) A fee of One Hundred Dollars (\$100.00) shall be
681 levied annually for the registration of manufacturers.

682 (2) In the discretion of the board, a person shall be liable
683 for a penalty equal to one and one-half (1-1/2) times the amount
684 of the fee due and payable for failure to pay the fee on or before



685 the date due, plus any amount necessary to reimburse the cost of
686 collection.

687 (3) * * * No fee authorized under this section shall * * *
688 be assessed by the department for * * * state agencies or
689 institutions, including, without limitation, foster homes licensed
690 by the * * * Mississippi Department of Human Services. * * *

691 **SECTION 12.** Section 41-67-15, Mississippi Code of 1972, is
692 reenacted as follows:

693 41-67-15. Nothing in this chapter shall limit the authority
694 of a municipality or board of supervisors to adopt similar
695 ordinances which may be, in whole or in part, more restrictive
696 than this chapter, and in those cases the more restrictive
697 ordinances will govern. The department shall not approve any
698 system that does not comply with an ordinance adopted by a
699 municipality or board of supervisors under the authority of this
700 section.

701 **SECTION 13.** Section 41-67-19, Mississippi Code of 1972, is
702 reenacted and amended as follows:

703 41-67-19. Each authorized agent of the department
704 implementing this chapter shall demonstrate to the department's
705 satisfaction that the person:

706 (a) Is competent to review and provide any requested
707 approval of design * * * and installation of individual on-site
708 wastewater disposal systems, as well as the operation, repair or
709 maintenance of those systems, to make soil permeability tests or



710 soil and site evaluations, and to conduct inspections of
711 individual on-site wastewater disposal systems in accordance with
712 this chapter and rules and regulations adopted under this chapter;
713 and

714 (b) Has successfully completed the * * * department's
715 certification training program * * *.

716 **SECTION 14.** Section 41-67-21, Mississippi Code of 1972, is
717 reenacted and amended as follows:

718 41-67-21. (1) The * * * department * * * shall require a
719 property owner and/or lessee to repair a malfunctioning individual
720 on-site wastewater disposal system on the owner's or lessee's
721 property before the thirtieth day after the date on which the
722 owner or lessee is notified by the department of the
723 malfunctioning system.

724 (2) The property owner and/or lessee shall take adequate
725 measures as soon as practicable to abate an immediate health
726 hazard.

727 (3) If an existing residential individual on-site wastewater
728 disposal system is malfunctioning, the system shall be repaired to
729 reduce the volume of effluent, to adequately treat the effluent
730 and to the greatest extent possible, to confine the discharge to
731 the property of the generator. If repairs are made to
732 significantly upgrade the existing individual on-site wastewater
733 disposal system, the department shall approve the system, if
734 requested.



735 (* * *4) The property owner or lessee may be assessed a
736 civil penalty not to exceed Five Dollars (\$5.00) for each day the
737 individual on-site wastewater disposal system remains unrepaired
738 after the thirty-day period specified in subsection (1) of this
739 section.

740 (* * *5) The board may assess the property owner or lessee
741 of an individual on-site wastewater disposal system
742 authorized * * * under Section 41-67-3(* * *3) a civil penalty
743 not to exceed * * * Five Dollars (\$5.00) for each day the system
744 fails to meet the performance standards of that system after the
745 thirty-day period specified in subsection (1) of this section.

746 (* * *6) All penalties collected by the board under this
747 section shall be deposited in the State General Fund.

748 (* * *7) Appeals from the imposition of civil penalty under
749 this section may be taken as provided in Section 41-67-29.

750 **SECTION 15.** Section 41-67-23, Mississippi Code of 1972, is
751 reenacted and amended as follows:

752 41-67-23. The department or its authorized representative
753 may enter onto property and make inspections of any individual
754 on-site wastewater disposal system as necessary to ensure that the
755 system is in compliance with this chapter and the rules and
756 regulations adopted under this chapter. The department shall give
757 reasonable notice to any property owner, lessee or occupant prior
758 to entry onto the property. The owner, lessee, owner's
759 representative, or occupant of the property on which the system is



760 located shall give the department or its authorized representative
761 reasonable access to the property at reasonable times to make
762 necessary inspections.

763 **SECTION 16.** Section 41-67-25, Mississippi Code of 1972, is
764 reenacted and amended as follows:

765 41-67-25. (1) A person may not operate as an installer of
766 individual on-site wastewater disposal systems unless that person
767 is currently certified by the department. A person who installs
768 an individual on-site wastewater disposal system on his own
769 property for his primary residence is not considered an installer
770 for purposes of this subsection.

771 (2) An installer of * * * advanced treatment systems or
772 products must be a factory-trained and authorized representative.
773 The manufacturer must furnish documentation to the department
774 certifying the satisfactory completion of factory training and the
775 establishment of the installer as an authorized manufacturer's
776 representative.

777 (3) The * * * department shall issue a certification to an
778 installer if the installer:

779 (a) Completes an application form that complies with
780 this chapter and rules and regulations adopted * * * by the board;

781 (b) Satisfactorily completes the training program for
782 installation and maintenance provided by the department;

783 (c) Pays the annual certification fee which shall be an
784 amount not greater than Fifty Dollars (\$50.00); and



785 (d) Provides proof of having a valid general business
786 liability insurance policy in effect with liability limits of at
787 least Fifty Thousand Dollars (\$50,000.00) per occurrence and at
788 least One Hundred Thousand Dollars (\$100,000.00) in total
789 aggregate amount.

790 (4) Each installer shall furnish proof of certification to a
791 property owner, lessee, the owner's representative or occupant of
792 the property on which an individual on-site wastewater disposal
793 system is to be designed, constructed, repaired or installed by
794 that installer and to the department or its authorized
795 representative, if requested.

796 (5) The department shall provide for annual renewal of
797 certifications.

798 (6) (a) An installer's certification may be suspended or
799 revoked by the * * * department after notice and hearing if the
800 installer violates this chapter or any rule or regulation adopted
801 under this chapter.

802 (b) The installer may appeal a suspension or revocation
803 under this section as provided by law.

804 (7) The department * * * shall disseminate to the public an
805 official list of certified installers * * *.

806 (8) If any person is operating in the state as an installer
807 without certification by the board, the board, after due notice
808 and opportunity for a hearing, may impose a monetary penalty not
809 to exceed Ten Thousand Dollars (\$10,000.00) for each violation.



810 (9) The department * * * shall provide for annual renewal of
811 installer certifications to be applied for at the local department
812 offices.

813 **SECTION 17.** Section 41-67-27, Mississippi Code of 1972, is
814 reenacted and amended as follows:

815 41-67-27. * * * A person may not operate a business in or do
816 business in the State of Mississippi as a manufacturer of
817 components used in an individual on-site wastewater disposal
818 system without holding a valid manufacturer's registration issued
819 by the department. If any person is operating in the state as a
820 manufacturer without certification by the department, the
821 department, after due notice and opportunity for a hearing, may
822 impose a monetary penalty not to exceed Ten Thousand Dollars
823 (\$10,000.00) for each violation.

824 **SECTION 18.** Section 41-67-28, Mississippi Code of 1972, is
825 reenacted and amended as follows:

826 41-67-28. (1) Except as otherwise provided in this chapter,
827 any person who shall knowingly violate this chapter or any rule or
828 regulation or written order of the board in pursuance thereof is,
829 upon conviction, guilty of a misdemeanor and shall be punished as
830 provided in Section 41-3-59.

831 (2) Each day of a continuing violation is a separate
832 violation.

833 (3) (a) In addition to all other statutory and common law
834 rights, remedies and defenses, any person who purchases an



835 individual on-site wastewater disposal system and suffers any
836 ascertainable loss of money or property, real or personal, may
837 bring an action at law in the court having jurisdiction in the
838 county in which the installer or manufacturer has the principal
839 place of business, where the act allegedly occurred, to recover
840 any loss of money or damages for the loss of any property
841 resulting from any of the following:

842 (i) Improper installation of an individual on-site
843 wastewater disposal system due to faulty workmanship;

844 (ii) Failure of an individual on-site wastewater
845 disposal system to operate properly due to failure to install the
846 system in accordance with any requirements of the manufacturer or
847 in compliance with any rules and regulations of the board; or

848 (iii) Failure of an individual on-site wastewater
849 disposal system to operate properly due to * * * installation.

850 (b) Nothing in this chapter shall be construed to
851 permit any class action or suit, but every private action must be
852 maintained in the name of and for the sole use and benefit of the
853 individual person.

854 (4) A person who violates this chapter thereby causing a
855 discharge off the property of the generator shall be liable to the
856 party aggrieved or damaged by that violation for the actual
857 damages and additional punitive damages equal to a maximum of
858 twenty-five percent (25%) of the actual damages proven by the
859 aggrieved party, to be taxed by the court where the suit is heard



860 on an original action, by appeal or otherwise and recovered by a
861 suit at law in any court of competent jurisdiction. In addition,
862 the court may award the prevailing party reasonable attorney's
863 fees and court costs. Before filing suit, the party aggrieved or
864 damaged must give thirty (30) days' written notice of its intent
865 to file suit to the alleged violator.

866 (5) (a) Any person who violates Section * * * 41-67-7(5) or
867 41-67-11(2) may be assessed an administrative fine in the amount
868 of Five Hundred Dollars (\$500.00) and the public water system may
869 discontinue service to that property owner until the failure to
870 comply with Section * * * 41-67-7(5) or 41-67-11(2) has been
871 corrected.

872 (b) All violators shall be given thirty (30) days'
873 notice before any adverse action.

874 (c) Any violator shall have the right to appeal an
875 adverse determination through the procedures set out in Section
876 41-67-29.

877 **SECTION 19.** Section 41-67-29, Mississippi Code of 1972, is
878 reenacted as follows:

879 41-67-29. Any person who is aggrieved by any final decision
880 of the board may appeal that final decision to the chancery court
881 of the county of the situs in whole or in part of the subject
882 matter. The appellant shall give a cost bond with sufficient
883 sureties, payable to the state in a sum to be fixed by the board
884 or the court and to be filed with and approved by the clerk of the



885 court. The aggrieved party may, within thirty (30) days following
886 a final decision of the board, petition the chancery court for an
887 appeal with supersedeas and the chancellor shall grant a hearing
888 on the petition. Upon good cause shown the chancellor may grant
889 the appeal with supersedeas. The appellant shall be required to
890 post a bond with sufficient sureties according to law in an amount
891 to be determined by the chancellor. The chancery court shall
892 always be deemed open for hearing of appeals and the chancellor
893 may hear the appeal in termtime or in vacation at any place in his
894 district. The appeal shall have precedence over all civil cases,
895 except election contests. The chancery court shall review all
896 questions of law and of fact and may enter a final order or remand
897 the matter to the board for appropriate action as may be indicated
898 or necessary under the circumstances. Appeals may be taken from
899 the chancery court to the Supreme Court in the manner as now
900 required by law, but if a supersedeas is desired by the party
901 appealing to the chancery court, that party may apply therefor to
902 the chancellor, who shall award a writ of supersedeas, without
903 additional bond, if in the chancellor's judgment material damage
904 is not likely to result. If material damage is likely to result,
905 the chancellor shall require a supersedeas bond as deemed proper,
906 which shall be liable to the state for any damage.

907 **SECTION 20.** Section 41-67-33, Mississippi Code of 1972, is
908 reenacted and amended as follows:



909 41-67-33. (1) The department shall adopt and use procedures
910 for conducting reviews requested by any person aggrieved by the
911 disapproval or requirements for an on-site wastewater disposal
912 system as provided by the department in written form under Section
913 41-67-6. The procedures shall include that the person may request
914 review by submitting a written request of review to the Director
915 of the Office of Environmental Health. The request for review
916 shall identify the matter contested and state the person's name,
917 mailing address and home and daytime phone numbers. Within ten
918 (10) business days of the receipt of the request for review, the
919 department shall issue in writing a ruling and determination to
920 the person and if any corrections are necessary to any form
921 previously issued by the department, then new forms shall be
922 submitted to the person.

923 (2) Property owners may apply for a variance from the
924 department by submitting a report for a proposed system to the
925 department from a licensed professional engineer that the proposed
926 wastewater treatment system will properly treat and maintain
927 wastewater on the property and proof that the licensed
928 professional engineer has errors and omissions insurance. The
929 department shall grant the variance but still have authority for
930 final approval to inspect that the system is installed as
931 designed. All forms from the department relating to allowed
932 wastewater systems shall include the variance option.



933 (* * *3) Any person aggrieved by the ruling issued by the
934 Director of the Office of Environmental Health may apply for a
935 hearing. Any hearing shall be conducted by a hearing officer
936 designated by the department. At the hearing, the hearing officer
937 may conduct reasonable questioning of persons who make relevant
938 factual allegations concerning the proposal. The hearing officer
939 shall require that all persons be sworn before they may offer any
940 testimony at the hearing, and the hearing officer is authorized to
941 administer oaths. Any person so choosing may be represented by
942 counsel at the hearing. A record of the hearing shall be made,
943 which shall consist of a transcript of all testimony received, all
944 documents and other material introduced, the staff report and
945 recommendation, and any other material as the hearing officer
946 considers relevant. He shall make a recommendation within a
947 reasonable period of time after the hearing is closed and after he
948 has had an opportunity to review, study and analyze the evidence
949 presented during the hearing. The completed record shall be
950 certified to the State Health Officer, who shall consider only the
951 record in making his decision, and shall not consider any evidence
952 or material that is not included. All final decisions regarding
953 the disapproval or requirements for an on-site wastewater disposal
954 system shall be made by the State Health Officer. The State
955 Health Officer shall make his written findings and issue his order
956 after reviewing the record, not to exceed thirty (30) days
957 following his receipt of the record.



958 **SECTION 21.** Section 41-67-35, Mississippi Code of 1972,
959 which prohibits a person from operating as a maintenance provider
960 unless the person is certified as one by the department or is a
961 certified installer, is repealed.

962 **SECTION 22.** Section 41-67-37, Mississippi Code of 1972, is
963 reenacted and amended as follows:

964 41-67-37. (1) A person may not operate as a certified
965 professional evaluator in this state unless that person is
966 currently certified by the department or is a * * * licensed
967 professional engineer.

968 (2) A person must meet one (1) of the following
969 requirements, in addition to the additional requirements set forth
970 in other sections of this chapter and rules and regulations of the
971 board, in order to be eligible to become a certified professional
972 evaluator:

973 (a) Be a professional geologist registered in the State
974 of Mississippi;

975 (b) Be a professional soil classifier licensed in the
976 State of Mississippi; or

977 (c) Be a person who possesses a demonstrable, adequate
978 and appropriate record of professional experience and/or training
979 as determined by the department.

980 (3) The department shall issue a certification to a
981 certified professional evaluator if the certified professional
982 evaluator:



983 (a) Completes an application form that complies with
984 this chapter and rules adopted under this chapter;

985 (b) Satisfactorily completes the certified professional
986 evaluator training program provided by the department;

987 (c) Pays the annual certification fee; and

988 (d) Provides proof of having an errors and omissions
989 policy or surety in effect with liability limits of at least Fifty
990 Thousand Dollars (\$50,000.00) per occurrence and at least One
991 Hundred Thousand Dollars (\$100,000.00) in total aggregate amount.

992 (4) Each certified professional evaluator shall furnish
993 proof of certification to a property owner or the owner's
994 representative of the property before performing a site evaluation
995 of the property on which an individual on-site wastewater disposal
996 system is to be designed, constructed, repaired or installed by
997 the certified professional evaluator and to the department or its
998 authorized representative, if requested.

999 (5) The department shall provide for annual renewal of
1000 certifications.

1001 (6) The department * * * shall disseminate to the public an
1002 official list of certified professional evaluators * * *.

1003 (7) If any person who is not a * * * licensed professional
1004 engineer operates in the state as a certified professional
1005 evaluator without certification by the * * * department, the * * *
1006 department, after due notice and opportunity for a hearing, may



1007 impose a monetary penalty not to exceed Ten Thousand Dollars
1008 (\$10,000.00) for each violation.

1009 **SECTION 23.** Section 41-67-39, Mississippi Code of 1972, is
1010 reenacted and amended as follows:

1011 41-67-39. (1) A person may not be engaged in the business
1012 of removing and disposing of the sludge and liquid waste (septage)
1013 from individual on-site wastewater disposal systems in this state
1014 unless that person has a valid * * * certificate issued by the
1015 department.

1016 (2) The department shall issue a * * * certificate to a
1017 pumper if the pumper:

1018 (a) Completes an application form that complies with
1019 this chapter and rules adopted under this chapter;

1020 (b) Satisfactorily completes the certified pumper
1021 training program provided by the department;

1022 (* * * c) Satisfactorily complies with the requirements
1023 of his/her pumping and hauling equipment;

1024 (* * * d) Provides documentation of a disposal site
1025 approved by the Department of Environmental Quality, Office of
1026 Pollution Control;

1027 (* * * e) Pays the annual license fee; and

1028 (* * * f) Provides proof of having a valid general
1029 business liability insurance policy in effect with liability
1030 limits of at least Fifty Thousand Dollars (\$50,000.00) per



1031 occurrence and at least One Hundred Thousand Dollars (\$100,000.00)
1032 in total aggregate amount.

1033 (3) Each pumper or designated agent thereof, upon request,
1034 shall furnish proof of * * * certification to an individual before
1035 entering a contract with that individual for the removing and
1036 disposing of the sludge and liquid waste (septage) from an
1037 individual on-site wastewater disposal system.

1038 (4) The department * * * shall disseminate to the public an
1039 official list of certified pumpers * * *.

1040 (5) If any person operates in the state as a certified
1041 pumper without a license by the board, the board, after due notice
1042 and opportunity for a hearing, may impose a monetary penalty not
1043 to exceed Ten Thousand Dollars (\$10,000.00) for each violation.

1044 (6) The department may suspend or revoke a pumper
1045 certification if the pumper * * * disposes of septage or other
1046 liquid waste in an unpermitted or unapproved site and/or violates
1047 this chapter or rules and regulations under this chapter.

1048 (7) A municipal wastewater treatment facility may make a
1049 site available for certified pumpers to dispose of septic or other
1050 liquid waste.

1051 (8) The department shall provide for annual renewal of
1052 certifications.

1053 (* * *9) The department must provide for renewal pumper
1054 certifications to be applied for at the local department offices.



1055 **SECTION 24.** The following shall be codified as Section
1056 41-67-41, Mississippi Code of 1972:

1057 41-67-41. (1) There is created the Wastewater Advisory
1058 Council for the purpose of advising the department regarding
1059 individual on-site wastewater disposal systems. The advisory
1060 council shall be composed of the following:

1061 (a) One (1) appointee of the State Health Officer;

1062 (b) One (1) appointee of the Chairman of the State
1063 Board of Health;

1064 (c) One (1) appointee of the Chairman of the State
1065 Board of Health that represents a Mississippi Aerobic Treatment
1066 Unit (ATU) manufacturer;

1067 (d) One (1) appointee of the Chairman of the State
1068 Board of Health that represents a certified installer;

1069 (e) One (1) appointee of the Chairman of the State
1070 Board of Health that represents a septic tank or aggregate
1071 disposal manufacturer;

1072 (f) One (1) appointee of the Executive Director of the
1073 Mississippi Department of Environmental Quality;

1074 (g) One (1) appointee of the Executive Director of the
1075 Office of Pollution Control;

1076 (h) One (1) appointee of the Executive Director of the
1077 Mississippi Soil and Water Conservation Commission;

1078 (i) One (1) appointee of the Director of the
1079 Mississippi State Board of Registered Professional Geologists;



1080 (j) One (1) appointee of the Chairman of the Department
1081 of the Mississippi State University School of Civil and
1082 Environmental Engineering Companies;

1083 (k) The federally appointed Mississippi State Soil
1084 Scientist, or his designee;

1085 (l) One (1) appointee of the Executive Director of the
1086 American Council of Engineering Companies;

1087 (m) One (1) appointee of the Executive Director of the
1088 Home Builders Association of Mississippi;

1089 (n) One (1) appointee of the Executive Director of the
1090 Mississippi Engineering Society;

1091 (o) One (1) appointee of the Executive Director of the
1092 Mississippi Manufactured Housing Association;

1093 (p) One (1) appointee of the Executive Director of the
1094 Mississippi Rural Water Association;

1095 (q) One (1) appointee of the Executive Director of the
1096 Mississippi Association of Supervisors;

1097 (r) One (1) appointee of the President of the
1098 Mississippi Pumpers Association;

1099 (s) One (1) appointee of the President of the
1100 Mississippi Water and Pollution Control Operators Association,
1101 Inc.;

1102 (t) One (1) appointee of the Executive Director of the
1103 Mississippi Association of Realtors; and



1104 (u) One (1) appointee of the Executive Director of the
1105 Mississippi Municipal League.

1106 (2) The members of the advisory council shall elect a
1107 chairman and vice chairman from its membership.

1108 (3) The terms of appointments for each member shall be for a
1109 period of two (2) years.

1110 (4) The advisory council shall have quarterly meetings, with
1111 at least one (1) of those meetings taking place between forty-five
1112 (45) and sixty (60) days before the meeting of the board.

1113 (5) The department shall staff all advisory council meetings
1114 and record minutes of those meetings.

1115 **SECTION 25.** Section 41-67-31, Mississippi Code of 1972, is
1116 amended as follows:

1117 41-67-31. Sections 41-67-1 through 41-67-29 and Sections
1118 41-67-33 through * * * 41-67-41 shall stand repealed on July
1119 1, * * * 2018.

1120 **SECTION 26.** This act shall take effect and be in force from
1121 and after July 1, 2013.

