

By: Representative Mims

To: Public Health and Human Services

HOUSE BILL NO. 331

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 REENACTED SECTION 41-67-7, MISSISSIPPI CODE OF 1972, TO CLARIFY
5 LANGUAGE REGARDING THE LOCATION OR PROTECTION OF A PRIVATE WATER
6 SUPPLY IN ORDER FOR AN INDIVIDUAL ON-SITE WASTEWATER DISPOSAL
7 SYSTEM TO BE CONSIDERED ACCEPTABLE; TO AMEND REENACTED SECTION
8 41-67-12, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT THE FEES FOR
9 THE CERTIFICATION OF INSTALLERS AND PUMPERS AND FOR THE
10 REGISTRATION OF MANUFACTURERS SHALL BE LEVIED ONCE EVERY THREE
11 YEARS INSTEAD OF ANNUALLY; TO AMEND REENACTED SECTION 41-67-25,
12 MISSISSIPPI CODE OF 1972, TO PROVIDE THAT THE CERTIFICATION OF
13 INSTALLERS AND THE PAYMENT OF THE CERTIFICATION FEE SHALL BE ONCE
14 EVERY THREE YEARS INSTEAD OF ANNUALLY; TO AMEND REENACTED SECTION
15 41-67-37, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT THE
16 CERTIFICATION OF PROFESSIONAL EVALUATORS AND THE PAYMENT OF THE
17 CERTIFICATION FEE SHALL BE ONCE EVERY THREE YEARS INSTEAD OF
18 ANNUALLY; TO AMEND REENACTED SECTION 41-67-39, MISSISSIPPI CODE OF
19 1972, TO PROVIDE THAT THE CERTIFICATION OF PUMPERS AND THE PAYMENT
20 OF THE CERTIFICATION FEE SHALL BE ONCE EVERY THREE YEARS INSTEAD
21 OF ANNUALLY; TO AMEND SECTION 41-67-31, MISSISSIPPI CODE OF 1972,
22 TO EXTEND THE DATE OF THE REPEALER ON THE MISSISSIPPI INDIVIDUAL
23 ON-SITE WASTEWATER DISPOSAL LAW; AND FOR RELATED PURPOSES.

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

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



27 41-67-1. (1) This chapter shall be known and may be cited
28 as the "Mississippi Individual On-Site Wastewater Disposal System
29 Law."

30 (2) It is the purpose of the Legislature through this
31 chapter to protect human health and the environment while
32 providing for reasonable use of individual on-site wastewater
33 disposal systems. The Legislature finds that continued
34 installation and operation of individual on-site wastewater
35 disposal systems in a faulty or improper manner, in a manner that
36 lacks essential maintenance for the system, or in areas where
37 unsuitable soil and population density adversely affect the
38 efficiency and functioning of these systems, has a detrimental
39 effect on the public health and welfare and the environment
40 through contamination of land, groundwater and surface waters.
41 The Legislature, therefore, expresses a general preference for the
42 installation and operation of centralized wastewater treatment
43 systems in Mississippi, where feasible. The Legislature
44 recognizes, however, that individual on-site wastewater treatment
45 and disposal systems help meet the needs of the state's citizens,
46 especially in rural locations, and can be rendered ecologically
47 safe and protective of the public health if the systems are
48 designed, installed, constructed, maintained and operated
49 properly. It is the intent of the Legislature to allow the
50 continued installation, use and maintenance of individual on-site



51 wastewater disposal systems in a manner that will not jeopardize
52 public health and welfare or the environment.

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

55 41-67-2. For purposes of this chapter, the following words
56 shall have the meanings ascribed herein unless the context clearly
57 indicates otherwise:

58 (a) "Advanced treatment system" means an individual
59 on-site wastewater treatment system that complies with Section
60 41-67-10.

61 (b) "Board" means the Mississippi State Board of
62 Health.

63 (c) "Centralized wastewater treatment system" means a
64 wastewater collection and treatment system that consists of
65 collection sewers and a centralized treatment facility other than
66 an individual on-site wastewater disposal system.

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

69 (e) "Certified manufacturer" means any person
70 registered with the department who holds a written certification
71 issued by the department allowing the manufacturer to sell on-site
72 wastewater products in the state.

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



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

81 (h) "Cluster system" means a wastewater collection and
82 treatment system under some form of common or private ownership
83 and management that provides treatment and dispersal/discharge of
84 wastewater from two (2) or more homes or buildings but less than a
85 subdivision.

86 (i) "Conventional system" means an individual on-site
87 wastewater disposal system consisting of a septic tank and
88 subsurface disposal field.

89 (j) "Department" means the Mississippi State Department
90 of Health.

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

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

97 (m) "Final approval" means an issuance of a document
98 from the department stating that a determination has been made by
99 the department that the individual on-site wastewater disposal
100 system recommended/designed has been installed and fulfills all



101 requirements under this chapter or any variance that has been
102 granted by the department.

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

106 (o) "Individual on-site wastewater disposal system"
107 means a sewage treatment and effluent disposal system that does
108 not discharge into waters of the state, that serves only one (1)
109 legal tract, that accepts only residential waste and similar waste
110 streams maintained on the property of the generator, and that is
111 designed and installed in accordance with this law and regulations
112 of the board.

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

118 (q) "Performance-based system" means an individual
119 on-site wastewater disposal system designed to meet standards
120 established to designate a level of treatment of wastewater that
121 an individual on-site wastewater disposal system must meet,
122 including, but not limited to, biochemical oxygen demand, total
123 suspended solids, nutrient reduction and fecal coliform.

124 (r) "Permit/recommendation" means that a person has
125 filed a notice of intent with the department and the department



126 has made a determination of the suitability of the property for
127 the use of an individual on-site wastewater disposal system.

128 (s) "Person" means any individual, trust, firm,
129 joint-stock company, public or private corporation (including a
130 government corporation), partnership, association, state, or any
131 agency or institution thereof, municipality, commission, political
132 subdivision of a state or any interstate body, and includes any
133 officer or governing or managing body of any municipality,
134 political subdivision, or the United States or any officer or
135 employee thereof.

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

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

142 (v) "Qualified homeowner maintenance provider" means
143 the current owner of a specific residence where that homeowner
144 resides and where the homeowner has met the requirements of the
145 rules and regulations of the department to provide maintenance for
146 his or her system.

147 (w) "Licensed professional engineer" means any person
148 who has met the requirements under Section 73-13-23(1) and who has
149 been issued a certificate of registration as a professional
150 engineer.



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

155 (y) "Subdivision" means any tract or combination of
156 adjacent tracts of land that is subdivided into ten (10) or more
157 tracts, sites or parcels for the purpose of commercial or
158 residential development.

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

161 41-67-3. (1) The board and/or the department shall have the
162 following duties and responsibilities:

163 (a) To exercise general supervision over the design,
164 installation, operation and maintenance of individual on-site
165 wastewater disposal systems, decentralized wastewater treatment
166 systems and cluster systems;

167 (b) To adopt, modify, repeal and promulgate rules and
168 regulations, after due notice and hearing, and where not otherwise
169 prohibited by federal or state law, to make exceptions to, to
170 grant exemptions from and to enforce rules and regulations
171 implementing or effectuating the duties of the board under this
172 chapter to protect the public health. The board may grant
173 variances from rules and regulations adopted under this chapter,
174 including requirements for buffer zones, or from setbacks required
175 under Section 41-67-7 where the granting of a variance shall not



176 subject the public to unreasonable health risks or jeopardize
177 environmental resources;

178 (c) To provide or deny certification for persons
179 engaging in the business for hire of the installation, operation
180 or maintenance of individual on-site wastewater disposal systems
181 and persons engaging in the removal and disposal of the sludge and
182 liquid waste from those systems;

183 (d) To suspend or revoke certifications issued to
184 persons engaging in the business for hire of the installation,
185 operation or maintenance of individual on-site wastewater disposal
186 systems or persons engaging in the removal and disposal of the
187 sludge and liquid waste from those systems, when it is determined
188 the person has violated this chapter or applicable rules and
189 regulations;

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

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

199 (2) To assure the effective and efficient administration of
200 this chapter, the board shall adopt rules governing the design,



201 construction or installation, operation and maintenance of
202 individual on-site wastewater disposal systems, including rules
203 concerning the:

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

206 (b) Certification of installers;

207 (c) Certification of pumpers;

208 (d) Certification of manufacturers;

209 (e) Certification of professional evaluators; and

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

217 (3) In addition, the board shall adopt rules establishing
218 performance standards for individual on-site wastewater disposal
219 systems for single family residential generators and rules
220 concerning the operation and maintenance of individual on-site
221 wastewater disposal systems designed to meet those standards. The
222 performance standards shall be consistent with the federal Clean
223 Water Act, maintaining the wastes on the property of the generator
224 and protection of the public health. Rules for the operation and
225 maintenance of individual on-site wastewater disposal systems



226 designed to meet performance standards shall include rules
227 concerning the following:

228 (a) A standard application form and requirements for
229 supporting documentation;

230 (b) Application review;

231 (c) Approval or denial of authorization for proposed
232 systems;

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

235 (e) Enforcement of the requirements and conditions of
236 authorization; and

237 (f) Inspection, monitoring, sampling and reporting on
238 the performance of the system.

239 Any system proposed for authorization in accordance with
240 performance standards must be designed and certified by a licensed
241 professional engineer in the State of Mississippi and must be
242 authorized by the department before installation.

243 (4) To the extent practicable, all rules and regulations
244 adopted under this chapter shall give maximum flexibility to
245 persons installing individual on-site wastewater disposal systems
246 and all options consistent with the federal Clean Water Act,
247 consistent with maintaining the wastes on the property of the
248 generator and consistent with protection of the public health. In
249 addition, all rules and regulations, to the extent practicable,
250 shall encourage the use of economically feasible systems,



251 including all techniques and technologies for individual on-site
252 wastewater disposal.

253 (5) All regulations shall be applied uniformly in all areas
254 of the state and shall take into consideration and make provision
255 for different types of soil in the state when performing soil and
256 site evaluations.

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

259 41-67-4. (1) The department shall determine the feasibility
260 of establishing centralized wastewater treatment systems upon the
261 submission by the developer of a preliminary design and
262 feasibility study prepared by a licensed professional engineer.
263 The developer may request and obtain a hearing before the board if
264 the developer is dissatisfied with the department's determination
265 of feasibility. The determination that a centralized wastewater
266 treatment system must be established shall be made without regard
267 to whether the establishment of a centralized wastewater treatment
268 system is authorized by law or is subject to approval by one or
269 more state or local government or public bodies. Whenever a
270 developer requests a determination of feasibility, the department
271 must make the determination within thirty (30) days after receipt
272 of the preliminary design and feasibility study from the
273 developer. The department shall state in writing the reasons for
274 its determination. If the department does not make a
275 determination within thirty (30) days, all sites within the



276 subdivision shall be approved, if a certified installer attests or
277 a department environmentalist determines that each site can be
278 adequately served by an individual on-site wastewater disposal
279 system.

280 (2) Where subdivisions are proposed that are composed of
281 fewer than thirty-five (35) building sites, and no centralized
282 wastewater treatment system is available, the department may waive
283 the requirement for a feasibility study. If the feasibility study
284 is waived, all sites within the subdivision shall be approved, if
285 a certified installer attests or a department environmentalist
286 determines that each site can be adequately served by an
287 individual on-site wastewater disposal system.

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

293 (4) "Feasibility study" means a written evaluation and
294 analysis of the potential of a proposed project that is based on
295 investigation and research by a licensed professional engineer to
296 give cost comparison between centralized or decentralized
297 treatment and disposal and individual on-site wastewater disposal
298 systems.

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



301 41-67-5. (1) No owner, lessee or developer shall construct
302 or place any mobile, modular or permanently constructed residence,
303 building or facility, which may require the installation of an
304 individual on-site wastewater disposal system, without having
305 first submitted a notice of intent to the department. Upon
306 receipt of a notice of intent, the department shall provide the
307 owner, lessee or developer with complete information on individual
308 on-site wastewater disposal systems, including, but not limited
309 to, applicable rules and regulations regarding the design,
310 installation, operation and maintenance of individual on-site
311 wastewater disposal systems and known requirements of lending
312 institutions for approval of the systems.

313 (2) No public utility supplying water shall make connection
314 to any dwelling, house, mobile home or residence without the prior
315 written approval of the department certifying that the plan for
316 the sewage treatment and disposal system at the location of the
317 property complies with this chapter. Connections of water
318 utilities may be made during construction if the department has
319 approved a plan for a sewage treatment and disposal system and the
320 owner of the property has agreed to have the system inspected and
321 approved by the department before the use or occupancy of the
322 property.

323 (3) The department shall furnish to the county tax assessor
324 or collector, upon request, the name and address of the person
325 submitting a notice of intent and the section, township and range



326 of the lot or tract of land on which the individual on-site
327 wastewater disposal system will be installed.

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

330 41-67-6. (1) Nothing in this chapter shall preclude a
331 certified professional evaluator or licensed professional engineer
332 from providing services relating to the design of an individual
333 on-site wastewater disposal system to comply with this chapter,
334 except for performance-based systems as specified in Section
335 41-67-3(3). A certified professional evaluator or licensed
336 professional engineer shall notify the department in writing of
337 those services being provided, including the type of treatment,
338 the type of disposal, and the property address for the treatment
339 and disposal system. Construction or installation shall not begin
340 before authorization by the department. The department shall
341 respond within ten (10) business days with authorization that the
342 certified professional evaluator or licensed professional engineer
343 fulfills the requirements of the law.

344 (2) Within five (5) working days following receipt of the
345 notice of intent and plot plan by an owner, lessee or developer of
346 any lot or tract of land, the department shall conduct a soil and
347 site evaluation, except in cases where a certified professional
348 evaluator or licensed professional engineer provides services
349 relating to the design, construction or installation of an
350 individual on-site wastewater disposal system to comply with this



351 chapter. All regulations shall be applied uniformly in all areas
352 of the state and shall take into consideration and make provision
353 for different types of soil in the state when performing soil and
354 site evaluations. Within ten (10) additional working days, the
355 department shall make recommendations to the owner, lessee or
356 developer of the type or types of individual on-site wastewater
357 disposal systems suitable for installation on the lot or tract,
358 unless there are conditions requiring further investigation that
359 are revealed in the initial evaluation. In making recommendations
360 on the type or types of individual on-site wastewater disposal
361 systems suitable for installation on a lot or tract, personnel of
362 the department shall use best professional judgment based on rules
363 and regulations adopted by the board, considering the type or
364 types of systems which are installed and functioning on lots or
365 tracts near the subject lot or tract. To the extent practicable,
366 the recommendations shall give the owner, lessee or developer
367 maximum flexibility and all options consistent with the federal
368 Clean Water Act, consistent with maintaining the wastes on the
369 property of the generator and consistent with protection of the
370 public health. The system or systems recommended shall be
371 environmentally sound and cost-effective. The department, a
372 licensed professional engineer or a certified professional
373 evaluator shall provide complete information, including all
374 applicable requirements and regulations on all systems
375 recommended. The owner, lessee or developer shall have the right



376 to choose among systems. The department shall provide the owner,
377 lessee or developer with a permit/recommendation that specifies
378 all types of individual on-site wastewater disposal systems that
379 are suitable for installation on the lot or tract.

380 (3) Within thirty (30) days of receipt of a request for
381 determination of suitability of individual on-site wastewater
382 disposal systems in a subdivision, the department shall advise the
383 developer in writing either that all necessary information needed
384 for determination of suitability has been received or state the
385 additional information needed by the department for determination
386 of suitability.

387 (4) Whenever a developer requests a determination of
388 suitability of individual on-site wastewater disposal systems in a
389 subdivision, the department must make the determination within
390 thirty (30) days after receipt of all necessary information needed
391 for the determination of suitability from the developer. The
392 department shall state in writing the reasons for its
393 determination.

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

399 (b) A certified installer, or designated agent thereof,
400 shall not cover his work with soil or other surface material



401 unless the installer has received authorization to cover the
402 system after an inspection by a department environmentalist, or
403 unless a department environmentalist does not arrive for
404 inspection within thirty (30) minutes of the designated and agreed
405 upon time, in which case a certified installer, or designated
406 agent thereof, may submit an affidavit of proper installation to
407 the department for final approval.

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

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

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

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

420 (c) The person who installed the individual on-site
421 wastewater disposal system provides the department with a signed
422 affidavit attesting that the requirements of paragraphs (a) and
423 (b) are met.

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



426 41-67-7. (1) Approval of the design, construction or
427 installation of an individual on-site wastewater disposal system
428 by the department is required, except as otherwise provided in
429 Section 41-67-6(7). Upon completion of installation of the
430 system, the department shall approve the design, construction or
431 installation of that system, as requested, if the system is
432 designed, constructed and installed, as the case may be, in
433 accordance with the rules and regulations of the board. Whenever
434 a person requests approval of an individual on-site wastewater
435 disposal system and has met the requirements in subsection (3) of
436 this section, the department must approve or disapprove the
437 request within five (5) working days. If the department
438 disapproves the request, the department shall state in writing the
439 reasons for the disapproval. If the department does not respond
440 to the request within ten (10) calendar days, the request for
441 approval of the individual on-site wastewater disposal system
442 shall be deemed approved.

443 (2) Individual on-site wastewater disposal systems shall be
444 considered acceptable, provided the following requirements are
445 met:

446 (a) Centralized wastewater treatment systems are not
447 available or feasible;

448 (b) The existing disposal systems in the area are
449 functioning satisfactorily;



450 (c) Soil types, soil texture, seasonal water tables and
451 other limiting factors are satisfactory for underground
452 absorption;

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

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

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

464 (a) A signed affidavit from the installer that the
465 system was installed in compliance with all requirements,
466 regulations and permit conditions applicable to the system
467 installed; and

468 (b) For any advanced treatment system, an affidavit
469 from the property owner agreeing to a continuing maintenance
470 agreement on the installed system at the end of the required
471 manufacturer's maintenance agreement.

472 (4) If any person or certified installer fails to obtain
473 final approval or submit an affidavit of proper installation to
474 the department in the installation of the system, the board, after



475 due notice and hearing, may levy an administrative fine not to
476 exceed Ten Thousand Dollars (\$10,000.00). Each wastewater system
477 installed not in compliance with this chapter or applicable rules
478 and regulations of the board may be considered a separate offense.

479 (5) The property owner, if not a qualified homeowner
480 maintenance provider, shall keep a continuing maintenance
481 agreement with a certified installer on all advanced treatment
482 systems in perpetuity. Any person violating this subsection shall
483 be subject to the penalties and damages as provided in Section
484 41-67-28(5).

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

487 41-67-9. (1) All existing individual on-site wastewater
488 disposal systems on July 1, 2014, shall be grandfathered in until
489 a valid complaint is registered with a county department of health
490 or until a property owner requests an inspection by the
491 department.

492 (2) All existing individual on-site wastewater disposal
493 systems shall be considered acceptable provided the following
494 requirements are met:

495 (a) The existing individual on-site wastewater disposal
496 system and all treated effluent is contained on the property of
497 the generator;



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

501 (c) Centralized wastewater treatment systems are not
502 available;

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

508 (e) If an advanced treatment system is used, the
509 property owner shall be required to contact an authorized
510 representative of a certified manufacturer of the specific
511 advanced treatment system to provide a continuous maintenance
512 agreement or provide the property owner training to become a
513 qualified homeowner maintenance provider.

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

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

520 41-67-10. (1) Advanced treatment systems may be installed
521 only if they have been tested and are listed by an American
522 National Standards Institute (ANSI) third-party certifying program



523 at the time of installation. Advanced treatment systems shall be
524 in compliance with standards for a Class I system as defined by
525 the most current revision of American National Standards
526 Institute/National Sanitation Foundation (ANSI/NSF) International
527 Standard Number 40, which are incorporated by reference. An
528 approved ANSI third-party certifying program shall comply with the
529 following provisions for systems which it has certified to be
530 installed in Mississippi:

531 (a) Be accredited by the American National Standards
532 Institute;

533 (b) Have established procedures which send
534 representatives to distributors in Mississippi on a recurring
535 basis to conduct evaluations to assure that distributors of
536 certified advanced treatment systems are providing proper
537 maintenance, have sufficient replacement parts available and are
538 maintaining service records;

539 (c) Notify the department of the results of monitoring
540 visits to manufacturers and distributors within sixty (60) days of
541 the conclusion of the monitoring; and

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

544 (2) All manufacturers of advanced treatment systems
545 certified in Mississippi shall provide technical training staff to
546 the department as needed.



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

549 41-67-11. (1) Individual on-site wastewater disposal
550 systems may be approved in an area where individual on-site
551 wastewater disposal systems otherwise would not be approved
552 because of the availability or feasibility of connection to a
553 centralized wastewater treatment system only after a contract has
554 been awarded or other definite commitments as are deemed
555 sufficient to the department are formalized for the construction
556 of a centralized wastewater treatment system that upon completion
557 will adequately serve the property. Individual on-site wastewater
558 disposal systems shall only be approved when the centralized
559 wastewater treatment system will be completed and available for
560 use within thirty-six (36) months. The department may approve the
561 installation of a system under these circumstances only if the
562 system will comply with the requirements of Section 41-67-5(1) and
563 comply with all construction requirements of the department. The
564 system may be installed only after the developer has signed a
565 written agreement with the centralized wastewater treatment
566 provider stating that the developer will connect to the
567 centralized wastewater treatment system when it becomes available,
568 and the provider of the centralized wastewater treatment system
569 being constructed certifies that the centralized wastewater
570 treatment system will have adequate capacity to accept the sewage
571 to be produced by the individual on-site wastewater disposal



572 systems. The developer shall install an internal sewage
573 collection system from each lot to the connection point to the
574 centralized wastewater treatment system as he develops the streets
575 of the subdivision. Upon completion of the construction of the
576 centralized wastewater treatment system, all individual on-site
577 wastewater disposal systems shall be abandoned and all residences,
578 buildings or facilities connected to the centralized wastewater
579 treatment system.

580 (2) The department may approve the use of a sewage holding
581 tank for the purpose of providing sewage services. The department
582 shall require the proper abandonment and removal of the sewage
583 holding tank and connection to a centralized wastewater treatment
584 system when that system is available, or the usage is no longer
585 needed.

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

588 41-67-12. (1) The department shall assess fees in the
589 following amounts for the following purposes:

590 (a) A fee of One Hundred Dollars (\$100.00) shall be
591 levied for soil and site evaluation and recommendation of
592 individual on-site wastewater disposal systems. The department
593 may increase the amount of the fee authorized in this paragraph
594 (a) not more than two (2) times during the period from July 1,
595 2016, through June 30, 2020, with the percentage of each increase



596 being not more than five percent (5%) of the amount of the fee in
597 effect at the time of the increase.

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

601 (c) A fee of * * * Three Hundred Dollars (\$300.00)
602 shall be levied * * * once every three (3) years for the
603 registration of manufacturers.

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

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

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

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

618 41-67-15. Nothing in this chapter shall limit the authority
619 of a municipality or board of supervisors to adopt similar
620 ordinances which may be, in whole or in part, more restrictive



621 than this chapter, and in those cases the more restrictive
622 ordinances will govern. The department shall not approve any
623 system that does not comply with an ordinance adopted by a
624 municipality or board of supervisors under the authority of this
625 section.

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

628 41-67-19. Each authorized agent of the department
629 implementing this chapter shall demonstrate to the department's
630 satisfaction that the person:

631 (a) Is competent to review and provide any requested
632 approval of design and installation of individual on-site
633 wastewater disposal systems, as well as the operation, repair or
634 maintenance of those systems, to make soil permeability tests or
635 soil and site evaluations, and to conduct inspections of
636 individual on-site wastewater disposal systems in accordance with
637 this chapter and rules and regulations adopted under this chapter;
638 and

639 (b) Has successfully completed the department's
640 certification training program.

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

643 41-67-21. (1) The department shall require a property owner
644 and/or lessee to repair a malfunctioning individual on-site
645 wastewater disposal system on the owner's or lessee's property



646 before the thirtieth day after the date on which the owner or
647 lessee is notified by the department of the malfunctioning system.

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

651 (3) If an existing residential individual on-site wastewater
652 disposal system is malfunctioning, the system shall be repaired to
653 reduce the volume of effluent, to adequately treat the effluent
654 and to the greatest extent possible, to confine the discharge to
655 the property of the generator. If repairs are made to
656 significantly upgrade the existing individual on-site wastewater
657 disposal system, the department shall approve the system, if
658 requested.

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

664 (5) The board may assess the property owner or lessee of an
665 individual on-site wastewater disposal system authorized under
666 Section 41-67-3(3) a civil penalty not to exceed Five Dollars
667 (\$5.00) for each day the system fails to meet the performance
668 standards of that system after the thirty-day period specified in
669 subsection (1) of this section.



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

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

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

676 41-67-23. The department or its authorized representative
677 may enter onto property and make inspections of any individual
678 on-site wastewater disposal system as necessary to ensure that the
679 system is in compliance with this chapter and the rules and
680 regulations adopted under this chapter. The department shall give
681 reasonable notice to any property owner, lessee or occupant prior
682 to entry onto the property. The owner, lessee, owner's
683 representative, or occupant of the property on which the system is
684 located shall give the department or its authorized representative
685 reasonable access to the property at reasonable times to make
686 necessary inspections.

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

689 41-67-25. (1) A person may not operate as an installer of
690 individual on-site wastewater disposal systems unless that person
691 is currently certified by the department. A person who installs
692 an individual on-site wastewater disposal system on his own
693 property for his primary residence is not considered an installer
694 for purposes of this subsection.



695 (2) An installer of advanced treatment systems or products
696 must be a factory-trained and authorized representative. The
697 manufacturer must furnish documentation to the department
698 certifying the satisfactory completion of factory training and the
699 establishment of the installer as an authorized manufacturer's
700 representative.

701 (3) The department shall issue a certification to an
702 installer if the installer:

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

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

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

712 (d) Provides proof of having a valid general business
713 liability insurance policy in effect with liability limits of at
714 least Fifty Thousand Dollars (\$50,000.00) per occurrence and at
715 least One Hundred Thousand Dollars (\$100,000.00) in total
716 aggregate amount.

717 (4) Each installer shall furnish proof of certification to a
718 property owner, lessee, the owner's representative or occupant of
719 the property on which an individual on-site wastewater disposal



720 system is to be designed, constructed, repaired or installed by
721 that installer and to the department or its authorized
722 representative, if requested.

723 (5) The department shall provide for * * * renewal of
724 certifications once every three (3) years.

725 (6) (a) An installer's certification may be suspended or
726 revoked by the department after notice and hearing if the
727 installer violates this chapter or any rule or regulation adopted
728 under this chapter.

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

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

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

737 (9) The department shall provide for * * * renewal of
738 installer certifications to be applied for at the local department
739 offices.

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

742 41-67-27. A person may not operate a business in or do
743 business in the State of Mississippi as a manufacturer of
744 components used in an individual on-site wastewater disposal



745 system without holding a valid manufacturer's registration issued
746 by the department. If any person is operating in the state as a
747 manufacturer without certification by the department, the
748 department, after due notice and opportunity for a hearing, may
749 impose a monetary penalty not to exceed Ten Thousand Dollars
750 (\$10,000.00) for each violation.

751 **SECTION 18.** Section 41-67-29, Mississippi Code of 1972, is
752 reenacted as follows:

753 41-67-29. Any person who is aggrieved by any final decision
754 of the board may appeal that final decision to the chancery court
755 of the county of the situs in whole or in part of the subject
756 matter. The appellant shall give a cost bond with sufficient
757 sureties, payable to the state in a sum to be fixed by the board
758 or the court and to be filed with and approved by the clerk of the
759 court. The aggrieved party may, within thirty (30) days following
760 a final decision of the board, petition the chancery court for an
761 appeal with supersedeas and the chancellor shall grant a hearing
762 on the petition. Upon good cause shown the chancellor may grant
763 the appeal with supersedeas. The appellant shall be required to
764 post a bond with sufficient sureties according to law in an amount
765 to be determined by the chancellor. The chancery court shall
766 always be deemed open for hearing of appeals and the chancellor
767 may hear the appeal in termtime or in vacation at any place in his
768 district. The appeal shall have precedence over all civil cases,
769 except election contests. The chancery court shall review all



770 questions of law and of fact and may enter a final order or remand
771 the matter to the board for appropriate action as may be indicated
772 or necessary under the circumstances. Appeals may be taken from
773 the chancery court to the Supreme Court in the manner as now
774 required by law, but if a supersedeas is desired by the party
775 appealing to the chancery court, that party may apply therefor to
776 the chancellor, who shall award a writ of supersedeas, without
777 additional bond, if in the chancellor's judgment material damage
778 is not likely to result. If material damage is likely to result,
779 the chancellor shall require a supersedeas bond as deemed proper,
780 which shall be liable to the state for any damage.

781 **SECTION 19.** Section 41-67-31, Mississippi Code of 1972, is
782 amended as follows:

783 41-67-31. Sections 41-67-1 through 41-67-29 and Sections
784 41-67-33 through 41-67-41 shall stand repealed on July 1, * * *
785 2023.

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

788 41-67-33. (1) The department shall adopt and use procedures
789 for conducting reviews requested by any person aggrieved by the
790 disapproval or requirements for an on-site wastewater disposal
791 system as provided by the department in written form under Section
792 41-67-6. The procedures shall include that the person may request
793 review by submitting a written request of review to the Director
794 of the Office of Environmental Health. The request for review



795 shall identify the matter contested and state the person's name,
796 mailing address and home and daytime phone numbers. Within ten
797 (10) business days of the receipt of the request for review, the
798 department shall issue in writing a ruling and determination to
799 the person and if any corrections are necessary to any form
800 previously issued by the department, then new forms shall be
801 submitted to the person.

802 (2) Property owners may apply for a variance from the
803 department by submitting a report for a proposed system to the
804 department from a licensed professional engineer that the proposed
805 wastewater treatment system will properly treat and maintain
806 wastewater on the property and proof that the licensed
807 professional engineer has errors and omissions insurance. The
808 department shall grant the variance but still have authority for
809 final approval to inspect that the system is installed as
810 designed. All forms from the department relating to allowed
811 wastewater systems shall include the variance option.

812 (3) Any person aggrieved by the ruling issued by the
813 Director of the Office of Environmental Health may apply for a
814 hearing. Any hearing shall be conducted by a hearing officer
815 designated by the department. At the hearing, the hearing officer
816 may conduct reasonable questioning of persons who make relevant
817 factual allegations concerning the proposal. The hearing officer
818 shall require that all persons be sworn before they may offer any
819 testimony at the hearing, and the hearing officer is authorized to



820 administer oaths. Any person so choosing may be represented by
821 counsel at the hearing. A record of the hearing shall be made,
822 which shall consist of a transcript of all testimony received, all
823 documents and other material introduced, the staff report and
824 recommendation, and any other material as the hearing officer
825 considers relevant. He shall make a recommendation within a
826 reasonable period of time after the hearing is closed and after he
827 has had an opportunity to review, study and analyze the evidence
828 presented during the hearing. The completed record shall be
829 certified to the State Health Officer, who shall consider only the
830 record in making his decision, and shall not consider any evidence
831 or material that is not included. All final decisions regarding
832 the disapproval or requirements for an on-site wastewater disposal
833 system shall be made by the State Health Officer. The State
834 Health Officer shall make his written findings and issue his order
835 after reviewing the record, not to exceed thirty (30) days
836 following his receipt of the record.

837 **SECTION 21.** Section 41-67-37, Mississippi Code of 1972, is
838 reenacted and amended as follows:

839 41-67-37. (1) A person may not operate as a certified
840 professional evaluator in this state unless that person is
841 currently certified by the department or is a licensed
842 professional engineer.

843 (2) A person must meet one (1) of the following
844 requirements, in addition to the additional requirements set forth



845 in other sections of this chapter and rules and regulations of the
846 board, in order to be eligible to become a certified professional
847 evaluator:

848 (a) Be a professional geologist registered in the State
849 of Mississippi;

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

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

855 (3) The department shall issue a certification to a
856 certified professional evaluator if the certified professional
857 evaluator:

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

860 (b) Satisfactorily completes the certified professional
861 evaluator training program provided by the department;

862 (c) Pays the * * * certification fee once every three
863 (3) years; any increase in the fee charged by the department under
864 this paragraph shall be in accordance with the provisions of
865 Section 41-3-65; and

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



870 (4) Each certified professional evaluator shall furnish
871 proof of certification to a property owner or the owner's
872 representative of the property before performing a site evaluation
873 of the property on which an individual on-site wastewater disposal
874 system is to be designed, constructed, repaired or installed by
875 the certified professional evaluator and to the department or its
876 authorized representative, if requested.

877 (5) The department shall provide for * * * renewal of
878 certifications once every three (3) years.

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

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

887 **SECTION 22.** Section 41-67-39, Mississippi Code of 1972, is
888 reenacted and amended as follows:

889 41-67-39. (1) A person may not be engaged in the business
890 of removing and disposing of the sludge and liquid waste (septage)
891 from individual on-site wastewater disposal systems in this state
892 unless that person has a valid certificate issued by the
893 department.



894 (2) The department shall issue a certificate to a pumper if
895 the pumper:

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

898 (b) Satisfactorily completes the certified pumper
899 training program provided by the department;

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

902 (d) Provides documentation of a disposal site approved
903 by the Department of Environmental Quality, Office of Pollution
904 Control;

905 (e) Pays the * * * license fee once every three (3)
906 years; any increase in the fee charged by the department under
907 this paragraph shall be in accordance with the provisions of
908 Section 41-3-65; and

909 (f) Provides proof of having a valid general business
910 liability insurance policy in effect with liability limits of at
911 least Fifty Thousand Dollars (\$50,000.00) per occurrence and at
912 least One Hundred Thousand Dollars (\$100,000.00) in total
913 aggregate amount.

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



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

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

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

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

932 (8) The department shall provide for * * * renewal of
933 certifications once every three (3) years.

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

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

938 41-67-41. (1) There is created the Wastewater Advisory
939 Council for the purpose of advising the department regarding
940 individual on-site wastewater disposal systems. The advisory
941 council shall be composed of the following:

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



943 (b) One (1) appointee of the Chairman of the State
944 Board of Health;

945 (c) One (1) appointee of the Chairman of the State
946 Board of Health that represents a Mississippi Aerobic Treatment
947 Unit (ATU) manufacturer;

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

950 (e) One (1) appointee of the Chairman of the State
951 Board of Health that represents a septic tank or aggregate
952 disposal manufacturer;

953 (f) One (1) appointee of the Executive Director of the
954 Mississippi Department of Environmental Quality;

955 (g) One (1) appointee of the Executive Director of the
956 Office of Pollution Control;

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

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

961 (j) One (1) appointee of the Chairman of the Department
962 of the Mississippi State University School of Civil and
963 Environmental Engineering Companies;

964 (k) The federally appointed Mississippi State Soil
965 Scientist, or his designee;

966 (l) One (1) appointee of the Executive Director of the
967 American Council of Engineering Companies;



968 (m) One (1) appointee of the Executive Director of the
969 Home Builders Association of Mississippi;

970 (n) One (1) appointee of the Executive Director of the
971 Mississippi Engineering Society;

972 (o) One (1) appointee of the Executive Director of the
973 Mississippi Manufactured Housing Association;

974 (p) One (1) appointee of the Executive Director of the
975 Mississippi Rural Water Association;

976 (q) One (1) appointee of the Executive Director of the
977 Mississippi Association of Supervisors;

978 (r) One (1) appointee of the President of the
979 Mississippi Pumpers Association;

980 (s) One (1) appointee of the President of the
981 Mississippi Water and Pollution Control Operators Association,
982 Inc.;

983 (t) One (1) appointee of the Executive Director of the
984 Mississippi Association of Realtors; and

985 (u) One (1) appointee of the Executive Director of the
986 Mississippi Municipal League.

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

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



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

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

996 **SECTION 24.** This act shall take effect and be in force from
997 and after July 1, 2018.

