

By: Representative Roberson

To: Public Health and Human Services

COMMITTEE SUBSTITUTE
FOR
HOUSE BILL NO. 522

1 AN ACT TO REENACT SECTIONS 41-67-1 THROUGH 41-67-7, 41-67-9
2 THROUGH 41-67-12, 41-67-15, 41-67-19 THROUGH 41-67-29, 41-67-33
3 AND 41-67-37 THROUGH 41-67-41, MISSISSIPPI CODE OF 1972, WHICH ARE
4 THE MISSISSIPPI INDIVIDUAL ON-SITE WASTEWATER DISPOSAL SYSTEM LAW;
5 TO AMEND REENACTED SECTION 41-67-33, MISSISSIPPI CODE OF 1972, TO
6 CORRECT A GRAMMATICAL ERROR; TO AMEND SECTION 41-67-31,
7 MISSISSIPPI CODE OF 1972, TO EXTEND THE DATE OF THE REPEALER ON
8 THE MISSISSIPPI INDIVIDUAL ON-SITE WASTEWATER DISPOSAL SYSTEM LAW;
9 AND FOR RELATED PURPOSES.

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

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

13 41-67-1. (1) This chapter shall be known and may be cited
14 as the "Mississippi Individual On-Site Wastewater Disposal System
15 Law."

16 (2) It is the purpose of the Legislature through this
17 chapter to protect human health and the environment while
18 providing for reasonable use of individual on-site wastewater
19 disposal systems. The Legislature finds that continued
20 installation and operation of individual on-site wastewater
21 disposal systems in a faulty or improper manner, in a manner that



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

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

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

44 (a) "Advanced treatment system" means an individual
45 on-site wastewater treatment system that complies with Section
46 41-67-10.



47 (b) "Board" means the Mississippi State Board of
48 Health.

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

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

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

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

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

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



72 (i) "Conventional system" means an individual on-site
73 wastewater disposal system consisting of a septic tank and
74 subsurface disposal field.

75 (j) "Department" means the Mississippi State Department
76 of Health.

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

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

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

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

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



97 designed and installed in accordance with this law and regulations
98 of the board.

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

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

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

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



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

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

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

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

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

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

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



147 41-67-3. (1) The board and/or the department shall have the
148 following duties and responsibilities:

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

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

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

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



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

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

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

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

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

192 (b) Certification of installers;

193 (c) Certification of pumpers;

194 (d) Certification of manufacturers;

195 (e) Certification of professional evaluators; and



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

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

214 (a) A standard application form and requirements for
215 supporting documentation;

216 (b) Application review;

217 (c) Approval or denial of authorization for proposed
218 systems;

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



221 (e) Enforcement of the requirements and conditions of
222 authorization; and

223 (f) Inspection, monitoring, sampling and reporting on
224 the performance of the system.

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

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

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

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



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

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



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

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

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

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

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



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

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

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

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

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



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

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



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

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



370 for determination of suitability has been received or state the
371 additional information needed by the department for determination
372 of suitability.

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

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

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



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

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

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

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

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

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

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



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

429 (2) Individual on-site wastewater disposal systems shall be
430 considered acceptable, provided the following requirements are
431 met:

432 (a) Centralized wastewater treatment systems are not
433 available or feasible;

434 (b) The existing disposal systems in the area are
435 functioning satisfactorily;

436 (c) Soil types, soil texture, seasonal water tables and
437 other limiting factors are satisfactory for underground
438 absorption;

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



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

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

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

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

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

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



469 be subject to the penalties and damages as provided in Section
470 41-67-28(5).

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

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

478 (2) All existing individual on-site wastewater disposal
479 systems shall be considered acceptable provided the following
480 requirements are met:

481 (a) The existing individual on-site wastewater disposal
482 system and all treated effluent is contained on the property of
483 the generator;

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

487 (c) Centralized wastewater treatment systems are not
488 available;

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



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

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

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

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

517 (a) Be accredited by the American National Standards
518 Institute;



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

525 (c) Notify the department of the results of monitoring
526 visits to manufacturers and distributors within sixty (60) days of
527 the conclusion of the monitoring; and

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

530 (2) All manufacturers of advanced treatment systems
531 certified in Mississippi shall provide technical training staff to
532 the department as needed.

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

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



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

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



569 holding tank and connection to a centralized wastewater treatment
570 system when that system is available, or the usage is no longer
571 needed.

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

574 41-67-12. (1) The department shall assess fees in the
575 following amounts for the following purposes:

576 (a) A fee of One Hundred Dollars (\$100.00) shall be
577 levied for soil and site evaluation and recommendation of
578 individual on-site wastewater disposal systems. The department
579 may increase the amount of the fee authorized in this paragraph
580 (a) not more than two (2) times during the period from July 1,
581 2016, through June 30, 2020, with the percentage of each increase
582 being not more than five percent (5%) of the amount of the fee in
583 effect at the time of the increase.

584 (b) A fee of One Hundred Fifty Dollars (\$150.00) shall
585 be levied once every three (3) years for the certification of
586 installers and pumpers.

587 (c) A fee of Three Hundred Dollars (\$300.00) shall be
588 levied once every three (3) years for the registration of
589 manufacturers.

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



593 (2) In the discretion of the board, a person shall be liable
594 for a penalty equal to one and one-half (1-1/2) times the amount
595 of the fee due and payable for failure to pay the fee on or before
596 the date due, plus any amount necessary to reimburse the cost of
597 collection.

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

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

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

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

614 41-67-19. Each authorized agent of the department
615 implementing this chapter shall demonstrate to the department's
616 satisfaction that the person:



617 (a) Is competent to review and provide any requested
618 approval of design and installation of individual on-site
619 wastewater disposal systems, as well as the operation, repair or
620 maintenance of those systems, to make soil permeability tests or
621 soil and site evaluations, and to conduct inspections of
622 individual on-site wastewater disposal systems in accordance with
623 this chapter and rules and regulations adopted under this chapter;
624 and

625 (b) Has successfully completed the department's
626 certification training program.

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

629 41-67-21. (1) The department shall require a property owner
630 and/or lessee to repair a malfunctioning individual on-site
631 wastewater disposal system on the owner's or lessee's property
632 before the thirtieth day after the date on which the owner or
633 lessee is notified by the department of the malfunctioning system.

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

637 (3) If an existing residential individual on-site wastewater
638 disposal system is malfunctioning, the system shall be repaired to
639 reduce the volume of effluent, to adequately treat the effluent
640 and to the greatest extent possible, to confine the discharge to
641 the property of the generator. If repairs are made to



642 significantly upgrade the existing individual on-site wastewater
643 disposal system, the department shall approve the system, if
644 requested.

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

650 (5) The board may assess the property owner or lessee of an
651 individual on-site wastewater disposal system authorized under
652 Section 41-67-3(3) a civil penalty not to exceed Five Dollars
653 (\$5.00) for each day the system fails to meet the performance
654 standards of that system after the thirty-day period specified in
655 subsection (1) of this section.

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

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

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

662 41-67-23. The department or its authorized representative
663 may enter onto property and make inspections of any individual
664 on-site wastewater disposal system as necessary to ensure that the
665 system is in compliance with this chapter and the rules and
666 regulations adopted under this chapter. The department shall give



667 reasonable notice to any property owner, lessee or occupant prior
668 to entry onto the property. The owner, lessee, owner's
669 representative, or occupant of the property on which the system is
670 located shall give the department or its authorized representative
671 reasonable access to the property at reasonable times to make
672 necessary inspections.

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

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

681 (2) An installer of advanced treatment systems or products
682 must be a factory-trained and authorized representative. The
683 manufacturer must furnish documentation to the department
684 certifying the satisfactory completion of factory training and the
685 establishment of the installer as an authorized manufacturer's
686 representative.

687 (3) The department shall issue a certification to an
688 installer if the installer:

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



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

693 (c) Pays the certification fee once every three (3)
694 years, which shall be an amount not greater than One Hundred Fifty
695 Dollars (\$150.00); any increase in the fee charged by the
696 department under this paragraph shall be in accordance with the
697 provisions of Section 41-3-65; and

698 (d) Provides proof of having a valid general business
699 liability insurance policy in effect with liability limits of at
700 least Fifty Thousand Dollars (\$50,000.00) per occurrence and at
701 least One Hundred Thousand Dollars (\$100,000.00) in total
702 aggregate amount.

703 (4) Each installer shall furnish proof of certification to a
704 property owner, lessee, the owner's representative or occupant of
705 the property on which an individual on-site wastewater disposal
706 system is to be designed, constructed, repaired or installed by
707 that installer and to the department or its authorized
708 representative, if requested.

709 (5) The department shall provide for renewal of
710 certifications once every three (3) years.

711 (6) (a) An installer's certification may be suspended or
712 revoked by the department after notice and hearing if the
713 installer violates this chapter or any rule or regulation adopted
714 under this chapter.



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

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

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

723 (9) The department shall provide for renewal of installer
724 certifications to be applied for at the local department offices.

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

727 41-67-27. A person may not operate a business in or do
728 business in the State of Mississippi as a manufacturer of
729 components used in an individual on-site wastewater disposal
730 system without holding a valid manufacturer's registration issued
731 by the department. If any person is operating in the state as a
732 manufacturer without certification by the department, the
733 department, after due notice and opportunity for a hearing, may
734 impose a monetary penalty not to exceed Ten Thousand Dollars
735 (\$10,000.00) for each violation.

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

738 41-67-28. (1) Except as otherwise provided in this chapter,
739 any person who shall knowingly violate this chapter or any rule or



740 regulation or written order of the board in pursuance thereof is,
741 upon conviction, guilty of a misdemeanor and shall be punished as
742 provided in Section 41-3-59.

743 (2) Each day of a continuing violation is a separate
744 violation.

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

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

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

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

762 (b) Nothing in this chapter shall be construed to
763 permit any class action or suit, but every private action must be



764 maintained in the name of and for the sole use and benefit of the
765 individual person.

766 (4) A person who violates this chapter thereby causing a
767 discharge off the property of the generator shall be liable to the
768 party aggrieved or damaged by that violation for the actual
769 damages and additional punitive damages equal to a maximum of
770 twenty-five percent (25%) of the actual damages proven by the
771 aggrieved party, to be taxed by the court where the suit is heard
772 on an original action, by appeal or otherwise and recovered by a
773 suit at law in any court of competent jurisdiction. In addition,
774 the court may award the prevailing party reasonable attorney's
775 fees and court costs. Before filing suit, the party aggrieved or
776 damaged must give thirty (30) days' written notice of its intent
777 to file suit to the alleged violator.

778 (5) (a) Any person who violates Section 41-67-7(5) or
779 41-67-11(2) may be assessed an administrative fine in the amount
780 of Five Hundred Dollars (\$500.00) and the public water system may
781 discontinue service to that property owner until the failure to
782 comply with Section 41-67-7(5) or 41-67-11(2) has been corrected.

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

785 (c) Any violator shall have the right to appeal an
786 adverse determination through the procedures set out in Section
787 41-67-29.



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

790 41-67-29. Any person who is aggrieved by any final decision
791 of the board may appeal that final decision to the chancery court
792 of the county of the situs in whole or in part of the subject
793 matter. The appellant shall give a cost bond with sufficient
794 sureties, payable to the state in a sum to be fixed by the board
795 or the court and to be filed with and approved by the clerk of the
796 court. The aggrieved party may, within thirty (30) days following
797 a final decision of the board, petition the chancery court for an
798 appeal with supersedeas and the chancellor shall grant a hearing
799 on the petition. Upon good cause shown the chancellor may grant
800 the appeal with supersedeas. The appellant shall be required to
801 post a bond with sufficient sureties according to law in an amount
802 to be determined by the chancellor. The chancery court shall
803 always be deemed open for hearing of appeals and the chancellor
804 may hear the appeal in termtime or in vacation at any place in his
805 district. The appeal shall have precedence over all civil cases,
806 except election contests. The chancery court shall review all
807 questions of law and of fact and may enter a final order or remand
808 the matter to the board for appropriate action as may be indicated
809 or necessary under the circumstances. Appeals may be taken from
810 the chancery court to the Supreme Court in the manner as now
811 required by law, but if a supersedeas is desired by the party
812 appealing to the chancery court, that party may apply therefor to



813 the chancellor, who shall award a writ of supersedeas, without
814 additional bond, if in the chancellor's judgment material damage
815 is not likely to result. If material damage is likely to result,
816 the chancellor shall require a supersedeas bond as deemed proper,
817 which shall be liable to the state for any damage.

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

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

834 (2) Property owners may apply for a variance from the
835 department by submitting a report for a proposed system to the
836 department from a licensed professional engineer that the proposed
837 wastewater treatment system will properly treat and maintain



838 wastewater on the property and proof that the licensed
839 professional engineer has errors and omissions insurance. The
840 department shall grant the variance but still have authority for
841 final approval to inspect that the system is installed as
842 designed. All forms from the department relating to allowed
843 wastewater systems shall include the variance option.

844 (3) Any person aggrieved by the ruling issued by the
845 Director of the Office of Environmental Health may apply for a
846 hearing. Any hearing shall be conducted by a hearing officer
847 designated by the department. At the hearing, the hearing officer
848 may conduct reasonable questioning of persons who make relevant
849 factual allegations concerning the proposal. The hearing officer
850 shall require that all persons be sworn in before they may offer
851 any testimony at the hearing, and the hearing officer is
852 authorized to administer oaths. Any person so choosing may be
853 represented by counsel at the hearing. A record of the hearing
854 shall be made, which shall consist of a transcript of all
855 testimony received, all documents and other material introduced,
856 the staff report and recommendation, and any other material as the
857 hearing officer considers relevant. He shall make a
858 recommendation within a reasonable period of time after the
859 hearing is closed and after he has had an opportunity to review,
860 study and analyze the evidence presented during the hearing. The
861 completed record shall be certified to the State Health Officer,
862 who shall consider only the record in making his decision, and



863 shall not consider any evidence or material that is not included.
864 All final decisions regarding the disapproval or requirements for
865 an on-site wastewater disposal system shall be made by the State
866 Health Officer. The State Health Officer shall make his written
867 findings and issue his order after reviewing the record, not to
868 exceed thirty (30) days following his receipt of the record.

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

871 41-67-37. (1) A person may not operate as a certified
872 professional evaluator in this state unless that person is
873 currently certified by the department or is a licensed
874 professional engineer.

875 (2) A person must meet one (1) of the following
876 requirements, in addition to the additional requirements set forth
877 in other sections of this chapter and rules and regulations of the
878 board, in order to be eligible to become a certified professional
879 evaluator:

880 (a) Be a professional geologist registered in the State
881 of Mississippi;

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

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



887 (3) The department shall issue a certification to a
888 certified professional evaluator if the certified professional
889 evaluator:

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

892 (b) Satisfactorily completes the certified professional
893 evaluator training program provided by the department;

894 (c) Pays the certification fee once every three (3)
895 years; any increase in the fee charged by the department under
896 this paragraph shall be in accordance with the provisions of
897 Section 41-3-65; and

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

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

909 (5) The department shall provide for renewal of
910 certifications once every three (3) years.



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

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

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

921 41-67-39. (1) A person may not be engaged in the business
922 of removing and disposing of the sludge and liquid waste (septage)
923 from individual on-site wastewater disposal systems in this state
924 unless that person has a valid certificate issued by the
925 department.

926 (2) The department shall issue a certificate to a pumper if
927 the pumper:

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

930 (b) Satisfactorily completes the certified pumper
931 training program provided by the department;

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



934 (d) Provides documentation of a disposal site approved
935 by the Department of Environmental Quality, Office of Pollution
936 Control;

937 (e) Pays the license fee once every three (3) years;
938 any increase in the fee charged by the department under this
939 paragraph shall be in accordance with the provisions of Section
940 41-3-65; and

941 (f) Provides proof of having a valid general business
942 liability insurance policy in effect with liability limits of at
943 least Fifty Thousand Dollars (\$50,000.00) per occurrence and at
944 least One Hundred Thousand Dollars (\$100,000.00) in total
945 aggregate amount.

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

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

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

957 (6) The department may suspend or revoke a pumper
958 certification if the pumper disposes of septage or other liquid



959 waste in an unpermitted or unapproved site and/or violates this
960 chapter or rules and regulations under this chapter.

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

964 (8) The department shall provide for renewal of
965 certifications once every three (3) years.

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

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

970 41-67-41. (1) There is created the Wastewater Advisory
971 Council for the purpose of advising the department regarding
972 individual on-site wastewater disposal systems. The advisory
973 council shall be composed of the following:

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

975 (b) One (1) appointee of the Chairman of the State
976 Board of Health;

977 (c) One (1) appointee of the Chairman of the State
978 Board of Health that represents a Mississippi Aerobic Treatment
979 Unit (ATU) manufacturer;

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



982 (e) One (1) appointee of the Chairman of the State
983 Board of Health that represents a septic tank or aggregate
984 disposal manufacturer;

985 (f) One (1) appointee of the Executive Director of the
986 Mississippi Department of Environmental Quality;

987 (g) One (1) appointee of the Executive Director of the
988 Office of Pollution Control;

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

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

993 (j) One (1) appointee of the Chairman of the Department
994 of the Mississippi State University School of Civil and
995 Environmental Engineering Companies;

996 (k) The federally appointed Mississippi State Soil
997 Scientist, or his designee;

998 (l) One (1) appointee of the Executive Director of the
999 American Council of Engineering Companies;

1000 (m) One (1) appointee of the Executive Director of the
1001 Home Builders Association of Mississippi;

1002 (n) One (1) appointee of the Executive Director of the
1003 Mississippi Engineering Society;

1004 (o) One (1) appointee of the Executive Director of the
1005 Mississippi Manufactured Housing Association;



1006 (p) One (1) appointee of the Executive Director of the
1007 Mississippi Rural Water Association;

1008 (q) One (1) appointee of the Executive Director of the
1009 Mississippi Association of Supervisors;

1010 (r) One (1) appointee of the President of the
1011 Mississippi Pumpers Association;

1012 (s) One (1) appointee of the President of the
1013 Mississippi Water and Pollution Control Operators Association,
1014 Inc.;

1015 (t) One (1) appointee of the Executive Director of the
1016 Mississippi Association of Realtors; and

1017 (u) One (1) appointee of the Executive Director of the
1018 Mississippi Municipal League.

1019 (2) The members of the advisory council shall elect a
1020 chairman and vice chairman from its membership.

1021 (3) The terms of appointments for each member shall be for a
1022 period of two (2) years.

1023 (4) The advisory council shall have quarterly meetings, with
1024 at least one (1) of those meetings taking place between forty-five
1025 (45) and sixty (60) days before the meeting of the board.

1026 (5) The department shall staff all advisory council meetings
1027 and record minutes of those meetings.

1028 **SECTION 24.** Section 41-67-31, Mississippi Code of 1972, is
1029 amended as follows:



1030 41-67-31. Sections 41-67-1 through 41-67-29 and Sections
1031 41-67-33 through 41-67-41 shall stand repealed on July 1, * * *
1032 2028.

1033 **SECTION 25.** This act shall take effect and be in force from
1034 and after July 1, 2023.

