

By: Senator(s) Bryan

To: Public Health and
Welfare

SENATE BILL NO. 2573

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 LAW; TO AMEND
4 SECTION 41-67-31, MISSISSIPPI CODE OF 1972, TO EXTEND THE DATE OF
5 THE REPEALER ON THE MISSISSIPPI INDIVIDUAL ON-SITE WASTEWATER
6 DISPOSAL 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
438 (50) feet from the individual on-site wastewater disposal system
439 and at 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 One Hundred Fifty Dollars (\$150.00) shall
582 be levied once every three (3) years for the certification of
583 installers and pumpers.

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

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



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

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

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

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

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

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



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

622 (b) Has successfully completed the department's
623 certification training program.

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

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

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

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



639 significantly upgrade the existing individual on-site wastewater
640 disposal system, the department shall approve the system, if
641 requested.

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

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

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

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

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

659 41-67-23. The department or its authorized representative
660 may enter onto property and make inspections of any individual
661 on-site wastewater disposal system as necessary to ensure that the
662 system is in compliance with this chapter and the rules and
663 regulations adopted under this chapter. The department shall give



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

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

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

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

684 (3) The department shall issue a certification to an
685 installer if the installer:

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



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

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

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

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

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

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



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

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

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

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

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

724 41-67-27. A person may not operate a business in or do
725 business in the State of Mississippi as a manufacturer of
726 components used in an individual on-site wastewater disposal
727 system without holding a valid manufacturer's registration issued
728 by the department. If any person is operating in the state as a
729 manufacturer without certification by the department, the
730 department, after due notice and opportunity for a hearing, may
731 impose a monetary penalty not to exceed Ten Thousand Dollars
732 (\$10,000.00) for each violation.

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

735 41-67-28. (1) Except as otherwise provided in this chapter,
736 any person who shall knowingly violate this chapter or any rule or



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

740 (2) Each day of a continuing violation is a separate
741 violation.

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

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

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

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

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



761 maintained in the name of and for the sole use and benefit of the
762 individual person.

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

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

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

782 (c) Any violator shall have the right to appeal an
783 adverse determination through the procedures set out in Section
784 41-67-29.



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

787 41-67-29. Any person who is aggrieved by any final decision
788 of the board may appeal that final decision to the chancery court
789 of the county of the situs in whole or in part of the subject
790 matter. The appellant shall give a cost bond with sufficient
791 sureties, payable to the state in a sum to be fixed by the board
792 or the court and to be filed with and approved by the clerk of the
793 court. The aggrieved party may, within thirty (30) days following
794 a final decision of the board, petition the chancery court for an
795 appeal with supersedeas and the chancellor shall grant a hearing
796 on the petition. Upon good cause shown the chancellor may grant
797 the appeal with supersedeas. The appellant shall be required to
798 post a bond with sufficient sureties according to law in an amount
799 to be determined by the chancellor. The chancery court shall
800 always be deemed open for hearing of appeals and the chancellor
801 may hear the appeal in termtime or in vacation at any place in his
802 district. The appeal shall have precedence over all civil cases,
803 except election contests. The chancery court shall review all
804 questions of law and of fact and may enter a final order or remand
805 the matter to the board for appropriate action as may be indicated
806 or necessary under the circumstances. Appeals may be taken from
807 the chancery court to the Supreme Court in the manner as now
808 required by law, but if a supersedeas is desired by the party
809 appealing to the chancery court, that party may apply therefor to



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

815 **SECTION 20.** Section 41-67-31, Mississippi Code of 1972, is
816 amended as follows:

817 41-67-31. Sections 41-67-1 through 41-67-29 and Sections
818 41-67-33 through 41-67-41 shall stand repealed on July 1, * * *
819 2028.

820 **SECTION 21.** Section 41-67-33, Mississippi Code of 1972, is
821 reenacted as follows:

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



834 previously issued by the department, then new forms shall be
835 submitted to the person.

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

846 (3) Any person aggrieved by the ruling issued by the
847 Director of the Office of Environmental Health may apply for a
848 hearing. Any hearing shall be conducted by a hearing officer
849 designated by the department. At the hearing, the hearing officer
850 may conduct reasonable questioning of persons who make relevant
851 factual allegations concerning the proposal. The hearing officer
852 shall require that all persons be sworn in before they may offer
853 any testimony at the hearing, and the hearing officer is
854 authorized to administer oaths. Any person so choosing may be
855 represented by counsel at the hearing. A record of the hearing
856 shall be made, which shall consist of a transcript of all
857 testimony received, all documents and other material introduced,
858 the staff report and recommendation, and any other material as the



859 hearing officer considers relevant. He shall make a
860 recommendation within a reasonable period of time after the
861 hearing is closed and after he has had an opportunity to review,
862 study and analyze the evidence presented during the hearing. The
863 completed record shall be certified to the State Health Officer,
864 who shall consider only the record in making his decision, and
865 shall not consider any evidence or material that is not included.
866 All final decisions regarding the disapproval or requirements for
867 an on-site wastewater disposal system shall be made by the State
868 Health Officer. The State Health Officer shall make his written
869 findings and issue his order after reviewing the record, not to
870 exceed thirty (30) days following his receipt of the record.

871 **SECTION 22.** Section 41-67-37, Mississippi Code of 1972, is
872 reenacted as follows:

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

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

882 (a) Be a professional geologist registered in the State
883 of Mississippi;



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

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

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

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

894 (b) Satisfactorily completes the certified professional
895 evaluator training program provided by the department;

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

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

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



909 the certified professional evaluator and to the department or its
910 authorized representative, if requested.

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

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

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

921 **SECTION 23.** Section 41-67-39, Mississippi Code of 1972, is
922 reenacted as follows:

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

928 (2) The department shall issue a certificate to a pumper if
929 the pumper:

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

932 (b) Satisfactorily completes the certified pumper
933 training program provided by the department;



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

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

939 (e) Pays the license fee once every three (3) years;
940 any increase in the fee charged by the department under this
941 paragraph shall be in accordance with the provisions of Section
942 41-3-65; and

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

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

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

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



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

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

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

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

970 **SECTION 24.** Section 41-67-41, Mississippi Code of 1972, is
971 reenacted as follows:

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

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

977 (b) One (1) appointee of the Chairman of the State
978 Board of Health;

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

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



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

987 (f) One (1) appointee of the Executive Director of the
988 Mississippi Department of Environmental Quality;

989 (g) One (1) appointee of the Executive Director of the
990 Office of Pollution Control;

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

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

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

998 (k) The federally appointed Mississippi State Soil
999 Scientist, or his designee;

1000 (l) One (1) appointee of the Executive Director of the
1001 American Council of Engineering Companies;

1002 (m) One (1) appointee of the Executive Director of the
1003 Home Builders Association of Mississippi;

1004 (n) One (1) appointee of the Executive Director of the
1005 Mississippi Engineering Society;

1006 (o) One (1) appointee of the Executive Director of the
1007 Mississippi Manufactured Housing Association;



1008 (p) One (1) appointee of the Executive Director of the
1009 Mississippi Rural Water Association;

1010 (q) One (1) appointee of the Executive Director of the
1011 Mississippi Association of Supervisors;

1012 (r) One (1) appointee of the President of the
1013 Mississippi Pumpers Association;

1014 (s) One (1) appointee of the President of the
1015 Mississippi Water and Pollution Control Operators Association,
1016 Inc.;

1017 (t) One (1) appointee of the Executive Director of the
1018 Mississippi Association of Realtors; and

1019 (u) One (1) appointee of the Executive Director of the
1020 Mississippi Municipal League.

1021 (2) The members of the advisory council shall elect a
1022 chairman and vice chairman from its membership.

1023 (3) The terms of appointments for each member shall be for a
1024 period of two (2) years.

1025 (4) The advisory council shall have quarterly meetings, with
1026 at least one (1) of those meetings taking place between forty-five
1027 (45) and sixty (60) days before the meeting of the board.

1028 (5) The department shall staff all advisory council meetings
1029 and record minutes of those meetings.

1030 **SECTION 25.** This act shall take effect and be in force from
1031 and after July 1, 2023.

