

By: Representative White

To: Conservation and Water Resources

HOUSE BILL NO. 992

1 AN ACT TO REENACT SECTIONS 41-67-1 THROUGH 41-67-29 AND
2 41-67-33 THROUGH 41-67-41, MISSISSIPPI CODE OF 1972, WHICH ARE THE
3 MISSISSIPPI INDIVIDUAL ON-SITE WASTEWATER DISPOSAL SYSTEM LAW; TO
4 AMEND SECTION 41-67-31, MISSISSIPPI CODE OF 1972, TO EXTEND THE
5 DATE OF THE REPEALER ON THE MISSISSIPPI INDIVIDUAL ON-SITE
6 WASTEWATER DISPOSAL SYSTEM LAW; AND FOR RELATED PURPOSES.

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

8 **SECTION 1.** Section 41-67-1, Mississippi Code of 1972, is
9 reenacted as follows:

10 41-67-1. (1) This chapter shall be known and may be cited
11 as the "Mississippi Individual On-Site Wastewater Disposal System
12 Law."

13 (2) It is the purpose of the Legislature through this
14 chapter to protect human health and the environment while
15 providing for reasonable use of individual on-site wastewater
16 disposal systems. The Legislature finds that continued
17 installation and operation of individual on-site wastewater
18 disposal systems in a faulty or improper manner, in a manner that
19 lacks essential maintenance for the system, or in areas where
20 unsuitable soil and population density adversely affect the



21 efficiency and functioning of these systems, has a detrimental
22 effect on the public health and welfare and the environment
23 through contamination of land, groundwater and surface waters.
24 The Legislature, therefore, expresses a general preference for the
25 installation and operation of centralized wastewater treatment
26 systems in Mississippi, where feasible. The Legislature
27 recognizes, however, that individual on-site wastewater treatment
28 and disposal systems help meet the needs of the state's citizens,
29 especially in rural locations, and can be rendered ecologically
30 safe and protective of the public health if the systems are
31 designed, installed, constructed, maintained and operated
32 properly. It is the intent of the Legislature to allow the
33 continued installation, use and maintenance of individual on-site
34 wastewater disposal systems in a manner that will not jeopardize
35 public health and welfare or the environment.

36 **SECTION 2.** Section 41-67-2, Mississippi Code of 1972, is
37 reenacted as follows:

38 41-67-2. For purposes of this chapter, the following words
39 shall have the meanings ascribed herein unless the context clearly
40 indicates otherwise:

41 (a) "Advanced treatment system" means an individual
42 on-site wastewater treatment system that complies with Section
43 41-67-10.

44 (b) "Board" means the Mississippi State Board of
45 Health.



46 (c) "Centralized wastewater treatment system" means a
47 wastewater collection and treatment system that consists of
48 collection sewers and a centralized treatment facility other than
49 an individual on-site wastewater disposal system.

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

52 (e) "Certified manufacturer" means any person
53 registered with the department who holds a written certification
54 issued by the department allowing the manufacturer to sell on-site
55 wastewater products in the state.

56 (f) "Certified professional evaluator" means any person
57 who has met the requirements of Section 41-67-37 or a licensed
58 professional engineer.

59 (g) "Certified pumper" means any person registered with
60 the department who holds a written certification issued by the
61 department allowing the person to engage in the removal and
62 disposal of sludge, grease and waste and who has met the
63 requirements of Section 41-67-39.

64 (h) "Cluster system" means a wastewater collection and
65 treatment system under some form of common or private ownership
66 and management that provides treatment and dispersal/discharge of
67 wastewater from two (2) or more homes or buildings but less than a
68 subdivision.



69 (i) "Conventional system" means an individual on-site
70 wastewater disposal system consisting of a septic tank and
71 subsurface disposal field.

72 (j) "Department" means the Mississippi State Department
73 of Health.

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

76 (l) "Effluent" means sewage, water, or other liquid,
77 partially or completely treated or in its natural state, flowing
78 out of a septic tank, advanced treatment system, or other
79 treatment system or system component by the department.

80 (m) "Final approval" means an issuance of a document
81 from the department stating that a determination has been made by
82 the department that the individual on-site wastewater disposal
83 system recommended/designed has been installed and fulfills all
84 requirements under this chapter or any variance that has been
85 granted by the department.

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

89 (o) "Individual on-site wastewater disposal system"
90 means a sewage treatment and effluent disposal system that does
91 not discharge into waters of the state, that serves only one (1)
92 legal tract, that accepts only residential waste and similar waste
93 streams maintained on the property of the generator, and that is



94 designed and installed in accordance with this law and regulations
95 of the board.

96 (p) "Notice of intent" means notification by an
97 applicant to the department prior to construction and submission
98 of all required information, which is used by the department to
99 initiate the process to evaluate the property for the suitability
100 of an individual on-site wastewater disposal system.

101 (q) "Performance-based system" means an individual
102 on-site wastewater disposal system designed to meet standards
103 established to designate a level of treatment of wastewater that
104 an individual on-site wastewater disposal system must meet,
105 including, but not limited to, biochemical oxygen demand, total
106 suspended solids, nutrient reduction and fecal coliform.

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

111 (s) "Person" means any individual, trust, firm,
112 joint-stock company, public or private corporation (including a
113 government corporation), partnership, association, state, or any
114 agency or institution thereof, municipality, commission, political
115 subdivision of a state or any interstate body, and includes any
116 officer or governing or managing body of any municipality,
117 political subdivision, or the United States or any officer or
118 employee thereof.



119 (t) "Plot plan" means a property drawing reflecting
120 property lines, site features (such as ponds, wells, etc.),
121 dwellings and any other intended uses of the property therein
122 including encumbrances.

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

125 (v) "Qualified homeowner maintenance provider" means
126 the current owner of a specific residence where that homeowner
127 resides and where the homeowner has met the requirements of the
128 rules and regulations of the department to provide maintenance for
129 his or her system.

130 (w) "Licensed professional engineer" means any person
131 who has met the requirements under Section 73-13-23(1) and who has
132 been issued a certificate of registration as a professional
133 engineer.

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

138 (y) "Subdivision" means any tract or combination of
139 adjacent tracts of land that is subdivided into ten (10) or more
140 tracts, sites or parcels for the purpose of commercial or
141 residential development.

142 **SECTION 3.** Section 41-67-3, Mississippi Code of 1972, is
143 reenacted as follows:



144 41-67-3. (1) The board and/or the department shall have the
145 following duties and responsibilities:

146 (a) To exercise general supervision over the design,
147 installation, operation and maintenance of individual on-site
148 wastewater disposal systems, decentralized wastewater treatment
149 systems and cluster systems;

150 (b) To adopt, modify, repeal and promulgate rules and
151 regulations, after due notice and hearing, and where not otherwise
152 prohibited by federal or state law, to make exceptions to, to
153 grant exemptions from and to enforce rules and regulations
154 implementing or effectuating the duties of the board under this
155 chapter to protect the public health. The board may grant
156 variances from rules and regulations adopted under this chapter,
157 including requirements for buffer zones, or from setbacks required
158 under Section 41-67-7 where the granting of a variance shall not
159 subject the public to unreasonable health risks or jeopardize
160 environmental resources;

161 (c) To provide or deny certification for persons
162 engaging in the business for hire of the installation, operation
163 or maintenance of individual on-site wastewater disposal systems
164 and persons engaging in the removal and disposal of the sludge and
165 liquid waste from those systems;

166 (d) To suspend or revoke certifications issued to
167 persons engaging in the business for hire of the installation,
168 operation or maintenance of individual on-site wastewater disposal



169 systems or persons engaging in the removal and disposal of the
170 sludge and liquid waste from those systems, when it is determined
171 the person has violated this chapter or applicable rules and
172 regulations;

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

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

182 (2) To assure the effective and efficient administration of
183 this chapter, the board shall adopt rules governing the design,
184 construction or installation, operation and maintenance of
185 individual on-site wastewater disposal systems, including rules
186 concerning the:

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

189 (b) Certification of installers;

190 (c) Certification of pumpers;

191 (d) Certification of manufacturers;

192 (e) Certification of professional evaluators; and



193 (f) Creation of regulations that authorize the original
194 and any subsequent homeowner to be trained by certified installers
195 as defined in Section 41-67-25(2) or other factory representatives
196 in order to educate the homeowner with the necessary knowledge to
197 provide maintenance to the homeowner's system; no fees shall be
198 charged to the homeowner for such training, thus allowing the
199 homeowner to meet the requirements of Section 41-67-7(5).

200 (3) In addition, the board shall adopt rules establishing
201 performance standards for individual on-site wastewater disposal
202 systems for single family residential generators and rules
203 concerning the operation and maintenance of individual on-site
204 wastewater disposal systems designed to meet those standards. The
205 performance standards shall be consistent with the federal Clean
206 Water Act, maintaining the wastes on the property of the generator
207 and protection of the public health. Rules for the operation and
208 maintenance of individual on-site wastewater disposal systems
209 designed to meet performance standards shall include rules
210 concerning the following:

211 (a) A standard application form and requirements for
212 supporting documentation;

213 (b) Application review;

214 (c) Approval or denial of authorization for proposed
215 systems;

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



218 (e) Enforcement of the requirements and conditions of
219 authorization; and

220 (f) Inspection, monitoring, sampling and reporting on
221 the performance of the system.

222 Any system proposed for authorization in accordance with
223 performance standards must be designed and certified by a licensed
224 professional engineer in the State of Mississippi and must be
225 authorized by the department before installation.

226 (4) To the extent practicable, all rules and regulations
227 adopted under this chapter shall give maximum flexibility to
228 persons installing individual on-site wastewater disposal systems
229 and all options consistent with the federal Clean Water Act,
230 consistent with maintaining the wastes on the property of the
231 generator and consistent with protection of the public health. In
232 addition, all rules and regulations, to the extent practicable,
233 shall encourage the use of economically feasible systems,
234 including all techniques and technologies for individual on-site
235 wastewater disposal.

236 (5) All regulations shall be applied uniformly in all areas
237 of the state and shall take into consideration and make provision
238 for different types of soil in the state when performing soil and
239 site evaluations.

240 **SECTION 4.** Section 41-67-4, Mississippi Code of 1972, is
241 reenacted as follows:



242 41-67-4. (1) The department shall determine the feasibility
243 of establishing centralized wastewater treatment systems upon the
244 submission by the developer of a preliminary design and
245 feasibility study prepared by a licensed professional engineer.
246 The developer may request and obtain a hearing before the board if
247 the developer is dissatisfied with the department's determination
248 of feasibility. The determination that a centralized wastewater
249 treatment system must be established shall be made without regard
250 to whether the establishment of a centralized wastewater treatment
251 system is authorized by law or is subject to approval by one or
252 more state or local government or public bodies. Whenever a
253 developer requests a determination of feasibility, the department
254 must make the determination within thirty (30) days after receipt
255 of the preliminary design and feasibility study from the
256 developer. The department shall state in writing the reasons for
257 its determination. If the department does not make a
258 determination within thirty (30) days, all sites within the
259 subdivision shall be approved, if a certified installer attests or
260 a department environmentalist determines that each site can be
261 adequately served by an individual on-site wastewater disposal
262 system.

263 (2) Where subdivisions are proposed that are composed of
264 fewer than thirty-five (35) building sites, and no centralized
265 wastewater treatment system is available, the department may waive
266 the requirement for a feasibility study. If the feasibility study



267 is waived, all sites within the subdivision shall be approved, if
268 a certified installer attests or a department environmentalist
269 determines that each site can be adequately served by an
270 individual on-site wastewater disposal system.

271 (3) No feasibility study or centralized wastewater treatment
272 system shall be required for subdivisions designed, laid out,
273 platted or partially constructed before July 1, 1988, or for any
274 subdivision that was platted and recorded during the period from
275 July 1, 1995, through June 30, 1996.

276 (4) "Feasibility study" means a written evaluation and
277 analysis of the potential of a proposed project that is based on
278 investigation and research by a licensed professional engineer to
279 give cost comparison between centralized or decentralized
280 treatment and disposal and individual on-site wastewater disposal
281 systems.

282 **SECTION 5.** Section 41-67-5, Mississippi Code of 1972, is
283 reenacted as follows:

284 41-67-5. (1) No owner, lessee or developer shall construct
285 or place any mobile, modular or permanently constructed residence,
286 building or facility, which may require the installation of an
287 individual on-site wastewater disposal system, without having
288 first submitted a notice of intent to the department. Upon
289 receipt of a notice of intent, the department shall provide the
290 owner, lessee or developer with complete information on individual
291 on-site wastewater disposal systems, including, but not limited



292 to, applicable rules and regulations regarding the design,
293 installation, operation and maintenance of individual on-site
294 wastewater disposal systems and known requirements of lending
295 institutions for approval of the systems.

296 (2) No public utility supplying water shall make connection
297 to any dwelling, house, mobile home or residence without the prior
298 written approval of the department certifying that the plan for
299 the sewage treatment and disposal system at the location of the
300 property complies with this chapter. Connections of water
301 utilities may be made during construction if the department has
302 approved a plan for a sewage treatment and disposal system and the
303 owner of the property has agreed to have the system inspected and
304 approved by the department before the use or occupancy of the
305 property.

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

311 **SECTION 6.** Section 41-67-6, Mississippi Code of 1972, is
312 reenacted as follows:

313 41-67-6. (1) Nothing in this chapter shall preclude a
314 certified professional evaluator or licensed professional engineer
315 from providing services relating to the design of an individual
316 on-site wastewater disposal system to comply with this chapter,



317 except for performance-based systems as specified in Section
318 41-67-3(3). A certified professional evaluator or licensed
319 professional engineer shall notify the department in writing of
320 those services being provided, including the type of treatment,
321 the type of disposal, and the property address for the treatment
322 and disposal system. Construction or installation shall not begin
323 before authorization by the department. The department shall
324 respond within ten (10) business days with authorization that the
325 certified professional evaluator or licensed professional engineer
326 fulfills the requirements of the law.

327 (2) Within five (5) working days following receipt of the
328 notice of intent and plot plan by an owner, lessee or developer of
329 any lot or tract of land, the department shall conduct a soil and
330 site evaluation, except in cases where a certified professional
331 evaluator or licensed professional engineer provides services
332 relating to the design, construction or installation of an
333 individual on-site wastewater disposal system to comply with this
334 chapter. All regulations shall be applied uniformly in all areas
335 of the state and shall take into consideration and make provision
336 for different types of soil in the state when performing soil and
337 site evaluations. Within ten (10) additional working days, the
338 department shall make recommendations to the owner, lessee or
339 developer of the type or types of individual on-site wastewater
340 disposal systems suitable for installation on the lot or tract,
341 unless there are conditions requiring further investigation that



342 are revealed in the initial evaluation. In making recommendations
343 on the type or types of individual on-site wastewater disposal
344 systems suitable for installation on a lot or tract, personnel of
345 the department shall use best professional judgment based on rules
346 and regulations adopted by the board, considering the type or
347 types of systems which are installed and functioning on lots or
348 tracts near the subject lot or tract. To the extent practicable,
349 the recommendations shall give the owner, lessee or developer
350 maximum flexibility and all options consistent with the federal
351 Clean Water Act, consistent with maintaining the wastes on the
352 property of the generator and consistent with protection of the
353 public health. The system or systems recommended shall be
354 environmentally sound and cost-effective. The department, a
355 licensed professional engineer or a certified professional
356 evaluator shall provide complete information, including all
357 applicable requirements and regulations on all systems
358 recommended. The owner, lessee or developer shall have the right
359 to choose among systems. The department shall provide the owner,
360 lessee or developer with a permit/recommendation that specifies
361 all types of individual on-site wastewater disposal systems that
362 are suitable for installation on the lot or tract.

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



367 for determination of suitability has been received or state the
368 additional information needed by the department for determination
369 of suitability.

370 (4) Whenever a developer requests a determination of
371 suitability of individual on-site wastewater disposal systems in a
372 subdivision, the department must make the determination within
373 thirty (30) days after receipt of all necessary information needed
374 for the determination of suitability from the developer. The
375 department shall state in writing the reasons for its
376 determination.

377 (5) (a) The certified installer shall notify the department
378 at least twenty-four (24) hours before beginning installation of
379 an individual on-site wastewater disposal system and, at that
380 time, schedule a time for inspection of the system with the
381 appropriate county department of health.

382 (b) A certified installer, or designated agent thereof,
383 shall not cover his work with soil or other surface material
384 unless the installer has received authorization to cover the
385 system after an inspection by a department environmentalist, or
386 unless a department environmentalist does not arrive for
387 inspection within thirty (30) minutes of the designated and agreed
388 upon time, in which case a certified installer, or designated
389 agent thereof, may submit an affidavit of proper installation to
390 the department for final approval.



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

395 (7) Any lot or tract that is two (2) acres or larger shall
396 be exempt from the requirements of this chapter and regulations of
397 the department relating to approval of individual on-site
398 wastewater disposal systems by the department, and shall be exempt
399 from the provisions of Section 41-67-5(2), provided that:

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

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

403 (c) The person who installed the individual on-site
404 wastewater disposal system provides the department with a signed
405 affidavit attesting that the requirements of paragraphs (a) and
406 (b) are met.

407 **SECTION 7.** Section 41-67-7, Mississippi Code of 1972, is
408 reenacted as follows:

409 41-67-7. (1) Approval of the design, construction or
410 installation of an individual on-site wastewater disposal system
411 by the department is required, except as otherwise provided in
412 Section 41-67-6(7). Upon completion of installation of the
413 system, the department shall approve the design, construction or
414 installation of that system, as requested, if the system is
415 designed, constructed and installed, as the case may be, in



416 accordance with the rules and regulations of the board. Whenever
417 a person requests approval of an individual on-site wastewater
418 disposal system and has met the requirements in subsection (3) of
419 this section, the department must approve or disapprove the
420 request within five (5) working days. If the department
421 disapproves the request, the department shall state in writing the
422 reasons for the disapproval. If the department does not respond
423 to the request within ten (10) calendar days, the request for
424 approval of the individual on-site wastewater disposal system
425 shall be deemed approved.

426 (2) Individual on-site wastewater disposal systems shall be
427 considered acceptable, provided the following requirements are
428 met:

429 (a) Centralized wastewater treatment systems are not
430 available or feasible;

431 (b) The existing disposal systems in the area are
432 functioning satisfactorily;

433 (c) Soil types, soil texture, seasonal water tables and
434 other limiting factors are satisfactory for underground
435 absorption;

436 (d) Any private water supply is located at a higher
437 elevation or it must be properly protected and at least fifty (50)
438 feet from the individual on-site wastewater disposal system and at
439 least one hundred (100) feet from the disposal field of the
440 system; and



441 (e) The systems meet applicable water quality
442 requirements of Section 41-67-10.

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

447 (a) A signed affidavit from the installer that the
448 system was installed in compliance with all requirements,
449 regulations and permit conditions applicable to the system
450 installed; and

451 (b) For any advanced treatment system, an affidavit
452 from the property owner agreeing to a continuing maintenance
453 agreement on the installed system at the end of the required
454 manufacturer's maintenance agreement.

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

462 (5) The property owner, if not a qualified homeowner
463 maintenance provider, shall keep a continuing maintenance
464 agreement with a certified installer on all advanced treatment
465 systems in perpetuity. Any person violating this subsection shall



466 be subject to the penalties and damages as provided in Section
467 41-67-28(5).

468 **SECTION 8.** Section 41-67-9, Mississippi Code of 1972, is
469 reenacted as follows:

470 41-67-9. (1) All existing individual on-site wastewater
471 disposal systems on July 1, 2014, shall be grandfathered in until
472 a valid complaint is registered with a county department of health
473 or until a property owner requests an inspection by the
474 department.

475 (2) All existing individual on-site wastewater disposal
476 systems shall be considered acceptable provided the following
477 requirements are met:

478 (a) The existing individual on-site wastewater disposal
479 system and all treated effluent is contained on the property of
480 the generator;

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

484 (c) Centralized wastewater treatment systems are not
485 available;

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



491 (e) If an advanced treatment system is used, the
492 property owner shall be required to contact an authorized
493 representative of a certified manufacturer of the specific
494 advanced treatment system to provide a continuous maintenance
495 agreement or provide the property owner training to become a
496 qualified homeowner maintenance provider.

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

501 **SECTION 9.** Section 41-67-10, Mississippi Code of 1972, is
502 reenacted as follows:

503 41-67-10. (1) Advanced treatment systems may be installed
504 only if they have been tested and are listed by an American
505 National Standards Institute (ANSI) third-party certifying program
506 at the time of installation. Advanced treatment systems shall be
507 in compliance with standards for a Class I system as defined by
508 the most current revision of American National Standards
509 Institute/National Sanitation Foundation (ANSI/NSF) International
510 Standard Number 40, which are incorporated by reference. An
511 approved ANSI third-party certifying program shall comply with the
512 following provisions for systems which it has certified to be
513 installed in Mississippi:

514 (a) Be accredited by the American National Standards
515 Institute;



516 (b) Have established procedures which send
517 representatives to distributors in Mississippi on a recurring
518 basis to conduct evaluations to assure that distributors of
519 certified advanced treatment systems are providing proper
520 maintenance, have sufficient replacement parts available and are
521 maintaining service records;

522 (c) Notify the department of the results of monitoring
523 visits to manufacturers and distributors within sixty (60) days of
524 the conclusion of the monitoring; and

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

527 (2) All manufacturers of advanced treatment systems
528 certified in Mississippi shall provide technical training staff to
529 the department as needed.

530 **SECTION 10.** Section 41-67-11, Mississippi Code of 1972, is
531 reenacted as follows:

532 41-67-11. (1) Individual on-site wastewater disposal
533 systems may be approved in an area where individual on-site
534 wastewater disposal systems otherwise would not be approved
535 because of the availability or feasibility of connection to a
536 centralized wastewater treatment system only after a contract has
537 been awarded or other definite commitments as are deemed
538 sufficient to the department are formalized for the construction
539 of a centralized wastewater treatment system that upon completion
540 will adequately serve the property. Individual on-site wastewater



541 disposal systems shall only be approved when the centralized
542 wastewater treatment system will be completed and available for
543 use within thirty-six (36) months. The department may approve the
544 installation of a system under these circumstances only if the
545 system will comply with the requirements of Section 41-67-5(1) and
546 comply with all construction requirements of the department. The
547 system may be installed only after the developer has signed a
548 written agreement with the centralized wastewater treatment
549 provider stating that the developer will connect to the
550 centralized wastewater treatment system when it becomes available,
551 and the provider of the centralized wastewater treatment system
552 being constructed certifies that the centralized wastewater
553 treatment system will have adequate capacity to accept the sewage
554 to be produced by the individual on-site wastewater disposal
555 systems. The developer shall install an internal sewage
556 collection system from each lot to the connection point to the
557 centralized wastewater treatment system as he develops the streets
558 of the subdivision. Upon completion of the construction of the
559 centralized wastewater treatment system, all individual on-site
560 wastewater disposal systems shall be abandoned and all residences,
561 buildings or facilities connected to the centralized wastewater
562 treatment system.

563 (2) The department may approve the use of a sewage holding
564 tank for the purpose of providing sewage services. The department
565 shall require the proper abandonment and removal of the sewage



566 holding tank and connection to a centralized wastewater treatment
567 system when that system is available, or the usage is no longer
568 needed.

569 **SECTION 11.** Section 41-67-12, Mississippi Code of 1972, is
570 reenacted as follows:

571 41-67-12. (1) The department shall assess fees in the
572 following amounts for the following purposes:

573 (a) A fee of One Hundred Dollars (\$100.00) shall be
574 levied for soil and site evaluation and recommendation of
575 individual on-site wastewater disposal systems. The department
576 may increase the amount of the fee authorized in this paragraph
577 (a) not more than two (2) times during the period from July 1,
578 2016, through June 30, 2020, with the percentage of each increase
579 being not more than five percent (5%) of the amount of the fee in
580 effect at the time of the increase.

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

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

585 Any increase in the fee charged by the department under
586 paragraph (b) or (c) of this subsection shall be in accordance
587 with the provisions of Section 41-3-65.

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



591 the date due, plus any amount necessary to reimburse the cost of
592 collection.

593 (3) No fee authorized under this section shall be assessed
594 by the department for state agencies or institutions, including,
595 without limitation, foster homes licensed by the Mississippi
596 Department of Human Services.

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

599 41-67-15. Nothing in this chapter shall limit the authority
600 of a municipality or board of supervisors to adopt similar
601 ordinances which may be, in whole or in part, more restrictive
602 than this chapter, and in those cases the more restrictive
603 ordinances will govern. The department shall not approve any
604 system that does not comply with an ordinance adopted by a
605 municipality or board of supervisors under the authority of this
606 section.

607 **SECTION 13.** Section 41-67-19, Mississippi Code of 1972, is
608 reenacted as follows:

609 41-67-19. Each authorized agent of the department
610 implementing this chapter shall demonstrate to the department's
611 satisfaction that the person:

612 (a) Is competent to review and provide any requested
613 approval of design and installation of individual on-site
614 wastewater disposal systems, as well as the operation, repair or
615 maintenance of those systems, to make soil permeability tests or



616 soil and site evaluations, and to conduct inspections of
617 individual on-site wastewater disposal systems in accordance with
618 this chapter and rules and regulations adopted under this chapter;
619 and

620 (b) Has successfully completed the department's
621 certification training program.

622 **SECTION 14.** Section 41-67-21, Mississippi Code of 1972, is
623 reenacted as follows:

624 41-67-21. (1) The department shall require a property owner
625 and/or lessee to repair a malfunctioning individual on-site
626 wastewater disposal system on the owner's or lessee's property
627 before the thirtieth day after the date on which the owner or
628 lessee is notified by the department of the malfunctioning system.

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

632 (3) If an existing residential individual on-site wastewater
633 disposal system is malfunctioning, the system shall be repaired to
634 reduce the volume of effluent, to adequately treat the effluent
635 and to the greatest extent possible, to confine the discharge to
636 the property of the generator. If repairs are made to
637 significantly upgrade the existing individual on-site wastewater
638 disposal system, the department shall approve the system, if
639 requested.



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

645 (5) The board may assess the property owner or lessee of an
646 individual on-site wastewater disposal system authorized under
647 Section 41-67-3(3) a civil penalty not to exceed Five Dollars
648 (\$5.00) for each day the system fails to meet the performance
649 standards of that system after the thirty-day period specified in
650 subsection (1) of this section.

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

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

655 **SECTION 15.** Section 41-67-23, Mississippi Code of 1972, is
656 reenacted as follows:

657 41-67-23. The department or its authorized representative
658 may enter onto property and make inspections of any individual
659 on-site wastewater disposal system as necessary to ensure that the
660 system is in compliance with this chapter and the rules and
661 regulations adopted under this chapter. The department shall give
662 reasonable notice to any property owner, lessee or occupant prior
663 to entry onto the property. The owner, lessee, owner's
664 representative, or occupant of the property on which the system is



665 located shall give the department or its authorized representative
666 reasonable access to the property at reasonable times to make
667 necessary inspections.

668 **SECTION 16.** Section 41-67-25, Mississippi Code of 1972, is
669 reenacted as follows:

670 41-67-25. (1) A person may not operate as an installer of
671 individual on-site wastewater disposal systems unless that person
672 is currently certified by the department. A person who installs
673 an individual on-site wastewater disposal system on his own
674 property for his primary residence is not considered an installer
675 for purposes of this subsection.

676 (2) An installer of advanced treatment systems or products
677 must be a factory-trained and authorized representative. The
678 manufacturer must furnish documentation to the department
679 certifying the satisfactory completion of factory training and the
680 establishment of the installer as an authorized manufacturer's
681 representative.

682 (3) The department shall issue a certification to an
683 installer if the installer:

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

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

688 (c) Pays the annual certification fee, which shall be
689 an amount not greater than Fifty Dollars (\$50.00); any increase in



690 the fee charged by the department under this paragraph shall be in
691 accordance with the provisions of Section 41-3-65; and

692 (d) Provides proof of having a valid general business
693 liability insurance policy in effect with liability limits of at
694 least Fifty Thousand Dollars (\$50,000.00) per occurrence and at
695 least One Hundred Thousand Dollars (\$100,000.00) in total
696 aggregate amount.

697 (4) Each installer shall furnish proof of certification to a
698 property owner, lessee, the owner's representative or occupant of
699 the property on which an individual on-site wastewater disposal
700 system is to be designed, constructed, repaired or installed by
701 that installer and to the department or its authorized
702 representative, if requested.

703 (5) The department shall provide for annual renewal of
704 certifications.

705 (6) (a) An installer's certification may be suspended or
706 revoked by the department after notice and hearing if the
707 installer violates this chapter or any rule or regulation adopted
708 under this chapter.

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

711 (7) The department shall disseminate to the public an
712 official list of certified installers.

713 (8) If any person is operating in the state as an installer
714 without certification by the board, the board, after due notice



715 and opportunity for a hearing, may impose a monetary penalty not
716 to exceed Ten Thousand Dollars (\$10,000.00) for each violation.

717 (9) The department shall provide for annual renewal of
718 installer certifications to be applied for at the local department
719 offices.

720 **SECTION 17.** Section 41-67-27, Mississippi Code of 1972, is
721 reenacted as follows:

722 41-67-27. A person may not operate a business in or do
723 business in the State of Mississippi as a manufacturer of
724 components used in an individual on-site wastewater disposal
725 system without holding a valid manufacturer's registration issued
726 by the department. If any person is operating in the state as a
727 manufacturer without certification by the department, the
728 department, after due notice and opportunity for a hearing, may
729 impose a monetary penalty not to exceed Ten Thousand Dollars
730 (\$10,000.00) for each violation.

731 **SECTION 18.** Section 41-67-28, Mississippi Code of 1972, is
732 reenacted as follows:

733 41-67-28. (1) Except as otherwise provided in this chapter,
734 any person who shall knowingly violate this chapter or any rule or
735 regulation or written order of the board in pursuance thereof is,
736 upon conviction, guilty of a misdemeanor and shall be punished as
737 provided in Section 41-3-59.

738 (2) Each day of a continuing violation is a separate
739 violation.



740 (3) (a) In addition to all other statutory and common law
741 rights, remedies and defenses, any person who purchases an
742 individual on-site wastewater disposal system and suffers any
743 ascertainable loss of money or property, real or personal, may
744 bring an action at law in the court having jurisdiction in the
745 county in which the installer or manufacturer has the principal
746 place of business, where the act allegedly occurred, to recover
747 any loss of money or damages for the loss of any property
748 resulting from any of the following:

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

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

755 (iii) Failure of an individual on-site wastewater
756 disposal system to operate properly due to installation.

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

761 (4) A person who violates this chapter thereby causing a
762 discharge off the property of the generator shall be liable to the
763 party aggrieved or damaged by that violation for the actual
764 damages and additional punitive damages equal to a maximum of



765 twenty-five percent (25%) of the actual damages proven by the
766 aggrieved party, to be taxed by the court where the suit is heard
767 on an original action, by appeal or otherwise and recovered by a
768 suit at law in any court of competent jurisdiction. In addition,
769 the court may award the prevailing party reasonable attorney's
770 fees and court costs. Before filing suit, the party aggrieved or
771 damaged must give thirty (30) days' written notice of its intent
772 to file suit to the alleged violator.

773 (5) (a) Any person who violates Section 41-67-7(5) or
774 41-67-11(2) may be assessed an administrative fine in the amount
775 of Five Hundred Dollars (\$500.00) and the public water system may
776 discontinue service to that property owner until the failure to
777 comply with Section 41-67-7(5) or 41-67-11(2) has been corrected.

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

780 (c) Any violator shall have the right to appeal an
781 adverse determination through the procedures set out in Section
782 41-67-29.

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

785 41-67-29. Any person who is aggrieved by any final decision
786 of the board may appeal that final decision to the chancery court
787 of the county of the situs in whole or in part of the subject
788 matter. The appellant shall give a cost bond with sufficient
789 sureties, payable to the state in a sum to be fixed by the board



790 or the court and to be filed with and approved by the clerk of the
791 court. The aggrieved party may, within thirty (30) days following
792 a final decision of the board, petition the chancery court for an
793 appeal with supersedeas and the chancellor shall grant a hearing
794 on the petition. Upon good cause shown the chancellor may grant
795 the appeal with supersedeas. The appellant shall be required to
796 post a bond with sufficient sureties according to law in an amount
797 to be determined by the chancellor. The chancery court shall
798 always be deemed open for hearing of appeals and the chancellor
799 may hear the appeal in termtime or in vacation at any place in his
800 district. The appeal shall have precedence over all civil cases,
801 except election contests. The chancery court shall review all
802 questions of law and of fact and may enter a final order or remand
803 the matter to the board for appropriate action as may be indicated
804 or necessary under the circumstances. Appeals may be taken from
805 the chancery court to the Supreme Court in the manner as now
806 required by law, but if a supersedeas is desired by the party
807 appealing to the chancery court, that party may apply therefor to
808 the chancellor, who shall award a writ of supersedeas, without
809 additional bond, if in the chancellor's judgment material damage
810 is not likely to result. If material damage is likely to result,
811 the chancellor shall require a supersedeas bond as deemed proper,
812 which shall be liable to the state for any damage.

813 **SECTION 20.** Section 41-67-33, Mississippi Code of 1972, is
814 reenacted as follows:



815 41-67-33. (1) The department shall adopt and use procedures
816 for conducting reviews requested by any person aggrieved by the
817 disapproval or requirements for an on-site wastewater disposal
818 system as provided by the department in written form under Section
819 41-67-6. The procedures shall include that the person may request
820 review by submitting a written request of review to the Director
821 of the Office of Environmental Health. The request for review
822 shall identify the matter contested and state the person's name,
823 mailing address and home and daytime phone numbers. Within ten
824 (10) business days of the receipt of the request for review, the
825 department shall issue in writing a ruling and determination to
826 the person and if any corrections are necessary to any form
827 previously issued by the department, then new forms shall be
828 submitted to the person.

829 (2) Property owners may apply for a variance from the
830 department by submitting a report for a proposed system to the
831 department from a licensed professional engineer that the proposed
832 wastewater treatment system will properly treat and maintain
833 wastewater on the property and proof that the licensed
834 professional engineer has errors and omissions insurance. The
835 department shall grant the variance but still have authority for
836 final approval to inspect that the system is installed as
837 designed. All forms from the department relating to allowed
838 wastewater systems shall include the variance option.



839 (3) Any person aggrieved by the ruling issued by the
840 Director of the Office of Environmental Health may apply for a
841 hearing. Any hearing shall be conducted by a hearing officer
842 designated by the department. At the hearing, the hearing officer
843 may conduct reasonable questioning of persons who make relevant
844 factual allegations concerning the proposal. The hearing officer
845 shall require that all persons be sworn before they may offer any
846 testimony at the hearing, and the hearing officer is authorized to
847 administer oaths. Any person so choosing may be represented by
848 counsel at the hearing. A record of the hearing shall be made,
849 which shall consist of a transcript of all testimony received, all
850 documents and other material introduced, the staff report and
851 recommendation, and any other material as the hearing officer
852 considers relevant. He shall make a recommendation within a
853 reasonable period of time after the hearing is closed and after he
854 has had an opportunity to review, study and analyze the evidence
855 presented during the hearing. The completed record shall be
856 certified to the State Health Officer, who shall consider only the
857 record in making his decision, and shall not consider any evidence
858 or material that is not included. All final decisions regarding
859 the disapproval or requirements for an on-site wastewater disposal
860 system shall be made by the State Health Officer. The State
861 Health Officer shall make his written findings and issue his order
862 after reviewing the record, not to exceed thirty (30) days
863 following his receipt of the record.



864 **SECTION 21.** Section 41-67-37, Mississippi Code of 1972, is
865 reenacted as follows:

866 41-67-37. (1) A person may not operate as a certified
867 professional evaluator in this state unless that person is
868 currently certified by the department or is a licensed
869 professional engineer.

870 (2) A person must meet one (1) of the following
871 requirements, in addition to the additional requirements set forth
872 in other sections of this chapter and rules and regulations of the
873 board, in order to be eligible to become a certified professional
874 evaluator:

875 (a) Be a professional geologist registered in the State
876 of Mississippi;

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

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

882 (3) The department shall issue a certification to a
883 certified professional evaluator if the certified professional
884 evaluator:

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

887 (b) Satisfactorily completes the certified professional
888 evaluator training program provided by the department;



889 (c) Pays the annual certification fee; any increase in
890 the fee charged by the department under this paragraph shall be in
891 accordance with the provisions of Section 41-3-65; and

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

896 (4) Each certified professional evaluator shall furnish
897 proof of certification to a property owner or the owner's
898 representative of the property before performing a site evaluation
899 of the property on which an individual on-site wastewater disposal
900 system is to be designed, constructed, repaired or installed by
901 the certified professional evaluator and to the department or its
902 authorized representative, if requested.

903 (5) The department shall provide for annual renewal of
904 certifications.

905 (6) The department shall disseminate to the public an
906 official list of certified professional evaluators.

907 (7) If any person who is not a licensed professional
908 engineer operates in the state as a certified professional
909 evaluator without certification by the department, the department,
910 after due notice and opportunity for a hearing, may impose a
911 monetary penalty not to exceed Ten Thousand Dollars (\$10,000.00)
912 for each violation.



913 **SECTION 22.** Section 41-67-39, Mississippi Code of 1972, is
914 reenacted as follows:

915 41-67-39. (1) A person may not be engaged in the business
916 of removing and disposing of the sludge and liquid waste (septage)
917 from individual on-site wastewater disposal systems in this state
918 unless that person has a valid certificate issued by the
919 department.

920 (2) The department shall issue a certificate to a pumper if
921 the pumper:

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

924 (b) Satisfactorily completes the certified pumper
925 training program provided by the department;

926 (c) Satisfactorily complies with the requirements of
927 his/her pumping and hauling equipment;

928 (d) Provides documentation of a disposal site approved
929 by the Department of Environmental Quality, Office of Pollution
930 Control;

931 (e) Pays the annual license fee; any increase in the
932 fee charged by the department under this paragraph shall be in
933 accordance with the provisions of Section 41-3-65; and

934 (f) Provides proof of having a valid general business
935 liability insurance policy in effect with liability limits of at
936 least Fifty Thousand Dollars (\$50,000.00) per occurrence and at



937 least One Hundred Thousand Dollars (\$100,000.00) in total
938 aggregate amount.

939 (3) Each pumper or designated agent thereof, upon request,
940 shall furnish proof of certification to an individual before
941 entering a contract with that individual for the removing and
942 disposing of the sludge and liquid waste (septage) from an
943 individual on-site wastewater disposal system.

944 (4) The department shall disseminate to the public an
945 official list of certified pumpers.

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

950 (6) The department may suspend or revoke a pumper
951 certification if the pumper disposes of septage or other liquid
952 waste in an unpermitted or unapproved site and/or violates this
953 chapter or rules and regulations under this chapter.

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

957 (8) The department shall provide for annual renewal of
958 certifications.

959 (9) The department must provide for renewal pumper
960 certifications to be applied for at the local department offices.



961 **SECTION 23.** Section 41-67-41, Mississippi Code of 1972, is
962 reenacted as follows:

963 41-67-41. (1) There is created the Wastewater Advisory
964 Council for the purpose of advising the department regarding
965 individual on-site wastewater disposal systems. The advisory
966 council shall be composed of the following:

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

968 (b) One (1) appointee of the Chairman of the State
969 Board of Health;

970 (c) One (1) appointee of the Chairman of the State
971 Board of Health that represents a Mississippi Aerobic Treatment
972 Unit (ATU) manufacturer;

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

975 (e) One (1) appointee of the Chairman of the State
976 Board of Health that represents a septic tank or aggregate
977 disposal manufacturer;

978 (f) One (1) appointee of the Executive Director of the
979 Mississippi Department of Environmental Quality;

980 (g) One (1) appointee of the Executive Director of the
981 Office of Pollution Control;

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

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



986 (j) One (1) appointee of the Chairman of the Department
987 of the Mississippi State University School of Civil and
988 Environmental Engineering Companies;
989 (k) The federally appointed Mississippi State Soil
990 Scientist, or his designee;
991 (l) One (1) appointee of the Executive Director of the
992 American Council of Engineering Companies;
993 (m) One (1) appointee of the Executive Director of the
994 Home Builders Association of Mississippi;
995 (n) One (1) appointee of the Executive Director of the
996 Mississippi Engineering Society;
997 (o) One (1) appointee of the Executive Director of the
998 Mississippi Manufactured Housing Association;
999 (p) One (1) appointee of the Executive Director of the
1000 Mississippi Rural Water Association;
1001 (q) One (1) appointee of the Executive Director of the
1002 Mississippi Association of Supervisors;
1003 (r) One (1) appointee of the President of the
1004 Mississippi Pumpers Association;
1005 (s) One (1) appointee of the President of the
1006 Mississippi Water and Pollution Control Operators Association,
1007 Inc. ;
1008 (t) One (1) appointee of the Executive Director of the
1009 Mississippi Association of Realtors; and



1010 (u) One (1) appointee of the Executive Director of the
1011 Mississippi Municipal League.

1012 (2) The members of the advisory council shall elect a
1013 chairman and vice chairman from its membership.

1014 (3) The terms of appointments for each member shall be for a
1015 period of two (2) years.

1016 (4) The advisory council shall have quarterly meetings, with
1017 at least one (1) of those meetings taking place between forty-five
1018 (45) and sixty (60) days before the meeting of the board.

1019 (5) The department shall staff all advisory council meetings
1020 and record minutes of those meetings.

1021 **SECTION 24.** Section 41-67-31, Mississippi Code of 1972, is
1022 amended as follows:

1023 41-67-31. Sections 41-67-1 through 41-67-29 and Sections
1024 41-67-33 through 41-67-41 shall stand repealed on July 1, * * *
1025 2021.

1026 **SECTION 25.** This act shall take effect and be in force from
1027 and after July 1, 2018.

