

**Title: Mississippi State Department of Health**

**Part 18: Division of On-site Wastewater**

**Subpart 77: On-site Wastewater Regulations**

**Chapter 1. ADMINISTRATIVE**

Subchapter 1. General Provisions

Rule 1.1.1 **Legal Authority.** This regulation has been promulgated under the authority of and pursuant to the Mississippi Individual On-site Wastewater Disposal Law (**Section 41-67-1 through 41-67-41, Mississippi Code of 1972, Annotated**)

*Source: Miss Code Ann § 41-67-3*

Rule 1.1.2 **Definitions.** The terms in this Chapter apply as stated unless otherwise specified for an Individual On-site Wastewater Disposal System (IOWDS)

1. Administrative Fine – a fine imposed by the Department for violation(s) of statute(s), regulation(s) and order(s) of the Department
2. Affidavit (Exemption) – a sworn statement in writing by a Person to the State of Mississippi attesting that an IOWDS is installed and constructed in compliance with **Section 41-67-6(7)**
3. Affidavit (Installation) – a sworn statement in writing by a Certified Installer, Certified Professional Evaluator or Licensed Professional Engineer to the State of Mississippi attesting that an IOWDS is installed, constructed, repaired, or replaced and is in compliance with statutes, requirements, regulations, and permit conditions
4. Affidavit (Maintenance) – a sworn statement in writing by a property owner to the State of Mississippi agreeing to a continuing maintenance agreement on the installed Advanced Treatment System at the end of the required Certified Manufacturer’s maintenance agreement
5. Applicant – an owner, lessee or developer
6. Biochemical Oxygen Demand (BOD<sub>5</sub>) – a quantitative measure of the amount of oxygen consumed by bacteria while stabilizing, digesting, or treating biodegradable organic matter under aerobic conditions over a five (5) day incubation period; expressed in milligrams per liter (*mg/l*)

7. Carbonaceous Biochemical Oxygen Demand (CBOD<sub>5</sub>) – a quantitative measure of the amount of oxygen consumed by bacteria while stabilizing, digesting, or treating biodegradable organic matter under aerobic conditions over a five (5) day incubation period while in the presence of a chemical inhibitor to block nitrification; expressed in milligrams per liter (*mg/l*)
8. Commercial Application – notification by an Applicant to the Department prior to construction and submission of all required information, which is used by the Department to initiate the process to evaluate property for the suitability of multiple connections to an IOWDS or multiple IOWDS
9. Continuing Education Unit (CEU) – an educational course provided through the Department or other entities approved by the Department for the purpose of meeting continuing education and/or Professional Development Hours (PDH) required for the Certified Professional Evaluator/Environmentalist, Certified Installer, and Certified Pumper
10. Decentralized Wastewater Treatment System – a IOWDS and/or cluster wastewater disposal system used to treat, disperse, or discharge small volumes of wastewater, generally from dwellings and businesses that are located relatively close together. Decentralized systems in a particular management area or jurisdiction are managed by a common management entity or may be used by a commercial development consisting of fewer than ten (10) lots
11. Department of Environmental Quality – the Mississippi State Department of Environmental Quality, Office of Pollution Control
12. Design-based System – an IOWDS designed and installed in accordance with *Chapter 5: Design Standards*
13. Developer – a Person who develops real estate for residential or commercial use
14. Discharge – to pour forth, emit or release treated effluent on the surface of the property of the generator
15. Division – the Mississippi State Department of Health, Division of On-site Wastewater
16. Engineer-based System – an IOWDS designed by a Person meeting **73-13-23(1)** and submittal meeting *Chapter 2: Certification*

17. Feasibility Study – a written evaluation and analysis of the potential of a proposed project that is based on investigation and research by a Licensed Professional Engineer to give cost comparison between centralized or decentralized treatment and disposal and IOWDS
18. Fecal Coliform – indicator bacteria common to the digestive systems of warm-blooded animals that is cultured in standard tests to indicate either contamination from sewage or the level of disinfection; generally measured as number of colonies/ 100 *ml* or most probable number (MPN)
19. Federal Clean Water Act – federal legislation amended in 1972 to regulate discharges of pollutants into the water of the United States. It gave the *United States Environmental Protection Agency (EPA)* the authority to implement pollution control programs such as setting wastewater standards for industry. The Clean Water Act also continued requirements to set water quality standards for all contaminants in surface waters. The Act made it unlawful for any Person to discharge any pollutants from a point source into navigable waters, unless a permit was obtained under its provision
20. Functioning – an IOWDS that has no hydraulically overloaded soil conditions, seepage or discharge to the surface of the property of the generator
21. Failure – breakage, weakness, or defect that causes a malfunction in the treatment, distribution, disposal, or dispersal of effluent into the soil absorption field, or that causes a wash-out or disruption of the effluent disposal field as evidence by:
  - a. Surfacing or ponding of effluent at, over or around any component
  - b. Backing up of sewage within the residence or establishment
  - c. Contamination of ground or surface waters
22. Individual On-site Wastewater Disposal System – a sewage treatment and effluent disposal system that does not discharge into waters of the state, that serves only one (1) legal tract, that accepts only residential waste and similar waste streams maintained on the property of the generator, and this is designed and installed in accordance with the law and regulations of the Board
  - a. New – a Design-based IOWDS installed, inspected and documented by Final Approval

- b. Operational – an IOWDS that is being utilized on a daily basis, including the day of inspection, with no evidence of treated effluent leaving the property nor partially treated effluent seeping to the surface
  - c. Non-operational – an IOWDS that is not in daily use, including the day of inspection
  - d. Repaired – an existing malfunctioning IOWDS that is operational but requires the restoration or installation of either a treatment or disposal portion
- 23. Malfunctioning – any IOWDS or component part that fails to operate as intended or not in compliance with regulation or state laws
  - 24. Performance-based System – an IOWDS designed by a Licensed Professional Engineer to meet standards established to designate a level of treatment of wastewater that an IOWDS must meet, including, but not limited to Biochemical Oxygen Demand (BOD), Total Suspended Solids (TSS), nutrient reduction and fecal coliform
  - 25. Portable Toilet (Self-Contained) – a single or multi-unit toilet and holding tank combination system that is required to be collected, removed, transported and disposed by a Certified Pumper
  - 26. Private Water Well – a deep hole or shaft sunk into the earth to obtain potable water for an individual lot, tract or parcel
  - 27. Property of the Generator – land owned by or under permanent legal easement or lease to the generator in perpetuity to the generator, duly recorded in the courthouse
  - 28. Quality Assurance – a program for the systematic monitoring and evaluation of the various aspects of the Department’s on-site wastewater program to ensure that standards of quality, laws and regulations are being met
  - 29. Revocation – a permanent withdrawal of rights and privileges granted to the certified entity/Person for a minimum of two (2) years
  - 30. Seeping – wastewater surfacing typically from an underground system as indicated by hydraulically overloaded soil conditions

31. Soil and Site Evaluation – the evaluation to determine if a property can support an IOWDS by use of a soil auger to a depth of five (5) feet to determine the soil texture, color, mottling and Seasonal High Water Table
32. Suspension – temporary withdrawal of rights and privileges granted to a certified entity/Person
33. Total Nitrogen – measure of the complete nitrogen content in wastewater including nitrate ( $\text{NO}_3^-$ ), nitrite ( $\text{NO}_2^-$ ), ammonia ( $\text{NH}_3^-$ ), ammonium ( $\text{NH}_4^+$ ), and organic nitrogen, expressed as *mg/l* of N; all these forms of nitrogen, (as well as nitrogen [ $\text{N}_2$ ]), can be biochemically converted from one form to another and are constituents of the nitrogen cycle
34. Total Phosphorous – sum of all forms of phosphorous in effluent
35. Total Suspended Solids – measure of all suspended solids in a liquid, typically expressed in *mg/l*; to measure, a well-mixed sample is filtered through a standard glass fiber filter and the residue retained on the filter is dried to a constant weight at 217 to 221 degrees F (103 to 105 degrees C); the increase in the weight of the filter represents the amount of total suspended solids
36. Variance – a written agreement between the Department and an Applicant that allows the Applicant to deviate from the rules and regulations of the Board
37. Violation – an act of defying the statues, regulations, orders of the Board, permit conditions or certification standards
38. Wastewater Advisory Council – a group of members who meet with the Department for providing advice on IOWDS
39. Water – public or private waters used for recreation (swimming, skiing, fishing), shellfish harvesting, potable water intake or other situations where people are likely to come into contact with the water
40. Watercourse – any natural lake, river, creek, cut, or other natural body of fresh water or channel having definite banks and bed with visible evidence of the flow or occurrence of water, except such lakes without outlet to which only one (1) landowner is riparian

*Source: Miss Code Ann § 41-67-3*

## Subchapter 2. Treatment and Disposal Requirement

Rule 1.2.1 **Connection.** All places where person(s) reside, are employed and/or congregate there shall be a sanitary method for disposal of all human excreta and other liquid waste

1. Where a Centralized Wastewater Treatment System is available, all places shall have a properly constructed connection to the centralized wastewater treatment system which all human excreta and other liquid waste shall be disposed
2. Where a Centralized Wastewater Treatment System is not available, all human excreta and other liquid waste shall be disposed of into a properly constructed and maintained IOWDS
3. No such system shall be allowed to discharge in a manner, which will jeopardize public health, welfare or the environment

*Source: Miss Code Ann § 41-67-3*

Rule 1.2.2 **Maintenance.** All IOWDS require periodic maintenance in accordance with the Certified Manufacturer's requirements in accordance with **41-67-10**. All Advanced Treatment Systems must comply with **41-67-7(5)**

*Source: Miss Code Ann § 41-67-3*

## Subchapter 3. Department Staff

Rule 1.3.1 **Responsibility.** The Division, Environmental Health Program Specialist, District Environmentalist, Regional Environmentalist, Environmentalist and Environmentalist Trainee must comply with the following:

1. Division
  - a. Attend and conduct all training courses
  - b. Provide necessary regulations, forms, documents, and evaluations to determine the suitability of property for an IOWDS and enter the data in the wastewater computer program

- c. Provide or deny certifications or registrations issued to Certified Manufacturers, Certified Professional Evaluators, Certified Installers and Certified Pumpers
- d. Suspend or revoke certifications for Certified Manufacturers, Certified Professional Evaluators, Certified Installers and Certified Pumpers
- e. Review and approve the submittal for all designs submitted by Certified Professional Evaluators or Licensed Professional Engineers
- f. Coordinate and provide initial certification, continuing education and training for Certified Professional Evaluators, Certified Installers and Certified Pumpers of IOWDS as outlined in *Chapter 2: Certification*
- g. Review submissions and requirements for registration of all specified manufactured wastewater products
- h. Promulgate rules and regulations for Design and Performance-based Systems
- i. Determine the feasibility of Centralized Wastewater Treatment System for developments
- j. Develop and implement policy and procedures
- k. Provide technical assistance
- l. Coordinate training, continuing education and determine competency of Environmentalist
- m. Monitor commercial development/establishments and Performance-based System evaluations, document findings and enter in the wastewater computer program
- n. Review, inspect and approve/disapprove Performance-based Systems and enter appropriate data related to system into wastewater computer program
- o. Inspect, approve/disapprove all IOWDS prior to issuance of Final Approval
- p. Monitor Districts/Counties and Certified Professional Evaluators through the Quality Assurance program implemented by the Division

- q. Ensure computer data is accurate and updated for all certifications and registrations
  - r. Conduct field evaluations on all designs submitted by Certified Professional Evaluators or Licensed Professional Engineers
  - s. Conduct field inspections on all specified manufactured wastewater products, as deemed necessary
  - t. Schedule with Hearing Officer within ten (10) working days on all enforcement proceedings for Certified Manufacturers and Certified Professional Evaluators
  - u. Perform Quality Assurance for Environmentalist and Certified Professional Evaluators
2. District Environmentalist
- a. Attend all training courses as outlined by the Division
  - b. Demonstrate to the Department that **41-67-19** is satisfactorily met
  - c. Provide supervision over Environmentalist(s) to ensure the design, construction, installation and approval of an IOWDS
  - d. Suspend or revoke certifications for Certified Installers and Certified Pumpers
  - e. Inspect, and/or designate inspections of, Certified Pumper's vehicle(s)
  - f. Verify all information needed prior to performing the Soil and Site Evaluation
  - g. Ensure that Environmentalist are recommending all approvable options
  - h. Demonstrate competency as a Certified Professional Evaluator
  - i. Ensure that all regulations are applied uniformly in their area of the State
  - j. Monitor and enter all referred encounters and complaints into the wastewater computer program

- k. Ensure or perform the Soil and Site Evaluation within five (5) working days of receiving a completed Notice of Intent
  - l. Ensure or process the Permit/Recommendation within ten (10) working days of the completed Notice of Intent
  - m. Inspect, approve/disapprove all Design-based Systems prior to issuance of Final Approval
  - n. Schedule a hearing within the required ten (10) working days on all enforcement proceedings for Certified Installer and Certified Pumper
  - o. Report findings of all enforcement proceedings for Certified Installer or Certified Pumper to the Division
  - p. Attend a minimum of four (4) hours of Continuing Education Units endorsed by the Division in a calendar year to maintain certification
3. Regional Environmentalist
- a. Attend all training courses as outlined by the Division
  - b. Demonstrate to the Department that **41-67-19** is satisfactorily met
  - c. Provide supervision over Environmentalist(s) to ensure the design, construction, installation and approval of an IOWDS
  - d. Issue notice to suspend or revoke certifications for Certified Installers and Certified Pumpers
  - e. Inspect, or designate inspections, of Certified Pumper's vehicle(s)
  - f. Verify all information needed prior to performing the Soil and Site Evaluation
  - g. Ensure that Environmentalist are recommending all approvable options
  - h. Coordinate with the District Environmentalist on all enforcement issues
  - i. Ensure that all regulations are applied uniformly in their area of the State
  - j. Monitor and/or enter, all referred encounters or complaints into the wastewater computer program

- k. Ensure or process the Soil and Site Evaluation within five (5) working days of receiving a complete Notice of Intent
  - l. Ensure or process the Permit/Recommendation within ten (10) working days of the completed Notice of Intent
  - m. Inspect, approve/disapprove all Design-based Systems prior to issuance of Final Approval
  - n. Attend a minimum of four (4) hours of Continuing Education Units endorsed by the Division in a calendar year to maintain certification
4. Environmentalist
- a. Attend all training courses as outlined by the Division
  - b. Demonstrate to the Department that **41-67-19** is satisfactorily met
  - c. Ensure the design of an IOWDS can be installed and approved
  - d. Issue notice to suspend or revoke certifications for Certified Installers and Certified Pumpers
  - e. Inspect Certified Pumper's vehicle(s)
  - f. Verify all information needed prior to performing the Soil and Site Evaluation
  - g. Investigate complaints and enforce all applicable statutes, regulations, and certification violation for the Certified Installer and Certified Pumper
  - h. Coordinate with the Regional Environmentalist on all enforcement issues
  - i. Perform the Soil and Site Evaluation within five (5) working days of the submittal of a completed Notice of Intent
  - j. Process the Permit/Recommendation within ten (10) working days of completing the Soil and Site Evaluation
  - k. Inspect, approve/disapprove all Design-based Systems prior to issuance of Final Approval
  - l. Initiate all wastewater complaints received within forty-eight (48) hours

- m. Monitor and/or enter, all environmental health related encounters and complaints into the wastewater computer program
  - n. Attend a minimum of four (4) hours of Continuing Education Units endorsed by the Division in a calendar year to maintain certification
5. Environmentalist Trainee
- a. Attend all training courses as outlined by the Division
  - b. Demonstrate to the Department that **41-67-19** is satisfactorily met
  - c. Perform all Soil and Site Evaluations, existing inspections, collect water samples, and investigate wastewater complaints with Regional/District Environmentalist under the probationary status
  - d. Demonstrate competency as an Environmentalist/Certified Professional Evaluator

*Source: Miss Code Ann § 41-67-3*

#### Subchapter 4. Applicant

Rule 1.4.1 **Responsibilities.** All Applicants must comply with the following:

1. Submitting a Notice of Intent to the Department prior to constructing or placing any mobile, modular or permanently constructed residence, building or facility, which may require the installation of an IOWDS
2. Submit the Permit/Recommendation, for a water service connection (water meter) which is an approved plan for a sewage treatment and disposal system
3. Select an IOWDS to be installed and approved from the option(s) listed on the Permit/Recommendation form
4. Provide the following to the Department after the chosen IOWDS has been installed and inspected:
  - a. Signed and dated Affidavit (Installation) or if eligible, Affidavit (Exemption)
  - b. Signed and dated Affidavit (Maintenance), for an Advanced Treatment System only

c. Fee (Final Approval)

*Source: Miss Code Ann § 41-67-3*

Subchapter 5. New System

Rule 1.5.1 **Prohibited Uses.** Any waste stream that is non-typical residential in its constituents shall be referred to the Mississippi Department of Environmental Quality, Office of Pollution Control

*Source: Miss Code Ann § 41-67-3*

Rule 1.5.2 **Temporary Use.** Any IOWDS can be installed through Notice of Intent procedure in an area where the Department has written proof from the providing entity that a connection to Centralized Wastewater Treatment System will be available with thirty-six (36) months. Upon completion of the Centralized Wastewater Treatment System, all temporary use systems must be properly abandoned.

*Source: Miss Code Ann § 41-67-3*

Rule 1.5.3 **Notice of Intent.** Prior to construction or placement of any mobile, modular, or permanently constructed residence which may require the installation of a single residential IOWDS and the need for a “new” water meter or drilling of a “new” private water well, the Applicant shall completed the Notice of Intent and provide the following to the Department:

1. Legal description
2. Plot Plan (plat)
3. Fee

*Source: Miss Code Ann § 41-67-3*

Rule 1.5.4 **Soil and Site Evaluation.** An Environmentalist will perform an evaluation in accordance with *Chapter 4: Soil and Site Evaluation*

*Source: Miss Code Ann § 41-67-3*

Rule 1.5.5 **Permit/Recommendation.** Following the Soil and Site Evaluation, the Department will provide a document that indicates a specific type(s) of IOWDS available in order for the Applicant to make an informed decision for meeting a minimum standard of proper treatment and disposal. The Permit/Recommendation is nontransferable and will be valid for one (1) year. The Permit/Recommendation shall be made null and void by the Department if extensive grading occurs or if site/dwelling deviates from the originally submitted Plot Plan (plat).

*Source: Miss Code Ann § 41-67-3*

Rule 1.5.6 **IOWDS Classifications.** All residential IOWDS must comply with one (1) of the following:

1. Design-based. An IOWDS that meets the following:
  - a. Treatment
    - i. Septic Tank
    - ii. Advanced Treatment System
  - b. Disposal
    - i. Aggregate
    - ii. Aggregate Replacement
    - iii. Elevated Sand Mound
    - iv. Drip Irrigation
    - v. Spray Irrigation (disinfected)
    - vi. Overland Discharge (disinfected)
    - vii. Non-water borne
2. Engineer-based. An IOWDS that meets the following:
  - a. Design-based
  - b. Performance-based

3. Performance-based. An IOWDS that is certified by a Licensed Professional Engineer to meet the following minimum effluent standards:
  - a. BOD<sub>5</sub> – 10 mg/l
  - b. TSS – 10 mg/l
  - c. PO<sub>4</sub>-P – 15 mg/l
  - d. NH<sub>4</sub>-N – 10 mg/l
  - e. Fecal Coliform – 10,000 cfu/1000 ml
  - f. All IOWDS effluent must comply with either the minimum effluent standards unless background water quality is a higher number than these levels. In this case, the background level will become the standard of performance
  - g. Background water levels and IOWDS effluent must be sampled in accordance with Department guidelines. (To be forthcoming)

*Source: Miss Code Ann § 41-67-3*

Rule 1.5.7 **Inspection.** All IOWDS which requires a Final Approval must be evaluated and if mechanical, operated to determine the compliance with the applicable regulations

*Source: Miss Code Ann § 41-67-3*

Rule 1.5.8 **Passed Inspection.** All IOWDS must be installed in compliance with the applicable rules and regulations from *Chapter 1: Administrative, Chapter 2: Certification* and *Chapter 5: Design Standards* or reviewed and found to be in compliance with Engineer or Performance-based System

*Source: Miss Code Ann § 41-67-3*

Rule 1.5.9 **Failed Inspection.** All IOWDS not meeting the requirements of the regulations must be inspected until passed by the Environmentalist. A fee will be charged for each inspection.

*Source: Miss Code Ann § 41-67-3*

Rule 1.5.10 **Approval.** The following documentation shall be collected by the Environmentalist prior to issuance of the Final Approval to the Applicant:

1. Inspection (Form 305)
2. Affidavit (Installation)
3. Affidavit (Maintenance), for an Advanced Treatment System only
4. Fee

#### Subchapter 6. Existing System

Rule 1.6.1 **Classifications.** All IOWDS installed prior to July 1, 2014, shall be grandfathered in until a substantiated complaint is registered or until the property owner requests an inspection

1. Operational
2. Non-operational

*Source: Miss Code Ann § 41-67-3*

Rule 1.6.2 **Inspection.** An existing IOWDS will be evaluated based on a request from the Applicant, a substantiated complaint or Medical Exception is received by the Department. All Advanced Treatment Systems must be inspected by a Certified Manufacturer's authorized representative and appropriate inspection forms or proof of continuous maintenance agreement must be submitted.

1. Operational
  - a. Environmentalist shall make a diligent effort to locate the treatment and disposal area as shown on the Existing System – Application
  - b. If there is no evidence of treated effluent leaving the property, nor partially treated effluent seeping to the surface, an Acceptance will be issued to the Applicant
2. Non-operational
  - a. A Permit/Recommendation will be provided to the Applicant

*Source: Miss Code Ann § 41-67-3*

Rule 1.6.3 **Failed Inspection.** For any IOWDS which has evidence of treated effluent leaving the property, or partially treated effluent seeping to the surface, the Applicant shall be issued a letter stating the violation with options for repair. If replacement is required, a Permit/Recommendation will be issued

*Source: Miss Code Ann § 41-67-3*

Rule 1.6.4 **Approval.** All IOWDS in need of repair that requires approval, must meet the following requirements by upgrading either treatment or disposal:

1. Reduce the volume of effluent
2. Adequately treat the effluent
3. Confine the discharge to the property of the generator

*Source: Miss Code Ann § 41-67-3*

Rule 1.6.5 **Replacement.** Any malfunctioning IOWDS that will require the installation of both treatment and disposal will require the Applicant to comply with *Subchapter 5. New System*

#### Subchapter 7. Exception, Exemption and Variance

Rule 1.7.1 **Medical Exception.** A temporary connection made to an operational existing system, provided the flow is not projected to increase significantly and the residence is removed on the date specified in the doctor's statement

*Source: Miss Code Ann § 41-67-3*

Rule 1.7.2 **Exemption.** Utilization of the exemption by the Applicant, requires the following:

1. Applicant must attest that a single residence will be placed on a single two (2) - acre or larger tract of land during the Notice of Intent process and must acknowledge that they have been informed the following entities may require the Department's Final Approval:
  - a. Board of Supervisor (Ordinance)
  - b. Water Supplier/Association (Bylaws and/or Water User's Agreement)
  - c. Lending Institution

- d. Utility Authority
- e. Others (subdivision covenants, etc)

*Source: Miss Code Ann § 41-67-3*

Rule 1.7.3 **Variance.** Applicant may request the review of a Permit/Recommendation which indicates no Design-based IOWDS can be authorized for installation or if the Applicant disagrees with Permit/Recommendation made by the Department

1. Applicant must write and submit a letter to the Director of Office of Environmental Health requesting a review of the property to determine if the current rules and regulations of the Department have created an unforeseen hardship. The following must be included:
  - a. Name and mailing address
  - b. Telephone number and/or email address
  - c. Copy of the Permit/Recommendation
2. Applicant must write and submit a letter to the Director of the Division of On-site Wastewater requesting a review of the design. The following must be included:
  - a. Name and mailing address
  - b. Telephone number and/or email address
  - c. Copy of the Permit/Recommendation
  - d. Copy of the report from the Licensed Professional Engineer for a proposed IOWDS that will properly treat and maintain wastewater on the property
  - e. Copy of the Licensed Professional Engineer's errors and omissions insurance

*Source: Miss Code Ann § 41-67-3*

## Subchapter 8. Hearing and Appeal Procedure

Rule 1.8.1 **Hearing.** Any Applicant who has been denied an approval or whose property has been declared unsuitable for recommendation of any wastewater disposal system or who has been charged with a violation of this regulation can request a district

hearing in writing within ten (10) days of notification of the denial or violation. A hearing will be scheduled within ten (10) calendar days after the request has been filed. The appellant will be notified in writing of the decision of the District Hearing Officer

*Source: Miss Code Ann § 41-67-3*

Rule 1.8.2 **Appeal.** The appellant shall have the right to appeal an unfavorable decision to the State Health Officer in writing within ten (10) days of notification of results of the district-level hearing. A hearing will be scheduled within thirty (30) calendar days after the request has been filed. The decision of the State Health Officer or his/her designee as Hearing Officer will be based solely on the oral, written and documentary evidence presented. The appellant will be notified in writing of the decision

*Source: Miss Code Ann § 41-67-3*

Rule 1.8.3 **Further Appeal.** Any Person who is aggrieved by any final decision of the Board may appeal that final decision to the Chancery Court of the county of the situs in whole or in part of the subject matter. No individual may file a petition for judicial review with a court of competent jurisdiction until a final written decision and order have been issued by the Department

*Source: Miss Code Ann § 41-67-3*

## **CHAPTER 2 CERTIFICATION**

### **Subchapter 1 Introduction**

Rule 2.1.1 **Purpose:** The purpose of this regulation is to establish a regulatory standards regarding certification of the Manufacturers, Professional Evaluators, Installers, Pumpers, Maintenance Providers, and Qualified Homeowner Maintenance Providers that applies for the design, construction, installation, repair, maintenance, operation, removal and disposal of liquid waste of Individual On-Site Wastewater Disposal Systems.

*SOURCE: Miss Code Ann § 41-67-3*

Rule 2.1.2 **Authority:** The State Board of Health is authorized to promulgate these rules under and by virtue of Section **41-3-15(1)(b)(ii)**, **(4)(a)(b)(c)(e)(h)(i)**, Section **41-3-17** and Section **41-67-1** through **41-67-39**, **Mississippi Code of 1972, Annotated.**

*SOURCE: Miss Code Ann § 41-67-3*

**Rule 2.1.3 Definitions:**

1. Advanced Treatment System – an individual on-site wastewater treatment systems that comply with Section 41-67-10.
2. Advanced Treatment Unit Distributor – a person authorized by the registered manufacturer to sell aerobic treatment units to authorized Certified Installer(s) in the State of Mississippi.
3. Advanced Treatment Unit Manufacturer – a person authorized by the *American National Standards Institute/National Sanitation Foundation (ANSI/NSF) International Standard Number 40* to construct an aerobic treatment unit that is listed and registered by the State of Mississippi.
4. Alternative techniques/technologies – a technique or technology used to achieve acceptable treatment and dispersal of wastewater through advanced treatment schemes as deemed by the Department.
5. Authorized Representative – an organization, group, individual, or other entity that is authorized by the manufacturer to distribute, sell, install, or service residential wastewater treatment systems.
6. Certification – the act of confirming competency to design, construct, maintain, install, removal and/or disposal of sludge and liquid waste from Individual On-site Wastewater Disposal Systems.
7. Certified Installer – any person who has met the requirements of Section 41-67-25.
8. Certified Maintenance Provider – any person who holds a written certification issued by the Department allowing the person to provide maintenance services associated with approved on-site wastewater treatment and disposal systems.
9. Certified Professional Evaluator – any person who has met the requirements of Section **41-67-35**.
10. Certification Training Program – a program developed by the Mississippi State Department of Health to confirm competency to design, construction, installation, repair, maintenance, operation, and removal and disposal of liquid waste of Individual On-Site Wastewater Disposal Systems.
11. Certified Pumper – a person engaged in the business or practice of removing and disposing of the sludge and liquid waste from Individual On-site Wastewater Disposal Systems.

12. Cleaning – the removal and transportation of septage or other liquid waste from an onsite sewage treatment and disposal system or Portable Toilet (Self-contained) to an approved disposal location.
13. Components – all physical, mechanical, and electrical components of any wastewater disposal system.
14. Continuing Education Unit (CEU) – an educational course provided through the Department or other entities approved by the Department for the purpose of meeting continuing education and/or Professional Development Hours (PDH) required for the Certified Professional Evaluator/Environmentalist, Certified Installer, Certified Maintenance Provider, Qualified Homeowner Maintenance Provider, and Certified Pumper.
15. Conventional System – an Individual On-Site Wastewater Disposal System consisting of a septic tank and subsurface disposal field.
16. Errors and Omission – coverage protecting the insured against legal liability resulting from negligence, carelessness or a failure to act causing property damage or personal injury to others. Coverage may include burglary and theft.
17. General Business Liability Insurance – coverage protecting the insured against legal liability resulting from negligence, carelessness or a failure to act causing property damage or personal injury to others. Coverage may include burglary and theft.
18. Holding Tank – a vessel used to hold effluent for a limited time as specified in Section **41-67-11**.
19. Lime – a dry white powder consisting essentially of calcium hydroxide that is made by treating quicklime with water.
20. Manufacturer – a person operating a business in or doing business in the State of Mississippi that develops, designs and fabricates residential wastewater treatment systems and their components.
21. Maintenance – the inspecting and evaluating of an Advanced Treatment System. The replacement of any component registered with a specific Advanced Treatment System (i.e. aerator, diffuser, control panel, etc.).
22. Monitoring Visit – an inspection performed by the third party certifier to ensure that the manufacturer, distributor and installer are complying with *American National Standards Institute/National Sanitation Foundation (ANSI/NSF) International Standard Number 40* requirements.
23. Person - any individual, trust, firm, joint-stock company, public or private corporation (including a government corporation), partnership, association, state, or any agency or institution thereof, municipality, commission, political

subdivision of a state or any interstate body, and includes any officer or governing or managing body of any municipality, political subdivision, or the United States or any officer or employee thereof.

24. Portable Toilet (Self-Contained) – a single or multi-unit toilet and holding tank system combination that is required to be collected, removed, transported and disposed by a Certified Pumper.
25. Qualified Homeowner Maintenance Provider – the current owner of a specific residence where they resides and has met the requirements of the Department of Health regulation.
26. Surety – a three-party agreement where the insurer agrees to pay a second party (the obligee) or make complete an obligation in response to the default, acts or omissions of a third party (the principal).
27. Third Party Certifier – a certifying program which complies with the following provisions for systems which it has certified to be installed in Mississippi:
  - a. Be accredited by the *American National Standards Institute (ANSI)*.
  - b. Have established procedures which send representatives to distributors in Mississippi on a recurring basis to conduct evaluations to assure that distributors of certified advanced treatment systems are providing proper maintenance, have sufficient replacement parts available and are maintaining service records.
  - c. Notify the Department of the results of monitoring visits to manufacturers and distributors within 60 calendar days of the conclusion of the monitoring.
  - d. Submit completion reports on testing and any other information as the Department may require for its review.

*SOURCE: Miss Code Ann § 41-67-3*

Rule 2.1.4 **Registered Manufacturer:** A person may operate as a Manufacturer in the State of Mississippi if they hold a valid certification of registration.

*SOURCE: Miss Code Ann § 41-67-3*

Rule 2.1.5 **Products:**

1. Treatment
  - a. Advanced Treatment Units
  - b. Septic Tanks

- c. Holding Tanks
  - d. Non-water borne Systems
  - e. Alternative wastewater technology
2. Disposal
    - a. Aggregate Replacement
    - b. Subsurface Drip
    - c. Spray Irrigation
    - d. Alternative wastewater technology
  3. Disinfection
  4. Effluent Filter

*SOURCE: Miss Code Ann § 41-67-3*

**Rule 2.1.6 Requirements:** It is unlawful for a Manufacturer of an Individual On-site Wastewater Disposal System or alternative treatment or disposal components to operate a business in or to do business in the State of Mississippi without holding a valid manufacturer's registration issued by the Department.

*SOURCE: Miss Code Ann § 41-67-3*

**Rule 2.1.7 Application:** All Manufacturers must annually complete and submit the following:

1. Application;
2. Listing and identification of all Fabricators and Distributors of their products and a list of authorized Certified Installers and Certified Maintenance Providers;
3. Contact information of all technical staff providing training;
4. Electronic or detailed drawing(s), construction material(s), installation and/or homeowner manual(s) of each product; and
5. Fee.

*SOURCE: Miss Code Ann § 41-67-3*

**Rule 2.1.8 Treatment:**

1. Advanced Treatment

- a. Registration and requirements for testing and listing of manufacturers of advanced treatment systems:
- b. Documentation, from a Third Party Certifier accredited by the American National Standards Institute that the manufacturer's product has successfully completed the testing and listing process as outlined in *American National Standards Institute/National Sanitation Foundation (ANSI/NSF) International Standard Number 40* and/or 245 or later edition.
- c. On or before **October 1, 1996** each Manufacturer not currently tested and listed by a Third Party Certifier, accredited by the American National Standards Institute, shall submit to the Department evidence that such manufacturer has commenced the testing/listing process. Within 9 months after the submission of such evidence, each Manufacturer must have completed the testing/listing process.
- d. Each manufacturer must have established procedures which send representatives to a minimum of 10 percent of its distributors in Mississippi on an annual basis to conduct evaluations to assure the distributor of certified advanced treatment systems is providing proper maintenance, has sufficient replacement parts available and is maintaining service records. Annual monitoring reports, from the manufacturer and Third Party Certifier must be submitted to the Division prior to re-registration.

*SOURCE: Miss Code Ann § 41-67-3*

**Rule 2.1.9 Third Party Certifier:**

1. Advanced treatment systems and other treatment technologies may be installed only if they have been tested and listed by a third party certifying program. Such advanced treatment systems shall be in compliance with standards for Class I systems as defined by the most current revision of *American National Standards Institute/National Sanitation Foundation (ANSI/NSF) International Standard Number 40*, hereby incorporated by reference. An approved third party certifying program shall comply with the following provisions in order for systems which it has certified to be installed in Mississippi:
  - a. On and after **October 1, 1996** an approved Third Party certifying program shall be accredited by the *American National Standards Institute (ANSI)*.
  - b. Have established procedures, which send representatives to a minimum of 1 distributor of each Manufacturer in Mississippi on an annual basis to conduct evaluations to assure the distributor of certified advanced treatment systems is providing proper maintenance, has sufficient replacement parts available and is maintaining service records.

- c. Notify the Division of the results of monitoring visits to manufacturers and distributors within 60 calendar days of the conclusion of the monitoring.
- d. Submit completed reports on testing and evaluation of each advanced treatment system verifying compliance with *American National Standards Institute/National Sanitation Foundation (ANSI/NSF) International Standard Number 40*. Such reports shall include but not be limited to the following:
  - i. Materials
  - ii. Design and construction
  - iii. Performance requirement (BOD, TSS, pH)
  - iv. Operation and maintenance
- e. The Third Party certifying entity must be disassociated with, and have no vested interest in, the manufacturer to which certification services are provided.
- f. Information including specifications of each system and/or component part of the system as deemed necessary by the Department for review.
- g. Design, construction and reinforcement must comply and conform to applicable rules and regulations of *Chapter 5 Subchapter 1*.
  - i. Septic tanks - The Division shall review, including an on-site inspection, the plans, specifications, and construction criteria and shall determine them to be in compliance with the regulation.
- h. Design, construction and reinforcement must comply and conform to applicable rules and regulations of *Chapter 5 Subchapter 1*.
  - i. Holding tanks - The Division shall review, including an on-site inspection, the plans, specifications, and construction criteria and shall determine them to be in compliance with the regulation.
- i. Design, construction and reinforcement must comply and conform to applicable rules and regulations of *Chapter 5 Subchapter 1*.
  - i. Non-waterborne System – Third Party certification that product has successfully completed testing and listing process as outlined in *American National Standards Institute/National Sanitation Foundation (ANSI/NSF) International Standard Number 41*.

2. Alternative Wastewater Technology - Treatment and/or disposal systems/products must be documented, reviewed and by the Division to verify compliance with the applicable standards. Disposal: All Manufacturers must provide a copy of installation and/or homeowner manual(s) for each of their products. Hydraulic calculations on an alternative system installation on all products that may be required to be pressurized as part of the dispersal process this includes but not limited to, Subsurface Drip, Spray Irrigation, Elevated Sand Mound, and normally gravity fed dispersal systems that would have to be pressurized. List of all component parts authorized for use in the installation of the product including but not limited to, elbows, connectors, geo-textile fabric, and methods of equal distribution.
  - a. Aggregate Replacement System – The Division shall review, including an on-site inspection(s) if deemed necessary, the plans, specifications and construction criteria and shall determine them to be in compliance with the regulation. The Division shall require a complete design from primary treatment to disposal for the minimum and maximum sized system, this shall also include, pump chamber, pump chamber alarm(s), pump(s), filter(s), valve(s), air release(s), aggregate replacement product and connector(s).
  - b. Subsurface Drip - The Division shall review, including an on-site inspection(s) if deemed necessary, the plans, specifications and construction criteria in order to determine compliance with the regulation. The Division shall require a complete design from primary treatment to disposal, this shall also include, pump chamber, pump chamber alarm(s), pump(s), filter(s), valve(s), air release(s), tubing and connector(s). This must be presented as a total package with hydraulics for the minimum and maximum sized system.
  - c. Spray Irrigation - The Division shall review equipment intended to be utilized in the construction of spray irrigation systems to verify compliance with the regulation. The Division shall require a complete design from primary treatment to disposal, to include, pump chamber, pump chamber alarm(s), pump(s), filter(s), valve(s), spray head(s) and connector(s). This must be presented as a total package with hydraulics for the minimum and maximum sized system.
  - d. Alternative Wastewater Technology - All alternative wastewater treatment and/or disposal systems/products must be documented and reviewed by the Division to verify compliance with the applicable standards.
3. Disinfection - The Division shall review, including an on-site inspection(s) if deemed necessary, the plans, specifications and construction criteria and shall determine them to be in compliance with the regulation. The Division shall require a complete design from primary treatment to disposal.

4. Effluent Filter – Design and construction must comply and conform to applicable rules and regulations of Chapter 5 Subchapter 1.

*SOURCE: Miss Code Ann § 41-67-3*

**Rule 2.1.10 Responsibilities: Manufacturer**

1. All Manufacturers must demonstrate that all processes necessary to comply and conform to Regulations and Manufacturer specifications by the following:
2. Provide documentation to the Division necessary for registration to include testing and listing of manufacturers of Advanced Treatment Systems.
3. Provide documentation on the maintenance agreement for any alternative on-site wastewater disposal system, with a copy of the maintenance agreement outlining the type of service, length of service and frequency of service to be provided.
4. Notify the Division of the results of monitoring visits to manufacturers and distributors within 60 calendar days of the conclusion of the monitoring.
5. Provide technical trained staff to the Division for utilization during the on-site maintenance training program for all alternate disposal systems certified in Mississippi.
6. Provide documentation that an installer of Alternative Systems or products has been trained as a factory-trained and authorized representative and must furnish documentation to the Division certifying the satisfactory completion of factory training and the establishment of the installer as an authorized manufacturer's representative.

*SOURCE: Miss Code Ann § 41-67-3*

**Rule 2.1.11 Responsibilities: Fabricators**

1. All Fabricators must demonstrate that all processes necessary to comply and conform to Regulations and Manufacturer specifications by the following:
2. Provide documentation of all concrete purchases, concrete providers, types of reinforcement and date of fabrication.
3. Provide documentation that the mold meets the Manufacturer's specifications and indicate location of Mississippi State Department of Health registration ID.
4. Provide documentation from Manufacturer that annual inspection has been made on the product.
5. Provide a list of Distributors and Certified Installers authorized by the Manufacturer to install the product.

*SOURCE: Miss Code Ann § 41-67-3*

Rule 2.1.12 Expiration: Manufacturer certifications shall expire on **December 31** unless suspended or revoked.

*SOURCE: Miss Code Ann § 41-67-3*

Rule 2.1.13 Renewal

1. A Manufacturer may apply for renewal not more than 60 calendar days prior to the expiration of his Manufacturer certification. If more than 31 calendar day have elapsed from **December 31**, the Department shall require an Applicant to comply with the provisions of initial certification. Suspended certifications are not renewable until reinstated by the Department; revoked certifications cannot be renewed.
2. A Manufacturer shall file a complete application in a form provided by the Division and pay the application fee.
3. Submittal Reports
  - a. Provide proof and certification that Manufacturer has factory trained installers or other factory representatives to educate the homeowner with the necessary knowledge to provide maintenance to the homeowner's system, thus allowing the homeowner to meet the requirements of Section **41-67-6(8)**.
  - b. Provide documentation when a Certified Installer of alternative systems or products has been factory-trained and listed as an authorized representative.
  - c. Provide notification to the Division within 10 working days whenever the Manufacturer no longer authorizes any Certified Installer, Certified Maintenance Provider or Qualified Homeowner Maintenance Provider.
  - d. Provide notification of any changes made to a product by following Section 103.04. If a Third Party Certifier must approve the change, this documentation must be submitted to Division prior to the implementation of the changes approved by the Third Party.

*SOURCE: Miss Code Ann § 41-67-3*

Rule 2.1.14 Informal Fact Finding and Hearing

1. Whenever the Department intends to take action to suspend or revoke a Manufacturer's certification, there must be an informal fact finding conference before the Department, where proper notice has be given to the affected party.

- a. The Manufacturer shall be notified in writing. The notice must be hand delivered or sent by certified mail. The notice must provide the factual and legal basis for the contemplated action and must give the date, time, place, and location of the informal fact finding conference.
- b. The informal fact finding conference is to be conducted by the Department. The conference shall be conducted in accordance with, but is not limited to, the requirements of *Administrative Procedural Code of Mississippi* and may include the creation of a verbatim or summary record of the proceedings.
- c. The Department shall render a decision based on the informal fact finding conference in a timely manner, and shall as deemed appropriate initiate suspension or revocation proceedings in accordance with regulations.
- d. When action is taken to suspend a Manufacturer's certification, that suspension shall be for a specified period of time. Remedial actions including, notification by Third Party Certifier that manufacturer has corrected all deficiencies, updating or modifying training procedures, and correction to components of any registered product as may be specified in the suspension notice.

*SOURCE: Miss Code Ann § 41-67-3*

**Rule 2.1.15 Penalties:**

1. The Department may suspend or revoke a Manufacturer certification for failure to comply with any law administered by the Board, Department, any regulations of the Board, any order of the Board or Department after due notice.
2. Actions that may result in suspension or revocation include, but are not limited to, falsifying any document, and any act of misrepresentation.
3. If any person or contractor fails to comply with all requirements and regulations in the installation of the system, the Board, after due notice and hearing, may levy an administrative fine not to exceed Ten Thousand Dollars (\$10,000.00). Each wastewater system installed not in compliance with this chapter or applicable rules and regulations of the Board shall be considered a separate offense.

*SOURCE: Miss Code Ann § 41-67-3*

**Rule 2.1.16 Reinstatement:** A person, whose Manufacturer certification has been revoked, pursuant to statutes or regulations, may apply to the Division for reinstatement as a Manufacturer no sooner than 2 years after the effective date of the revocation. Reinstatement of a Manufacturer certification shall include:

1. An application, fee and statement (if applicable) that no activities took place after certification was revoked.

2. Provide documentation that the Applicant has satisfactorily completed any remedial actions required as a result of the revocation. Remedial actions including, notification by Third Party Certifier that manufacturer has corrected all deficiencies, updating or modifying training procedures, and correction to components of any registered product as may be specified in the suspension notice.

*SOURCE: Miss Code Ann § 41-67-3*

Rule 2.1.17 **CERTIFIED PROFESSIONAL EVALUATOR:** Nothing in this chapter shall preclude a Certified Professional Evaluator or registered Professional Engineer from providing services relating to the design of an Individual On-site Wastewater Disposal System to comply with this chapter, except for Performance-based Systems. A Certified Professional Evaluator or registered Professional Engineer shall notify the department in writing of those services being provided, including the type of treatment, the type of disposal, and the property address for the treatment and disposal system. Construction or installation shall not begin prior to authorization by the department. The department shall respond within ten (10) business days with authorization that the Certified Professional Engineer or registered Professional Engineer fulfills the requirements of the law.

*SOURCE: Miss Code Ann § 41-67-3*

Rule 2.1.18 **Requirements:**

1. A person may not operate as a Certified Professional Evaluator in this state unless the Department currently certifies that person.
2. A person must meet 1 of the following requirements, in addition to the additional requirements set forth in other sections of this chapter and rules and regulations of the Board, in order to be eligible to become a Certified Professional Evaluator:
  - a. Be a professional Geologist registered in the State of Mississippi;
  - b. Be a Professional Soil Classifier licensed in the State of Mississippi; or
  - c. Be a person who possesses a demonstrable, adequate and appropriate record of professional experience and/or training as determined by the Department.
3. The Division shall issue a certification to a Certified Professional Evaluator if the Certified Professional Evaluator:
  - a. Completes an application form that complies with this chapter and rules adopted under this chapter;
  - b. Satisfactorily completes the Certified Professional Evaluator training program provided by the department;

- c. Provides proof of having an errors and omissions policy or surety in effect with liability limits of at least Fifty Thousand Dollars (\$50,000.00) per occurrence and at least One Hundred Thousand Dollars (\$100,000.00) in total aggregate amount; and
  - d. Pays the annual certification fee.
4. Performance-based systems may only be designed by registered Professional Engineer.

*SOURCE: Miss Code Ann § 41-67-3*

Rule 2.1.19 **Application:** Any specified person may apply to the Division for certification if:

- 1. Complete application is filed;
- 2. Passes written and field examinations;
- 3. Submits 3 professional references; and
- 4. Pays fee
- 5. Those holding a current certificate as a Professional Engineer from the Mississippi Board of Licensure for Professional Engineers and Surveyors shall be eligible to provide services without a certificate as a Certified Professional Evaluator.
- 6. Demonstrates and provides documentation to the satisfaction of the Division, that he/she has a minimum of 1 year of full-time experience evaluating soil and site conditions for Individual On-site Wastewater Disposal Systems in Mississippi in accordance with the Board of Health's regulations and a 4 year college degree in a related study in science or engineering, and shall be eligible to receive a certificate as an Professional Evaluator provided:
  - a. The Applicant successfully completes a training program or programs designated and approved by the Division; and
  - b. The Applicant successfully completes the written and field examinations approved by the Division.
- 7. Demonstrates to the satisfaction of the Division that he has a minimum of 2 years of full-time experience evaluating soil and site conditions for Individual On-site Wastewater Disposal Systems in Mississippi in accordance with the Board of Health's regulations and a 2 or 4 year college degree shall be eligible to receive a certificate as a Professional Evaluator provided:
  - a. The Applicant successfully completes a training course or courses designated and approved by the Division;

- b. The Applicant passes the written and field examinations; and
  - c. The Applicant provides a written statement signed by a current or former supervisor or a Certified Professional Evaluator with a current certification stating that the person is sufficiently experienced to become a Professional Evaluator.
8. Demonstrates to the satisfaction of the Division that he/she has a minimum of 3 years experience evaluating soil and site conditions for Individual On-site Wastewater Disposal Systems in Mississippi in accordance with the Board of Health's regulations shall be eligible to receive a certificate as a Professional Evaluator provided:
- a. The Applicant successfully completes a training program or programs designated and approved by the Division,
  - b. The Applicant successfully completes the written and field examinations approved by the Division, and
  - c. The Applicant provides a written statement signed by a current or former supervisor or a Certified Professional Evaluator with a current certification stating that the person is sufficiently experienced to become a Professional Evaluator.
9. Qualification review
- a. The Department shall review applications and determine if the Applicant is eligible for the examination.
  - b. Applicants who have been determined ineligible for any reason may request further consideration by submitting, in writing, evidence of additional qualifications, training, or experience to the Department for further review. No additional fee will be required provided the additional information is submitted and received within 1 year from the date the original application. After such period, a new application shall be required.
  - c. If the Department finds that the Applicant has not met the minimum requirements for certification as a Professional Evaluator, the Applicant shall be sent written notification, by certified mail or hand delivered, stating the reasons for denial of the certification. The notice to the Applicant of denial shall also state that the Applicant has the right to a hearing to challenge the certification denial. Any request for a hearing must be received by the Department within 30 calendar days of the affected party's receipt of written notice of the decision.
  - d. Before approving a Professional Evaluator application, the Department may make further inquiries and investigations with respect to the

qualifications of the Applicant and all references, etc. to confirm the information supplied. A personal interview with the Applicant may also be requested.

10. Those persons taking written and field examinations specified in Section **41-67-123(2)(b)** shall pay a fee for such testing as determined by the Department based on the actual costs of preparing and administering the examinations.

*SOURCE: Miss Code Ann § 41-67-3*

#### Rule 2.1.20 Training Program and Examination

1. Basic Soils Training will be a 1 week course focusing on soil principles and evaluation techniques, specifically focusing on evaluating soils for use with on-site wastewater disposal.
2. Advanced Soils Training will be a 2 day field course with the candidate in the location or area of expertise. General soil conditions of the specific area will be reviewed.
3. On-site Wastewater Disposal System training will be a 1 week course focusing on the design, placement, operation and maintenance of on-site systems. Department will select sites for candidates and provide access to 5 proposed on-site wastewater disposal system sites. The candidate will provide soil information along with their written recommendation(s) for these sites. These 5 proposed recommendations will be evaluated by the Division of On-site Wastewater and using the Mississippi State Department of Health Wastewater Quality Assurance Review Process.
  - a. The candidate must score 80% or better to receive a probation certification. All sites done under a probation certification must be evaluated by the Division before an approval is given.
  - b. A permanent certification will be issued after his/her first 10 sites are evaluated and scores of 80% or higher are achieved.
4. Certifications shall be revoked when an individual's work is evaluated and their overall evaluated sites score less than 90% in the Mississippi State Department of Health, Division of On-Site Wastewater Quality Assurance Review Process.
5. Certified Professional Evaluator certificates are subject to immediate revocation if a recommendation is made that violates Mississippi State Law or regulation(s).

*SOURCE: Miss Code Ann § 41-67-3*

#### Rule 2.1.21 Responsibilities

1. Provide complete information, including all applicable requirements and regulations on all systems recommended to the owner, lessee or developer which shall have the right to choose among systems.
2. Notify the Department at least 48 hours before beginning construction if acting as the Certified Installer of an Individual On-site Wastewater Disposal System and, at that time, schedule a time for inspection of the system with the appropriate county Department of Health.
3. Provide a signed affidavit and any additional required documentation that the system was installed in compliance with all requirements, regulations and permit conditions applicable to the system installed. This applies only if the Certified Professional Evaluator is acting as the Certified Installer. The Affidavit must be given to the Applicant of the Notice of Intent.
4. Furnish proof of certification to a property owner or the owner's representative of the property before performing a site evaluation of the property on which an individual on-site wastewater disposal system is to be designed, constructed, repaired or installed by the Certified Professional Evaluator and to the Department or its authorized representative, if requested.
5. Notify the Department of any change in address, business partnership or affiliation, or any other status that affects his standing as a Professional Evaluator. Such notice must be in writing and must be delivered to the Department within 10 working days.
6. Shall not knowingly associate in a business venture with, or permit the use of the Professional Evaluator's name or firm name by, any person or firm where there is reason to believe that person or firm is engaging in activity of a fraudulent or dishonest nature or is violating any law or regulations of the Department.
7. Except as provided in paragraph 9 of this section, a Certified Professional Evaluator shall not utilize the evaluations, design, drawings or work of another Certified Professional Evaluator without the knowledge and written consent of the Certified Professional Evaluator or organization of ownership that originated the design, drawings or work. In the event that the Certified Professional Evaluator who generated the original document is no longer employed by the firm retaining ownership of the original documents or is deceased, another Certified Professional Evaluator who is a partner or officer in the firm retaining ownership of the original documents may authorize utilization of the original documents by another Certified Professional Evaluator or firm. This fact must be disclosed to the Department when submitting applications supported by Certified Professional Evaluator materials and certifications.
8. Utilizing information contained in the Department records, on which a decision to approve or refer a site has been made, shall be considered to be in the public

domain and may be utilized by a Certified Professional Evaluator without permission.

9. Provide information, if utilizing information in the Department's files or has received permission to modify or otherwise utilize the evaluation, design, drawings or work of another Certified Professional Evaluator may certify that work only after a thorough review of the evaluation, design, drawings or work and after he determines that he is willing to assume full responsibility for all design, drawings or work on which he relies for his opinion.
10. Public
  - a. False Statement(s)
  - b. A Certified Professional Evaluator shall not knowingly fail to disclose a material fact requested in connection with an application submitted to the Department by himself or any other individual or business entity for certification, renewal or reinstatement.
  - c. Conflicts of interest
  - d. The Certified Professional Evaluator shall promptly and fully inform an employer or client of any business association, interest, or circumstance or circumstances that may influence the Certified Professional Evaluator's judgment or the quality of service.
  - e. Good standing
  - f. A Certified Professional Evaluator certified to practice soil and site evaluations or to design Individual On-site Wastewater Disposal Systems in other jurisdictions shall be in good standing and shall not have had a certificate suspended, revoked or surrendered in connection with a disciplinary action or have been the subject of discipline in another jurisdiction.
11. Submittal Reports
  - a. System Application
    - i. The Certified Professional Evaluator must submit appropriate residential or commercial application to the Division with evaluation and design documentation.
    - ii. Applications that are incomplete or substandard, in any manner, shall be returned to Applicant. The Applicant and Certified Professional Evaluator will be notified of any deficiencies. If an application has been returned, the Applicant or his agent may submit a new application to correct the deficiency or deficiencies contained in

his first application. If the application is received within 45 days of the first, the Division will waive all fees associated with the new application. This waiver may be granted not more than once per site.

- iii. No Certified Professional Evaluator shall certify a site evaluation and/or design unless such evaluation and/or design comply with the minimum requirements of the Regulations and such certification and/or design is produced in accordance with this chapter. A Certified Professional Evaluator shall make a good faith effort to secure complete, accurate, and timely information regarding site and soil conditions, including relevant factors on adjacent parcels, including but not limited to utilities, water supplies, and other sewage systems. The Certified Professional Evaluator shall certify that all information submitted is true and correct to the best of his knowledge and shall be required to be aware of all information in agency files pertaining to the site he is certifying.
- iv. Any system proposed for authorization in accordance with performance standards must be designed and certified by a Professional Engineer registered in the State of Mississippi who is a Certified Engineer Evaluator.

b. Soil and Site Evaluation

- i. All soil and site evaluation reports submitted to the Department shall be in a form approved by the Division, shall contain the minimum information specified by the Division, and shall be certified as fully complying with the Regulations. A statement approved by the Department shall be used to certify that a site evaluation and/or design comply with the Board's regulations for on-site sewage systems. No approval shall be granted pursuant to this chapter for any site that has not been certified by a Certified Professional Evaluator.
- ii. Additional information may be included with a Certified Professional Evaluator submission in order to facilitate processing the application. However, for the purposes of a Certified Professional Evaluator certifying that an evaluation and/or design complies with the Regulations and "deemed approvable" only those requirements contained in the regulations are considered to apply unless a local government has requested the Department to implement a more restrictive local ordinance. Wastewater system sites proposed for use must be defined in a manner that allows them to be identified on the plat with the accuracy and precision of 3 feet or less.

- c. Design: A complete design packet must contain the following:
  - i. Legal description
  - ii. Plat showing location and/or dimensions of: Water supply, residence, property, sensitive waters (if applicable), and setbacks on contours with 2 foot intervals (if applicable);
  - iii. Soil Profile Sheet and location of each soil boring
  - iv. Individual On-Site Wastewater Disposal System chosen by the Applicant
  - v. Individual On-site Wastewater Disposal System option(s).
- 12. Design calculations used to establish the design parameters of the recommended system, including the minimum information deemed appropriate by the Division;
- 13. Provide 2 sets of construction drawings and specifications for the recommended system in accordance with statutes and regulations;
- 14. A statement stamped and certified by the Certified Professional Evaluator that the site and soil conditions and design conform to the Regulations.
- 15. Additional information based on standard procedures can be submitted when a Certified Professional Evaluator believes it may be in the interest of public health, the environment, or the client.
- d. Field Analysis
  - i. The Department is not required to perform a field analysis of Certified Professional Evaluator evaluations and designs prior to issuing a Permit/Recommendation approval; however, the Department may conduct a field analysis, as deemed necessary to protect public health, and to insure licensure integrity. Whenever a field analysis is performed, the Department shall make a record of the results.

*SOURCE: Miss Code Ann § 41-67-3*

Rule 2.1.22 Expiration: Professional Evaluator certifications shall expire on **June 30**, unless revoked or suspended.

*SOURCE: Miss Code Ann § 41-67-3*

Rule 2.1.23 Renewal: A Certified Professional Evaluator may apply for renewal not more than 60 calendar days prior to the expiration of his Certified Professional Evaluator certification. **Note:** If more than 31 calendar day have elapsed from the expiration

of the most recent certification, the Department shall require an Applicant to comply with the provisions of initial certification.

1. Any person applying for renewal shall file with the Division:
  - a. Completed application;
  - b. Proof of CEU(s) credit;
  - c. Proof of Errors and Omissions Policy or Surety;
  - d. Fee.

*SOURCE: Miss Code Ann § 41-67-3*

#### Rule 2.1.24 Informal Fact Finding and Hearing

1. Whenever the Department intends to take action to suspend or revoke a Professional Evaluator certification, there must be an informal fact finding conference and proper notice must be given to the affected party.
  - a. The Professional Evaluator shall be notified in writing. The notice must be hand delivered or sent by certified mail. The notice must provide the factual and legal basis for the contemplated action and must give the date, time, place, and location of the informal fact finding conference.
  - b. The informal fact finding conference is to be conducted by the Board of Certified Professional Evaluators. The conference shall be conducted in accordance with, but is not limited to, the requirements of *Administrative Procedural Code of Mississippi* and may include the creation of a verbatim or summary record of the proceedings.
  - c. The Department shall render a recommendation from the informal fact finding conference within 30 calendar days. Such recommendations shall be sent to the Division upon which appropriate enforcement action shall be initiated.
  - d. When action is taken to suspend a Professional Evaluator certification, that suspension shall be for a specified period of time. Remedial actions including, but not limited to, additional training courses, additional testing, and reevaluation of a site and/or redesign of an Individual On-site Wastewater Disposal System.

*SOURCE: Miss Code Ann § 41-67-3*

#### Rule 2.1.25 Penalties

1. The Department may suspend or revoke a certification for failure to comply with any law administered by the Board, Department, any regulations of the Board, any order of the Board or Department after due notice from the Department.
2. Actions that may result in suspension or revocation include, but are not limited to; certifying as suitable a site that does not comply with the minimum requirements of the Regulations, falsifying any document, and any act of misrepresentation made related to Professional Evaluator activities.
3. If any person operates in the state as a Certified Professional Evaluator without certification by the Board, the Board, after due notice and opportunity for a hearing, may impose a monetary penalty not to exceed Ten Thousand Dollars (\$10,000.00) for each violation.

*SOURCE: Miss Code Ann § 41-67-3*

Rule 2.1.26 Reinstatement: Any person whose certification has been revoked may apply to the Division for reinstatement no sooner than 2 years after the effective date of the revocation. Reinstatement of a Certified Professional Evaluator's certification shall include:

1. An application, fee and statement (if applicable) that no activities took place after certification was revoked.
2. Documentation that the Applicant has satisfactorily completed any remedial actions required as a result of the revocation. Remedial actions including, but not limited to, additional training courses, additional testing, and reevaluation of a site and/or redesign of an on-site sewage system may be specified as conditions for reinstatement.
3. At least 10 sites must be evaluated using the Department's Quality Assurance Review Process in the first year. All sites must score at least 80% with no violation of Mississippi State Law or Mississippi State Department of Health regulation which promotes the violation of state law.

*SOURCE: Miss Code Ann § 41-67-3*

Rule 2.1.27 **CERTIFIED INSTALLER:** A Certified Installer can construct, install, repair, replace, service or maintain an Individual On-Site Wastewater Disposal System, upon which he has been certified by the Manufacturer. This will include the construction, installation, and repair or replace of any sewage treatment and disposal system.

1. A person may not operate as a Certified Installer of Individual On-Site Wastewater Disposal Systems unless the Division currently certifies that person.
2. A person who installs a Conventional (septic tank and aggregate disposal) Individual On-site Wastewater Disposal System on his own property for his

primary residence must comply with all Sections except for Rules 2.1.27.1, 2.1.28, 2.1.29.3, 2.1.29.8 and 2.1.30.

*SOURCE: Miss Code Ann § 41-67-3*

**Rule 2.1.28 Certified Installer Requirements:**

1. The Board shall issue a certification to an installer if the installer:
  - a. Completes an application form that complies with this chapter and rules adopted under this chapter;
  - b. Satisfactorily completes the training program provided by the Division;
  - c. Provides proof of having a valid General Business Liability Insurance policy in effect with liability limits of at least Fifty Thousand Dollars (\$50,000.00) per occurrence and at least One Hundred Thousand Dollars (\$100,000.00) in total aggregate amount; and
  - d. Pays the annual certification fee.

*SOURCE: Miss Code Ann § 41-67-3*

**Rule 2.1.29 Certified Installer Application:**

1. A person may apply for certification by filing a complete application provided by the Division, attending and satisfactorily completing training program, providing proof of General Business Liability Insurance and paying the application fee in accordance with Section **43-3-15(4)(e)**.
2. Prior to receipt of a certification, the Applicant shall complete an examination, demonstrating his knowledge and comprehension of the Individual On-site Wastewater Disposal System Regulations. Within 30 days of passing the examination, the Certified Installer must submit Insurance and fee.
3. Certificates issued in accordance with this regulation shall not be transferable. Nothing within this regulation shall be construed to limit the power of any municipal, county, or governmental entity to enforce other license requirements or additional measures for the restrictions of persons in the business of constructing, installing, repairing and replacing any Individual On-Site Wastewater Disposal System(s).

*SOURCE: Miss Code Ann § 41-67-3*

**Rule 2.1.30 Certified Installer Responsibilities:**

1. May not design, construct or install, or cause to be designed, constructed or installed an Individual On-site Wastewater Disposal System that does not comply

with this chapter and rules and regulations of the Board.

2. Provide documentation and certification from the Manufacturer that a Certified Installer of alternative systems or products has been factory-trained and listed authorized representative.
3. Furnish proof of certification to a property owner, lessee, the owner's representative or occupant of the property on which an Individual On-Site Wastewater Disposal System is to be designed, constructed, repaired or installed by that Certified Installer and to the Department or its authorized representative, if requested.
4. Notify the Department at least 24 hours before beginning construction of an Individual On-site Wastewater Disposal System and, at that time, schedule a time for inspection of the system with the appropriate county Department.
5. Shall be present on the jobsite at the time of the scheduled inspection.
6. Covering his work with soil or other surface material unless the installer has received authorization to cover the system after an inspection by a county Department of health inspector.
7. Provide a signed affidavit from the Certified Installer, Certified Professional Evaluator or registered Professional Engineer and any additional required documentation that the system was installed in compliance with all requirements, regulations and permit conditions applicable to the system installed. The Affidavit must be given to the Applicant of the Notice of Intent.
8. Notify the Division within 10 working days of any change in address, business partnership or affiliation, or any other status that affects his/her standing as a Certified Installer. Such notice must be in writing or fax and must be delivered to the Division as soon as practicable after the effective date of the change.
9. Pay the require re-inspection fee.
10. Comply with *National Sanitation Foundation/American National Standard Institute Standard 40* specifically Sections 6.1, and Annex A as an authorized representative.

*SOURCE: Miss Code Ann § 41-67-3*

Rule 2.1.31 Certified Installer Training Program and Examination

1. Those persons taking written examination specified in Section **41-67-25(3)(b)** shall pay a fee for such testing as determined by the Department based on the actual costs of preparing and administering the examinations.
2. Attendance of the Department's 2 day Certified Installers training course.

3. Applicant must achieve a score of 80% or better on the closed book examination.
4. All persons completing the above items will be granted a probationary certificate. The probationary certificate will be valid for 1 year. A person will be probationary until he/she installs 3 Individual On-site Wastewater Disposal Systems as indicated from a Permit/Recommendation and work has been inspected by the Division during installation with no deficiencies indicated on Inspection (Form 305). Probationary status will remain in effect until person is deemed competent by the Division.

*SOURCE: Miss Code Ann § 41-67-3*

Rule 2.1.32 **Certified Installer Expiration:** Certified Installers certifications shall expire **June 30** unless suspended or revoked.

*SOURCE: Miss Code Ann § 41-67-3*

Rule 2.1.33 **Certified Installer Renewal:**

1. A Certified Installer may apply for renewal not more than 60 calendar days prior to the expiration of his Certified Installer certification. **Note:** If more than 31 calendar day have elapsed from the expiration of the most recent certification, the Department shall require an Applicant to comply with the provisions of initial certification.
2. Any person applying for renewal shall file with the Division:
  - a. Completed application;
  - b. Proof of CEU(s) credit;
  - c. Proof of General Business Liability Insurance Policy;
  - d. Fee.

*SOURCE: Miss Code Ann § 41-67-3*

Rule 2.1.34 **Informal Fact Finding and Hearing:** Whenever the Department intends to take action to suspend or revoke a certification, there must be an informal fact finding conference and proper notice must be given to the affected party.

1. The Certified Installer shall be notified in writing. The notice must be hand delivered or sent by certified mail. The notice must provide the factual and legal basis for the contemplated action and must give the date, time, place, and location of the informal fact finding conference.
2. The informal fact finding conference is to be conducted by an employee of the Department. The conference shall be conducted in accordance with, but is not

limited to, the requirements of *Administrative Procedural Code of Mississippi* and may include the creation of a verbatim or summary record of the proceedings.

3. The Department shall render a decision from the informal fact finding conference in a timely manner. Such decisions shall constitute the final administrative decision and may be appealed.
4. When action is taken to suspend an Installer certification, that suspension shall be for a specified period of time. Remedial actions including, but not limited to, additional training courses, additional testing, and installing or repairing of the Individual On-Site Wastewater Disposal System as conditions of any suspension.

*SOURCE: Miss Code Ann § 41-67-3*

#### Rule 2.1.35 **Penalties**

1. The Department may suspend or revoke certification for failure to comply with any law administered by the Board, Department, or any regulation of the Board, any order of the Board or Department after due notice from the Department.
2. Actions that may result in suspension or revocation include, but are not limited to, constructing, installing, repairing, replacing or causing the construction, installation, repairing, replacing of an Individual On-Site Wastewater Disposal System on a site that does not comply with the minimum requirements of the Regulations, falsifying any document, and any act of misrepresentation.
3. If any person is operating in the state as an installer without certification by the Board, the Board, after due notice and opportunity for a hearing, may impose a monetary penalty not to exceed Ten Thousand Dollars (\$10,000.00) for each violation.
4. If any person or contractor fails to comply with all requirements and regulations in the installation of the system, the Board, after due notice and hearing, may levy an administrative fine not to exceed Ten Thousand Dollars (\$10,000.00). Each wastewater system installed not in compliance with this chapter or applicable rules and regulations of the Board shall be considered a separate offense.

*SOURCE: Miss Code Ann § 41-67-3*

Rule 2.1.36 **Reinstatement:** Any person whose certification has been revoked may apply to the Division for reinstatement no sooner than 2 years after the effective date of the revocation. Reinstatement of a Certified Installer's certification shall include:

1. An application, fee and a written statement (if applicable) that no activities took place after certification was revoked.
2. Provide documentation that the Applicant has satisfactorily completed any remedial actions required as a result of the revocation. Remedial actions

including, but not limited to, additional training courses, additional testing, and installation or repairing of the Individual On-Site Wastewater Disposal System may be specified as conditions for reinstatement.

*SOURCE: Miss Code Ann § 41-67-3*

**Rule 2.1.37 Certified Pumper:** A person may not be engaged in the business of removing and disposing of the sludge and liquid waste (septage) from Individual On-site Wastewater Disposal Systems in this state unless that person has a valid license issued by the Department.

Licensing a person constitutes the issuance of a certification with all rights and privileges to clean, pump and dispose of any sludge and liquid waste (septage) from any Individual On-Site Wastewater Disposal Systems, Portable Toilet (Self-Contained), grease trap and/or holding tank.

*SOURCE: Miss Code Ann § 41-67-3*

**Rule 2.1.38 Certified Pumper Requirements:**

1. The Department shall issue a license to a pumper if the pumper:
2. Completes an application that complies with this chapter and rules adopted under this chapter;
3. Satisfactorily complies with the requirements of his/her pumping and hauling equipment;
4. Provides documentation of a disposal site approved by the Department of Environmental Quality, Office of Pollution Control;
5. Provides proof of having a valid General Business Liability Insurance policy in effect with liability limits of at least Fifty Thousand Dollars (\$50,000.00) per occurrence and at least One Hundred Thousand Dollars (\$100,000.00) in total aggregate amount;
6. Submits passing inspection of each vehicle;
7. Pays the annual license fee.

*SOURCE: Miss Code Ann § 41-67-3*

**Rule 2.1.39 Certified Pumper Application:**

1. A person may apply for certification by filing a complete application provided by the Division, attending and satisfactorily completing training program, providing proof of General Business Liability Insurance, submittal of vehicle inspection from the County Health Department and paying the inspection and application fees as specified in Section **43-3-15(4)(e)**. In addition, all Applicants shall list

each approved disposal facility they intend to use. Written verification of permission to use each disposal facility shall accompany the application.

2. Prior to receipt of a certification, the Applicant shall complete an examination demonstrating his knowledge and comprehension of the Individual On-site Wastewater Disposal System Regulations. Within 30 days of passing the examination, the Certified Installer must submit Insurance and fee.
3. Certificates issued in accordance with this regulation shall not be transferable. Nothing within this regulation shall be construed to limit the power of any municipal, county, or governmental entity to enforce other license requirements or additional measures for the restrictions of persons in the business of removing and disposing of sludge and liquid waste from Individual On-Site Wastewater Disposal System(s).

*SOURCE: Miss Code Ann § 41-67-3*

**Rule 2.1.40 Certified Pumper Inspection: (County Health Department)**

1. Complete Inspection form and return to Division.
2. Verify that all jobs are being recorded on the Data Log sheet.

*SOURCE: Miss Code Ann § 41-67-3*

**Rule 2.1.41 Certified Pumper Responsibilities:**

1. Notifying the Department within 10 working days of adding, replacing or deleting the inventory of vehicles for the purpose of updating application of any change in address, business partnership or affiliation, or any other status that affects his/her standing as a Certified Pumper.
2. Keep a record on all systems cleaned, pumped and disposed of by address, type of treatment unit, amount pumped, and receipt of disposal at waste treatment facility permitted by the Mississippi Department of Environmental Quality (MDEQ). The proper cleaning of any septic tank or similar unit shall include the substantial removal of its contents.
  - a. Discharge of septage or other liquid waste shall be allowed only at those specific locations designated by the owners/operators of approved disposal facilities.
  - b. Discharge of septage or other liquid waste into a public sewage collection system, without the consent and permission of the owner/operator of such system, is prohibited.
  - c. Records shall be made available at time of the inspection by the Department. Records must be retained for a minimum of 2 years.

- d. Provide authorization letter, from a Mississippi Department of Environmental Quality (MDEQ) permitted facility upon inspection and/or request.
3. Deliver vehicle(s) to the appropriate county health office for inspection purposes. This will require the Certified Pumper to contact the county health office.
4. Keep available 5 dry gallons of Lime, ensuring spillage, pumping and transporting of septage or other liquid waste shall be delivered in a manner that is safe and does not create a nuisance or public health hazard.
5. Label the carrier tank “SEPTAGE AND LIQUID WASTE ONLY” at or near the inlet and outlet valve. The use of the carrier tank for other purposes is prohibited. The required lettering shall be a minimum of 2 inches in height.
6. Label vehicle with Name of the Company, address and certification number. The required lettering shall be a minimum of 2 inches in height.
7. Supervise employees and ensure that all systems for which the licensee is responsible shall be pumped and cleaned in accordance with Regulation and other applicable regulations, permits, and standards issued by the Department.
8. Training Program and Examination
  - a. A person taking written examinations shall pay a fee as specified in Section **43-3-15(4)(e)** for such testing as determined by the Department based on the actual costs of preparing and administering the examinations.
  - b. A person taking a Department-sponsored training course or courses as specified shall pay the fee as specified in Section **43-3-15(4)(e)** for such course as determined by the Department. Fees for such course or courses will be based on the Department’s actual expenses in preparing course materials and conducting the training. This section is not intended to prevent or discourage training courses recognized by the Department and offered by entities other than the Department. In the case of training that is not directly sponsored by the Department, Applicants will pay appropriate fees to the sponsoring entity.
  - c. Attendance of the Department’s 1 day Certified Pumper Training Course.
  - d. Applicant must achieve a score of 80% or better on the closed book examination.
  - e. A person making application shall provide documentation that he has earned 4 continuing education units (CEUs) in a calendar year. For the purposes of this chapter, a CEU shall be equivalent to contact hours of instruction in subject matter and from sources prior approved by the

Division. Each Certified Pumper shall be responsible for maintaining appropriate records and providing proof of credit earned.

*SOURCE: Miss Code Ann § 41-67-3*

Rule 2.1.42 **Certified Pumper Expiration:** Certified Pumper certifications shall expire **September 30** unless revoked or suspended.

*SOURCE: Miss Code Ann § 41-67-3*

Rule 2.1.43 **Renewal:** A Certified Pumper may apply for renewal not more than 60 calendar days prior to the expiration of his Certified Pumper certification. **Note:** If more than 31 calendar day have elapsed from the expiration of the most recent certification, the Department shall require an Applicant to comply with the provisions of initial certification. Any person applying for renewal shall file with the Division:

1. Completed application;
2. Copy of Inspection from County Health Department;
3. Proof of CEU(s) credit;
4. Proof of General Business Liability Insurance Policy;
5. Copy of letter from disposal site(s); and
6. Fee.

*SOURCE: Miss Code Ann § 41-67-3*

Rule 2.1.44 **Informal Fact Finding and Hearing:** Whenever the Department intends to take action to suspend or revoke a Pumper certification, there must be an informal fact finding conference in accordance and proper notice must be given to the affected party.

1. The Certified Pumper shall be notified in writing. The notice must be hand delivered or sent by certified mail. The notice must provide the factual and legal basis for the contemplated action and must give the date, time, place, and location of the informal fact finding conference.
2. The informal fact finding conference is to be conducted by an employee of the Department. The conference shall be conducted in accordance with, but is not limited to, the requirements of *Administrative Procedural Code of Mississippi* and may include the creation of a verbatim or summary record of the proceedings.

3. The Department shall render a decision from the informal fact finding conference in a timely manner. Such decisions shall constitute the final administrative decision and may be appealed.
4. When action is taken to suspend a Pumper certification, that suspension shall be for a specified period of time. Remedial actions including, but not limited to, additional training courses, additional testing, and certification by manufacture of pumping equipment.

*SOURCE: Miss Code Ann § 41-67-3*

**Rule 2.1.45 Penalties:**

1. The Department may suspend or revoke certification for failure to comply with any law administered by the Board, Department, or any regulation of the Board, any order of the Board or Department after due notice from the Department.
2. Actions that may result in suspension or revocation include, constructing, installing, repairing, replacing or causing the construction, installation, repairing, replacing of an Individual On-Site Wastewater Disposal System on a site that does not comply with the minimum requirements of the Mississippi State Department of Health Regulations, spillage, septage or other liquid waste from equipment, dumping or disposing of septage or other liquid waste in a unpermitted or unapproved site, falsifying any document, and any act of misrepresentation made related to Certified Pumper activities.
3. If any person operates in the state as a licensed pumper without a license by the Board, the Board, after due notice and opportunity for a hearing, may impose a monetary penalty not to exceed Ten Thousand Dollars (\$10,000.00) for each violation.
4. If any person or contractor fails to comply with all requirements and regulations in the installation of the system, the Board, after due notice and hearing, may levy an administrative fine not to exceed Ten Thousand Dollars (\$10,000.00). Each wastewater system installed not in compliance with this chapter or applicable rules and regulations of the Board shall be considered a separate offense. Section **41-67-6(6)**

*SOURCE: Miss Code Ann § 41-67-3*

**Rule 2.1.46 Reinstatement:** Any person whose Certified Pumper's certification has been revoked may apply to the Department for reinstatement as a Pumper no sooner than 2 years after the effective date of the revocation. Reinstatement of a Certified Pumper's certification shall include:

1. An application, fee and a written statement (if applicable) that no activities took place after certification was revoked.

2. Provide documentation that the Applicant has satisfactorily completed any remedial actions required as a result of the revocation. Remedial actions including, but not limited to, additional training courses, additional testing, and certification by manufacturer of pumping equipment.

*SOURCE: Miss Code Ann § 41-67-3*

**Rule 2.1.47 Certified Maintenance Provider:** A Certified Maintenance Provider can perform maintenance on an Individual On-Site Wastewater Disposal System which he/she has under contract. This will include the repair or replacement of a component originally installed by a Certified Installer. This shall exclude any repairs or replacement of the disposal system that would require the person to be a Certified Installer. A person may not operate as a maintenance provider in this state unless that person is a maintenance provider certified by the department on April 26, 2011, or is a Certified Installer.

*SOURCE: Miss Code Ann § 41-67-3*

**Rule 2.1.48 Certified Maintenance Provider Responsibilities**

1. Provide on all Advanced Treatment System, an affidavit from the property owner agreeing to a continuing maintenance agreement on the installed system at the end of the required manufacturer's maintenance agreement.
2. Providing the property owner with a continuing maintenance agreement on all Advanced Treatment Systems in perpetuity.
3. Furnish proof of certification to an individual before entering a contract with that individual for the continuing maintenance of an individual on-site wastewater disposal system.
4. Provide 2 inspections annually to the homeowner. Each must include the homeowner name/address, date, time and list of components repaired or replaced. This report must be submitted to the Division on a yearly basis.
5. Provide a sample contract and/or list of services to the Division, when requested.
6. Submittal Reports
  - a. Inspecting and evaluating Individual On-Site Wastewater Disposal Systems to determine if they are compliant with state law and being properly maintained.
  - b. Keeping accurate records of systems inspected and repaired.
  - c. Issuing inspection reports to property owners and the Division on a biannual basis from date of contract.

*SOURCE: Miss Code Ann § 41-67-3*

Rule 2.1.49 **Certified Maintenance Provider Expiration:** Certified Maintenance Provider certifications shall expire on **December 31**, unless suspended or revoked. This certification is valid for 2 years. This is only for the currently certified person, no further certifications will be issued by the Department.

*SOURCE: Miss Code Ann § 41-67-3*

Rule 2.1.50 **Informal Fact Finding and Hearing:** Whenever the Department intends to take action to suspend or revoke a Maintenance Provider certification, there must be an informal fact finding conference and proper notice must be given to the affected party.

1. The Certified Maintenance Provider shall be notified in writing. The notice must be hand delivered or sent by certified mail. The notice must provide the factual and legal basis for the contemplated action and must give the date, time, place, and location of the informal fact finding conference.
2. The informal fact finding conference is to be conducted by an employee of the Department. The conference shall be conducted in accordance with, but is not limited to, the requirements of *Administrative Procedural Code of Mississippi* and may include the creation of a verbatim or summary record of the proceedings.
3. The Department shall render a decision from the informal fact finding conference in a timely manner. Such decisions shall constitute the final administrative decision and may be appealed.
4. When action is taken to suspend a Maintenance Provider certification, that suspension shall be for a specified period of time. Remedial actions including, but not limited to, additional training courses, examination, and installation or repairing of the Individual On-Site Wastewater Disposal System(s).
5. Submitting false information to the property owner or to the Department is grounds for certification revocation.
6. Falsifying inspection reports is grounds for certification revocation.
7. Violating Mississippi State Laws or Regulations Governing On-site Wastewater Disposal Systems, or encouraging property owners to violate said laws and regulations, is grounds for certification revocation.

*SOURCE: Miss Code Ann § 41-67-3*

Rule 2.1.51 **Penalties:**

1. The Department may suspend or revoke certification for failure to comply with any law administered by the Board, Department, or any regulation of the Board,

any order of the Board or Department after due notice from the Department.

2. Actions that may result in suspension or revocation include, but are not limited to, repairing, replacing or causing the repairing, replacing of an Individual On-Site Wastewater Disposal System that does not comply with the minimum requirements of the Mississippi State Department of Health Regulations, falsifying any document, and any act of misrepresentation made related to Certified Maintenance Provider activities.

*SOURCE: Miss Code Ann § 41-67-3*

Rule 2.1.52 **QUALIFIED HOMEOWNER MAINTENANCE PROVIDER:** A Qualified Homeowner Maintenance Provider can repair or replace any component on an installed Individual On-Site Wastewater Disposal System at his/her primary residence which utilizes an Advanced Treatment System. This will include the repair or replacement of any component used as primary treatment or disposal.

*SOURCE: Miss Code Ann § 41-67-3*

Rule 2.1.53 A person shall not operate as a Qualified Homeowner Maintenance Provider on any Individual On-Site Wastewater Disposal Systems unless that person is trained by a Certified Installer authorized by the specific Manufacturer of the homeowner's Advanced Treatment System with documentation from the Manufacturer being provided to the Department.

*SOURCE: Miss Code Ann § 41-67-3*

Rule 2.1.54 Qualified Homeowner Maintenance Provider Responsibilities

1. Provide continuous maintenance on his/her Advanced Treatment System in perpetuity.
2. Successfully complete manufacturer's training and certification whose Advanced Treatment Systems are certified for sale in Mississippi shall be allowed by the Department to perform on-site wastewater maintenance on that manufacturer's Advanced Treatment System.
3. Provide 1 inspection based on date of installation. Each must include the homeowner name/address, date, time and list of any components repaired or replaced and present the report every 2 years to the Division with certification renewal.
4. Submittal Reports
  - a. Inspect and evaluate his/her on-site systems.
  - b. Keeping accurate records of systems inspected and repaired.

- c. Issuing inspection reports to the Division on an annual basis.

*SOURCE: Miss Code Ann § 41-67-3*

**Rule 2.1.55 Informal Fact Finding and Hearing:**

1. Whenever the Department intends to take action to suspend or revoke a Qualified Homeowner Maintenance Provider certification, there must be an informal fact finding conference and proper notice must be given to the affected party.
  - a. The Qualified Homeowner Maintenance Provider shall be notified in writing. The notice must be hand delivered or sent by certified mail. The notice must provide the factual and legal basis for the contemplated action and must give the date, time, place, and location of the informal fact finding conference.
  - b. The informal fact finding conference is to be conducted by an employee of the Department. The conference shall be conducted in accordance with, but is not limited to, the requirements of *Administrative Procedural Code of Mississippi* and may include the creation of a verbatim or summary record of the proceedings.
  - c. The Department designee shall render a decision from the informal fact finding conference in a timely manner. Such decisions shall constitute the final administrative decision and may be appealed.
  - d. When action is taken to suspend a Qualified Homeowner Maintenance Provider certification, that suspension shall be for a specified period of time. Remedial actions including, but not limited to, additional training courses, examination, and installation or repairing of the Individual On-Site Wastewater Disposal System(s).

*SOURCE: Miss Code Ann § 41-67-3*

**Rule 2.1.56 Penalties:**

1. The Department may suspend or revoke certification for failure to comply with any law administered by the Board, Department, or any regulation of the Board, any order of the Board or Department after due notice from the Department.
2. Actions that may result in suspension or revocation include, but are not limited to, repairing, replacing or causing the repairing, replacing of an Individual On-Site Wastewater Disposal System that does not comply with the minimum requirements of the Mississippi State Department of Health Regulations, certifying any Individual On-Site Wastewater Disposal System that proof of ownership is not filed with the Division, transferring of ownership without notifying Division, falsifying any document, and any act of misrepresentation made related to Qualified Homeowner Maintenance Provider activities.

*SOURCE: Miss Code Ann § 41-67-3*

**Rule 2.1.57 Hearing Procedure:**

1. Prior to assessing and collecting the administrative fine, the Department shall provide written notification by Certified Mail/Return Receipt Requested to the violator, stating the basis for the fine, and setting an administrative hearing date within 10 working days of mailing of such notification.
2. Upon determination of the first hearing if sufficient reason for the fine to be assessed, the installer shall have 10 working days from receipt of such determination to request an additional hearing at the second level, if he wishes to appeal the decision of the hearing officer.
3. At the second level, a hearing officer appointed by the State Health Officer shall conduct a hearing to be scheduled within 30 calendar days of receipt of the request for such hearing.
4. The second level hearing shall be held at the Mississippi State Department of Health, 570 E Woodrow Wilson, Jackson, Mississippi. The appellant will be provided procedural rules.
5. The decision to be made by the State Health Officer or appointee will be based solely on the oral, written and documentary evidence presented. After considering all findings of fact, conclusions of law and recommendations of the hearing officer, the State Health Officer will make the final decision whether to sustain the decision made by the first level hearing official and assess and collect the fine. The decision of the State Health Officer will be binding on the Department. The appellant will be notified in writing by certified mail of the State Health Officer's decision.
6. In case of an adverse decision the appellant will be advised of the right to pursue judicial review.
7. No individual may file a petition for judicial review with a court of competent jurisdiction until a final written decision and order have been provided by the Mississippi State Department of Health.
8. A certification may be summarily suspended by the issuing official pending a hearing, as herein provided, if the holder of the certification acts in such a manner as to pose an immediate or serious threat to the public health. In the case of a summary suspension, the certified installer shall be given a hearing as soon as possible after the issuing official receives a written request for a hearing.

*SOURCE: Miss Code Ann § 41-67-3*

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.

