

# Title 15 - Mississippi Department of Health

## Part III – Office of Health Protection

### Subpart 77 – Onsite Wastewater

#### CHAPTER 01 REGULATIONS GOVERNING INDIVIDUAL ONSITE WASTEWATER DISPOSAL: ADMINISTRATIVE

##### 100 Listing of Design Standards

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## 102 PURPOSE

The purpose of this regulation is to establish standards regarding the, design, construction, installation and approval of individual wastewater disposal systems to the extent necessary for the protection of public health. This section of the regulations deals specifically with administrative issues, protocols, and responsibilities of concerned parties. ~~where requested, to require minimum sanitary facilities, and to establish requirements for persons engaged in the installation of onsite wastewater disposal systems, septic tank pumping and disposal, and the manufacture of septic tanks and alternative individual wastewater disposal systems to the extent necessary for the protection of public health.~~

## 103 AUTHORITY

The State Board of Health is authorized to promulgate these rules under and by virtue of **Section 41-3-15 (4) (a) (b) (f) (h) (k) (l), 41-3-17 and Section 41-67-1 through 41-67-29 41-67-39, Mississippi Code of 1972, Annotated.**

## 104 DEFINITIONS

- 104.01 ~~Aerobic Treatment Unit (ATU)—a class I mechanical treatment plant as defined by the most current revision of the American National Standards Institute/National Sanitation Foundation International Standard Number 40.~~
- 104.02 ~~Aggregate Replacement System—any subsurface disposal system that utilizes technology, design or media other than aggregate.~~
- 104.03 ~~Aggregate System—any subsurface disposal system that utilizes gravel/crushed stone, tire chips, or other approved aggregate media.~~
- 104.04 ~~Authorized agent—a representative of the Mississippi Department of Health.~~
- 104.05 ~~Authorized manufacturer's representative—an installer, of mechanical wastewater treatment and/or disposal systems, who has been certified as factory-trained by the company he/she represents.~~
- 104.06 ~~Available space—sufficient area in which to properly install the required individual onsite wastewater disposal system including the working area necessary to prevent excessive and unnecessary equipment traffic over the system and space allowance for future extensions.~~
- 104.07 Administrative Fine – a fine imposed by the Department for violations of statutes, regulations and orders of the Department.**
- 104.08 Advanced Treatment System – an Individual On-Site Wastewater treatment system that complies with Section 41-67-10. MS Code of 1972, Annotated 41-67-2(a)**

- 104.09** Affidavit (Installation) – a sworn statement in writing by a Certified Installer, Certified Professional Evaluator or Certified Engineer Evaluator to the State of Mississippi attesting that an Individual On-Site Wastewater Disposal System is installed, constructed, repaired or replaced and is in compliance with statutes, requirements, regulations and permit conditions.
- 104.10** Affidavit (Maintenance) – a sworn statement in writing by a property owner to the State of Mississippi agreeing to a continuing maintenance agreement on the installed alternative system at the end of the required manufacturer's maintenance agreement.
- 104.11** Alternative Systems – any on-site sewage treatment and disposal system used in lieu of a conventional system. **MS Code of 1972, Annotated 41-67-2(b)**
- 104.12** Applicant – an owner, lessee, or developer.
- ~~104.13 Board – the Mississippi State Board of Health.~~
- 104.14** Board – the Mississippi State Board of Health. **MS Code of 1972, Annotated 41-67-2(c)**
- 104.15** Board of Supervisors – officials from the districts of each county elected to a four (4) year term that can implement ordinances within the county elected.
- 104.16** Biochemical Oxygen Demand (BOD<sub>5</sub>) – the concentration of oxygen (expressed as mg/l) utilized by microorganisms in the oxidation of organic matter during a 5 day period at a temperature of 20 °C (68 °F)
- ~~104.17 Certified Installer (Licensed Installer) – an installer, who has completed the required certification course, received a minimum score of 70% on the examination, submitted all applications, the \$50.00 fee, and has been approved for licensure by the Health Authority.~~
- ~~104.18 Component Parts – all physical, mechanical, and electrical components of any wastewater disposal system~~
- ~~104.19 Continuous occupancy – occupancy of the dwelling on an unbroken daily basis.~~
- ~~104.20 Construct – the process of installation or repair of an individual onsite wastewater disposal system.~~
- ~~104.21 Containment System – an individual onsite wastewater disposal system that produces effluent meeting the Environmental Protection Agency's requirements for secondary treatment, where such effluent is confined on the property of the generator or land under easement in perpetuity to the generator using spray irrigation or overland discharge.~~

- 104.22 ~~Conventional Subsurface Disposal System—any gravity fed subsurface disposal field including aggregate and aggregate replacement systems ranging from 36 to 6 inches in depth.~~
1. ~~Standard Subsurface Disposal—25 in. to 36 in.~~
  2. ~~Shallow Subsurface Disposal—13 in. to 24 in.~~
  3. ~~Ultra-shallow Subsurface Disposal—6 in. to 12 in.~~
- 104.23 Carbonaceous 5 day Biochemical Oxygen Demand (CBOD<sub>5</sub>) – the concentration of oxygen (expressed as mg/l) utilized by microorganisms in the non-nitrogenous oxidation of organic matter during a 5 day period at a temperature of 20 °C (68 °F).
- 104.24 Centralized sewerage system – pipelines or conduits, pumping stations, force mains, and all other construction, devices and appliances appurtenant thereto, used for the collection and conveyance of sewage to a treatment works or point of ultimate disposal other than an Individual On-site Wastewater Disposal System. MS Code of 1972, Section 41-67-2(d)
- 104.25 Certification Advisory Board – an organization established to advise the Department regarding certification standards for Certified Manufacturers, Certified Professional Evaluators, Certified Installers, Certified Maintenance Providers, Certified Pumpers and Qualified Homeowner Maintenance Providers.
- 104.26 Construction – the act of installing, repairing or replacing of an Individual On-Site Wastewater Disposal System.
- 104.27 Continuing Education Unit (CEU) – an educational course provided through the Department or other entities approved by the Department for the purpose of meeting continuing education and/or Professional Development Hours (PDH) required for the Certified Professional Evaluator/Environmentalist, Certified Installer, Certified Maintenance Provider, Qualified Homeowner Maintenance Provider, and Certified Pumper.
- 104.28 ~~Decentralized Wastewater Management Entity: a certificated utility that undertakes the centralized management and monitoring of an individual on-site wastewater disposal system or systems or clustered wastewater systems that service more than one (1) generator or individual family housing unit, including, but not limited to, planning, construction, operation and maintenance programs concerning those systems to be managed.~~
- 104.29 ~~Decentralized Wastewater Management: a system of management of decentralized treatment systems (commonly referred to as individual sewage systems, onsite sewage disposal systems or package plants) including onsite and clustered systems used to collect, treat, and disperse or reclaim wastewater from individual dwellings, businesses, or small communities and service areas.~~

- 104.30 ~~Decentralized Wastewater Treatment Systems: onsite or clustered wastewater systems that are used to treat and dispose of relatively small volumes of wastewater, generally from dwellings and businesses that are not connected to a centralized sewer system.~~
- 104.31 Department - the Mississippi State Department of Health.
- 104.32 Department of Environmental Quality - the Mississippi Department of Environmental Quality, Office of Pollution Control.
- 104.33 Design Based System - an individual onsite wastewater disposal system designed and installed in accordance with design standards outlined in this regulation.
- 104.34** Developer – a person who develops real estate for residential or commercial use.
- 104.35** Discharge – to pour forth, emit or release treated effluent on the surface of the property of the generator.
- 104.36** Division – the Mississippi State Department of Health, Division of On-Site Wastewater.
- 104.37** Effluent – sewage, water, or other liquid, partially or completely treated or in its natural state, flowing out of a septic tank, subsurface wastewater infiltration system, aerobic treatment unit, other treatment system or system component.
- 104.38 ~~Elevated Sand Mound – a soil absorption system that is elevated above the natural soil surface in a suitable fill material.~~
- 104.39 ~~Feasibility Study – a preliminary design study prepared by a registered professional engineer to determine the feasibility of installing a public or community sewerage system. a report composed by a professional engineer comparing the most cost effective central sewage collection system to the appropriate individual onsite wastewater disposal system as regulated by the Mississippi Department of Health.~~
- 104.40 ~~Fragipan – a loamy subsurface horizon with high bulk density relative to horizons above it, and is seemingly cemented when dry with hard or very hard consistency. When moist, fragipans have moderate or weak brittleness, and dry fragments slake or fracture when placed in water. Fragipans are usually mottled and slowly or very slowly permeable to water~~
- 104.41 ~~Frequent Flooding – flooding is likely to occur often under usual weather conditions (more than a 50 percent chance of flooding in a year, or more than 50 times in 100 years).~~
- 104.42** Federal Clean Water Act – federal legislation amended in 1972 to regulate discharges of pollutants into the waters of the United States. It gave the *United*

States Environmental Protection Agency (EPA) the authority to implement pollution control programs such as setting wastewater standards for industry. The Clean Water Act also continued requirements to set water quality standards for all contaminants in surface waters. The Act made it unlawful for any person to discharge any pollutant from a point source into navigable waters, unless a permit was obtained under its provisions.

- 104.43** Final Approval – a document issued to the Applicant indicating the Individual On-site Wastewater Disposal System has been completed by the installer in accordance with this regulation, county ordinance or lending institution requirements.
- 104.44** Functioning – an Individual On-site Wastewater Disposal System that has no hydraulically overloaded soil conditions, seepage or discharge to the surface of the property of the generator.
- 104.45** Failure – breakage, weakness, or defect that causes a malfunction in the treatment, distribution, disposal, or dispersal of effluent into the soil absorption field, or that causes a wash-out or disruption of the effluent disposal field as evidenced by:
1. Surfacing or ponding of effluent at, over or around any component.
  2. Backing up of sewage within the residence or establishment.
  3. Contamination of ground or surface waters.
- 104.46** Generator – any person whose act or process produces sewage or other material suitable for disposal in an Individual On-Site Wastewater Disposal System. **MS Code of 1972, Annotated 41-67-2(i)**
- 104.47** ~~Health Authority – an authorized representative of the Mississippi State Department of Health.~~
- 104.48** Individual On-site Wastewater Disposal System (Existing) – a sewage treatment and effluent disposal system that does not discharge into waters of the state, that serves only 1 legal tract, that accepts only residential waste and similar waste streams maintained on the property of the generator, and that is designed and installed in accordance with law and regulations of the Board and has been occupied for a specific period of time deemed necessary for determining if properly functioning by the Department.
- 104.49** Individual On-site Wastewater Disposal System (New) – a sewage treatment and effluent disposal system that does not discharge into waters of the state, that serves only 1 legal tract, that accepts only residential waste and similar waste streams maintained on the property of the generator, and that is designed and installed in accordance with this law and regulations of the Board. **MS Code of 1972, Annotated 41-67-2(i)**

- 104.50** Individual On-site Wastewater Disposal System (Repair) – a sewage treatment and effluent disposal system that can be made approvable or compliant with Section 41-67-9 (2) by replacing some portion of the sewage treatment and effluent disposal system.
- 104.51** Individual On-site Wastewater Disposal System (Temporary) – an option for wastewater disposal as outlined in Section 41-67-11 of **MS Code of 1972, Annotated**.
- 104.52 ~~Impervious~~ – resistant to penetration by air, water, and roots.
- 104.53 ~~Individual Onsite Wastewater Disposal System (IOWDS)~~ – an acceptable individual method of wastewater disposal designed and installed in accordance with Mississippi State Board of Health regulations. – a sewage treatment and effluent disposal system that does not discharge into waters of the state, that serves only one (1) legal tract, that accepts only human sanitary waste and similar waste streams maintained on the property of the generator, and that is designed and installed in accordance with this law and regulations of the board.
- 104.54 ~~Lagoon~~ – a shallow pond designed specifically to treat sewage by natural water purification processes under the influence of air and sunlight.
- 104.55 ~~License~~ – an official document, valid statewide, issued annually to wastewater disposal system installers and pumpers by the Health Authority.
- 104.56** Malfunctioning – any On-Site Wastewater Disposal System or component part that fails to operate as intended or not in compliance with regulation or state laws.
- 104.57 ~~Manufacturer~~ – a person, firm, company, corporation, or association that produces products for the treatment and/or disposal of sewage. This includes, but is not limited to, aerobic treatment systems, septic tanks, subsurface drip irrigation systems and/or any other alternative individual wastewater disposal systems, including systems under experimental protocol.
- 104.58** Maximum Flexibility – the latitude in judgment to be used by authorized agents of the Department to recommend all applicable wastewater disposal systems in compliance with statutes, regulations and rules of the State of Mississippi.
- 104.59 ~~Non-waterborne Disposal System~~ – any non-water carried system that treats and/or disposes of human excreta.
- 104.60** Notice of Intent – required information from an Applicant, which is used by the Department to design an Individual On-site Wastewater Disposal System.
- 104.61** Performance-based System – an Individual On-site Wastewater Disposal System designed to meet standards established to designate a level of treatment of wastewater that an IOWDS must meet, including, but not limited to Biochemical

Oxygen Demand (BOD), Total Suspended Solids (TSS), nutrient reduction and fecal coliform. MS Code of 1972, Annotated 41-67-2(l)

- 104.62 ~~Performance Standards—standards established to designate a level of treatment of wastewater that onsite wastewater treatment facilities must meet, including but not limited to BOD, TSS, nutrient reduction, fecal coliform etc. . . .~~
- 104.63 ~~Permeability, soil—transmission of air and water through the soil.~~
- 104.64 ~~Person—any individual, firm, company, corporation, or association or other business form. any individual, trust, firm, joint stock company, public or private corporation (including a government corporation), partnership, association, state, or any agency or institution thereof, municipality, commission, political subdivision of a state or any interstate body, and includes any officer or governing or managing body of any municipality, political subdivision, or the United States or any officer or employee thereof.~~
- 104.65** Permanent Water Service Connection – a water service connection made to an Applicant’s property once the Department has approved the Individual On-Site Wastewater Disposal System.
- 104.66** Permit/Recommendation – documentation given to a Applicant listing all viable options for Individual On-site Wastewater Disposal for the Applicant’s lot, tract or parcel.
- 104.67** Person – any individual, trust, firm, joint-stock company, public or private corporation (including a government corporation), partnership, association, state, or any agency or institution thereof, municipality, commission, political subdivision of a state or any interstate body, and includes any officer or governing or managing body of any municipality, political subdivision, or the United States or any officer or employee thereof.
- 104.68** Plat – a descriptive drawing, including a legal description of the property, indicating the property dimensions, house location, plumbing stub-out(s), driveways and other pertinent information.
- 104.69 ~~Plot Plan—a descriptive drawing, including a legal description of the property, indicating the property dimensions, house location, plumbing stub-outs, driveways and other pertinent information for the proper determination of an adequate individual onsite wastewater disposal system.~~
- 104.70** Portable Toilet (Self-Contained) – a single or multi-unit toilet and holding tank combination system that is required to be collected, removed, transported and disposed by a Certified Pumper.
- 104.71** Private Water Supply – a deep hole or shaft sunk into the earth to obtain potable water for an individual lot, tract or parcel.

- 104.72** Property of the Generator – land owned by or under permanent legal easement or lease to the generator in perpetuity to the generator, duly recorded in the courthouse. MS Code of 1972, Annotated 41-67-2(n)
- 104.73** Public Water Supply – a system that provides water via piping or other constructed conveyances for human consumption to at least 15 service connections or serves an average of at least 25 people for at least 60 days each year. There are 3 types: Community (towns), Non-transient non-community (schools or factories), or Transient non-community systems (rest stops or parks).
- 104.74** ~~Professional Engineer – a person that has met the qualifications as required under Section 73-13-23(1), Ms Code of 1972, Annotated and who has been issued a certificate of registration as a professional engineer.~~
- 104.75** ~~Property of the Generator – land owned by or under easement in perpetuity to the generator, duly recorded in the courthouse.~~
- 104.76** ~~Public Liability Insurance – Pursuant to Section 41-67-25(3)(d) of the MS Code of 1972, Annotated, public liability insurance shall be defined as insurance coverage, which provides protection to customers from improper or defective individual on-site wastewater systems or improper installation.~~
- 104.77** ~~Pumper – a person engaged in the business or practice of removing and disposing of the sludge and liquid waste from individual on-site wastewater disposal systems.~~
- 104.78** Quality Assurance – a program for the systematic monitoring and evaluation of the various aspects of the Mississippi State Department of Health’s On-site Wastewater Program to ensure that standards of quality, laws and regulations are being met.
- 104.79** ~~Repair Work – correction of a malfunction of an existing system by replacement of some portion of the system.~~
- 104.80** ~~Restrictive Horizons – soil horizons which restrict the movement of air and water.~~
- 104.81** ~~“Redoximorphic features” – means a color pattern of a horizon or horizon subdivision due to a loss (depletion) or gain (concentration) of pigment compared to the matrix color, formed by oxidation/reduction of Fe and/or Mn coupled with their removal, translocation, or accrual; or a soil matrix color controlled by the presence of Fe+2 (see Field Book for Describing and Sampling of Soils, NRCS, USDA) which is hereby incorporated by reference, including any subsequent amendments and editions.~~
- 104.82** ~~Revocation – permanent withdrawal of rights and privileges granted by a license.~~

- 104.83** Repair – the construction, installation and correcting of a malfunctioning Individual On-Site Wastewater Disposal System that cannot be performed as routine maintenance and must be provided by a Certified Installer.
- 104.84** Revocation – permanent withdrawal of rights and privileges granted to certified entity/person.
- 104.85 ~~Sensitive Waters – public or private waters used for recreation (swimming, skiing, fishing), shellfish harvesting, potable water intake or other situations where people are likely to come into contact with the water.~~
- 104.86 ~~Sewage – water-carried discharges from residences or similar establishments including excreta and other liquid waste.~~
- 104.87 ~~Single Family Residence – a structure occupied by a related family unit.~~
- 104.88 ~~Site Evaluation – the process of gathering information used to determine the suitability of the property for the construction of an individual onsite wastewater disposal system.~~
- 104.89 ~~Skeletal – rock fragments 2 mm in diameter or larger make up 35 percent or more by volume; enough earth to fill interstices larger than 1 mm; the fraction finer than 2 mm is sandy, loamy, or clayey as defined by USDA particle-size classes.~~
- 104.90 ~~Slope – deviation of a plane surface from the horizontal; when given in percent (%), it is the rise or fall of the land surface in feet per 100 feet of horizontal distance.~~
- 104.91 ~~Sludge – the precipitated solid matter produced by the treatment of sewage.~~
- 104.92 ~~Soil Boring – a hole bored or dug below the depth of the proposed subsurface disposal system in order to determine the suitability of the soil for subsurface absorption.~~
- 104.93 ~~Soil Horizon – a layer of soil approximately parallel to the land surface and differing from adjacent genetically related layers in physical, chemical, and biological properties or characteristics including but not limited to color, structure, texture, consistence and Ph.~~
- 104.94 ~~Soil Map – a map showing the distribution of soil types or other soil mapping units in relation to the prominent physical and cultural features of the earth's surface.~~
- 104.95 ~~Soil Texture – the relative proportions of the various soil separates in a soil.~~
- 104.96 ~~Soil Textural Classes – USDA standardized terms used to convey textural make-up of the fine earth fraction less than two millimeters in diameter. The fine-~~

earth fraction includes sand (2.0–0.05mm in size), silt (0.05mm–0.002mm in size) and clay (less than 0.002mm in size) particles. The specific textural classes are defined as follows:

1. ~~"Sand"—soil material that contains 85 percent or more of sand; the percentage of silt plus 1.5 times the percentage of clay shall not exceed 15.~~
2. ~~"Loamy Sands"—soil material that contains at the upper limit 85 to 90 percent sand and the percentage silt plus 1.5 times the percentage of clay is not less than 15; at the lower limit it contains not less than 70 to 85 percent sand and the percentage of silt plus twice the percentage of clay does not exceed 30.~~
3. ~~"Sandy Loams"—soil material that contains either 20 percent clay or less, and the percentage of silt plus twice the percentage of clay exceeds 30 and contains 52 percent or more sand; or less than 7 percent clay, less than 50 percent silt and between 43 and 52 percent sand.~~
4. ~~"Loam"—soil material that contains 7 to 27 percent clay, 28 to 50 percent silt and less than 52 percent sand.~~
5. ~~"Silt Loam"—soil material that contains 50 percent or more silt and 12 to 27 percent clay; or contains 50 to 80 percent silt and less than 12 percent clay.~~
6. ~~"Silt"—soil material that contains 80 percent or more silt and less than 12 percent clay.~~
7. ~~"Sandy Clay Loam"—soil material that contains 20 to 35 percent clay, less than 28 percent silt and 45 percent or more sand.~~
8. ~~"Clay Loam"—soil material that contains 27 to 40 percent clay and 20 to 45 percent sand.~~
9. ~~"Silty Clay Loam"—soil material that contains 27 to 40 percent clay and less than 20 percent sand.~~
10. ~~"Sandy Clay"—soil material that contains 35 percent or more clay and 45 percent or more sand.~~
11. ~~"Silty Clay"—soil material that contains 40 percent or more clay and 40 percent or more silt.~~
12. ~~"Clay"—soil material that contains 40 percent or more clay, less than 45 percent sand and less than 40 percent silt.~~

104.97 ~~Soil Type—a subdivision of the soil series based on texture of the surface horizon.~~

- 104.98 ~~Soil Wetness—conditions caused by seasonal high water table, perched water table, tidal water, seasonally saturated soils or by lateral water movement determined by observation of colors of chroma 2 or less (Munsell color chart) in redoximorphic features or a solid mass.~~
- 104.99 ~~Spray Irrigation—a system that utilizes spray irrigation heads to evenly distribute treated chlorinated effluent over the surface of the ground.~~
- 104.100 ~~Subdivision—any land that is divided into ten or more lots, tracts, sites or parcels for the purpose of residential development.~~
- 104.101 ~~Suspension—temporary or indefinite withdrawal or cessation of rights and privileges granted by a license.~~
- 104.102** Seeping – wastewater surfacing typically from an underground system as indicated by hydraulically overloaded soil conditions.
- 104.103** Sensitive Waters – public or private waters used for recreation (swimming, skiing, fishing), shellfish harvesting, potable water intake or other situations where people are likely to come into contact with the water.
- 104.104** Septage – the liquid, solid, and semisolid material that results from wastewater pretreatment in a septic tank or advanced treatment units, which must be pumped, hauled, treated, and disposed of properly. The mixture of solids and liquids removed during cleaning of a septic tank, grease trap, or any other part of an onsite sewage treatment and disposal system, holding tank, of self-contained toilet which receives domestic sewage; includes the liquid, solid and semi-solid materials which settle to the bottom of transport containers.
- 104.105** Sewage – any liquid waste containing animal, vegetable, or chemical matter in suspension or solution from water closets, urinals, lavatories, bathtubs, laundry tubs or devices, floor drains, drinking fountains or other water-using fixtures. This does not include commercial or hazardous waste generating facility.
- 104.106** Soil and Site Evaluation – the evaluation to determine if a property can support an Individual On-Site Wastewater Disposal System by use of a soil auger to a depth of 5 feet to determine the soil texture, color, mottling and seasonal water table.
- 104.107** Suspension – temporary withdrawal of rights and privileges granted to a certified entity/person.
- 104.108 ~~Subsurface Drip Disposal—a subsurface disposal system utilizing subsurface drip emitter tubing for the equal distribution of treated effluent.~~
- 104.109** Temporary Water Service Connection – a water connection made for the purpose of construction and site preparation after the Applicant has received his/her Permit/Recommendation from the Department and agreed to have the

Individual On-Site Wastewater Disposal System approved. This will be valid for 1 year, or until converted to a permanent water service connection, whichever comes first. Extensions may be granted in 6 month increments, if the residence is not complete and not being occupied.

- 104.110 ~~Topography – the configuration of the surface of the land (i.e., hilly, rolling, level).~~
- 104.111 Total Suspended Solids (TSS) – the quantity of solids (expressed as mg/L) which can be readily removed from a well-mixed sample with standard laboratory filtering procedures.
- 104.112 ~~Treatment – a process applied to wastewater which causes the resulting effluent to meet or exceed EPA secondary standards for treated wastewater for surface discharge and which does not endanger the public health.~~
- 104.113 Variances – a contract between the Department and an Applicant that would be contrary to the regulations and rules of the Board.
- 104.114 Violation – the act of breaking or disregarding the statues, regulations, orders of the Board, permit condition or certification standards.
- 104.115 ~~Water Supplier – one that serves twenty five (25) individuals or fifteen (15) connections on a full time basis sixty (60) days or more per year.~~
- 104.116 ~~Water Table – that level in saturated soil where the hydraulic pressure is zero.~~

## 105 GENERAL PROVISIONS

### 106.01 ~~Disposal System Required~~

~~At each home where people reside and at each establishment or place where people are employed or congregate there shall be provided a sanitary method for the disposal of all human excreta and other liquid waste adequate to the needs of the people to be served.~~

1. ~~All such homes and places mentioned above where a system of sanitary sewers is available shall have a properly constructed sewer connection to said sewer system into which all human excreta and other liquid waste shall be disposed.~~
2. ~~Where a system of sanitary sewers is not available, all human excreta and other liquid waste shall be disposed of into a properly constructed and maintained individual wastewater disposal system. No such system shall be permitted to discharge in a manner which may create a public health hazard or which may result in the wastewater leaving the property of the generator.~~

3. ~~Criteria for location, design and construction of such individual wastewater disposal systems are found in this Regulation and in the EPA Design Manual for Individual Onsite Wastewater Disposal Systems.~~

#### 105.02 ~~Relation to Water Supply~~

1. ~~No individual wastewater disposal system, new or existing, shall be so located as to create a hazard to any potable (public or private) well, spring, cistern, water reservoir, suction line or abandoned well.~~
2. ~~No such system intended for the disposal of human excreta or other liquid or solid wastes shall be constructed which is of sufficient depth to pass into, nor so that its contents may pass into, any underground water-bearing stratum which is or might be used for a drinking water supply.~~
3. ~~Abandoned wells shall not be used for the disposal of human excreta or other liquid waste.~~

#### 105.03 ~~Miscellaneous~~

1. ~~Human excreta and undigested sludge shall not be used as fertilizer.~~
2. ~~Individual onsite wastewater disposal systems which require periodic maintenance shall be maintained in accordance with factory specifications and recommendations of the Health Authority and the contents disposed of in a manner approved by the Health Authority.~~
3. ~~All abandoned earth pits used for the disposal of human excreta shall be properly filled with earth in a manner approved by the Health Authority.~~
4. ~~Liquid wastes from homes or business establishments, offices, and places where people reside, are employed, or congregate, not covered in preceding sections shall be disposed of in a manner which will not create a public health hazard.~~

### 106 **INTRODUCTION**

At any place where person(s) reside, are employed and/or congregate there shall be a sanitary method for the disposal of all human excreta and other liquid waste.

All such places mentioned above where a system of wastewater collection and disposal is available shall have a properly constructed connection to the system into which all human excreta and other liquid waste shall be disposed.

Where a system of wastewater collection and disposal is not available, all human excreta and other liquid waste shall be disposed of into a properly constructed and maintained On-Site Wastewater Disposal System. No such system shall be allowed to

discharge in a manner, which will jeopardize public health, welfare or the environment. and/or results in the effluent leaving the property of the generator.

Liquid wastes from homes or business establishments, offices, and places where people reside, are employed, or congregate, not covered in preceding sections, shall be disposed of in a manner which will not jeopardize public health, welfare or the environment.

Individual On-site Wastewater Disposal Systems require periodic maintenance. Periodic maintenance and maintenance providers must be in compliance with **MS Code of 1972, Annotated 41-67-1 Section 21.**

## 107 RESPONSIBILITIES

107.01 ~~The Mississippi State Department of Health shall be responsible for the following:~~

~~Initial onsite inspection, recommendation of system type(s) acceptable for installation, and where requested by the developer, owner or owners or their agent, approval of an individual on-site wastewater disposal system systems where the volume of wastewater produced is similar to a single family residence.~~

107.02 ~~The developer, owner or owners or their agent shall be responsible for the following:~~

- ~~1. The developer, owner or owners or their agent, of any such property mentioned herein shall be responsible for submitting a Notice of Intent to the local county health department prior to constructing or placement of a mobile, modular or permanently constructed residence which may require the installation of an individual on-site wastewater disposal system and shall be responsible for proper operation and maintenance of such system.~~
- ~~2. Providing a plot plan, legal description and payment of a \$50.00 fee for a soil and site evaluation/system recommendation.~~
- ~~3. If the property owner or developer requests approval of systems under the purview of the Department of Health, as described above, the person seeking the approval should contact the County Environmentalist at the local health department prior to construction of the system.~~
- ~~4. The owner who installs an IOWDS on his/her own property, pursuant to Section 41-67-6 (5), Mississippi Code of 1972, shall sign and file an affidavit with the county health department.~~

107.03 ~~The Water Supplier shall be responsible for the following:~~

~~No new permanent residential water service connection shall be provided to any mobile, modular or permanently constructed residence, building or facility unless the owner, lessee or developer shows proof of submission of the Notice of Intent to the county health department.~~

107.04 ~~The Division of Onsite Wastewater shall be responsible for the following:~~

- ~~1. Registration of onsite wastewater equipment and products, systems under experimental protocol, and other alternative individual wastewater systems acceptable for use in Mississippi. A current list inclusive of manufacturer, model number and other pertinent information shall be available at the local county health department.~~
- ~~2. Coordination of policy development, monitor district/county program implementation and provide technical assistance.~~
- ~~3. Provide initial certification, continuing education and training for installers of individual onsite wastewater disposal systems and authorized agents of the Mississippi State Department of Health.~~
- ~~4. Train each Public Health Environmentalist or other authorized agent of the Department of Health in the review and approval of design, construction and installation of IOWDS, as well as the operation, repair or maintenance of such systems, soil permeability tests or soil and site evaluations, and inspections of IOWDS in accordance with rules and regulations.~~
- ~~5. Review of all subdivision proposals for the feasibility of individual onsite wastewater disposal systems to provide safe and adequate wastewater treatment and disposal.~~

107.05 ~~The Environmental Health District Supervisor shall be responsible for the following:~~

- ~~1. Reviewing the suitability of a site for an IOWDS containment system.~~
- ~~2. Certifying the results of soil/site evaluations performed on all subdivisions developed after the effective date of this Regulation.~~
- ~~3. Conducting the joint soil/site evaluation system recommendation, with a Program Specialist from the Division of Onsite Wastewater, on lots where a variance has been requested.~~

107.06 ~~The County Environmentalist shall be responsible for the following:~~

- ~~1. Upon receipt of the Notice of Intent provide complete information on individual onsite wastewater disposal systems including but not limited to applicable rules and regulations regarding the design, construction,~~

~~installation, operation, maintenance and known requirements of lending institutions for approval of such systems.~~

2. ~~Performing the soil/site evaluation on an individual lot within five working days of receipt of the application for soil/site evaluation and required supporting documentation.~~
3. ~~Determining the suitability of a site for the installation of an IOWDS, contained on the property of the generator.~~
4. ~~Following an initial soil/site evaluation, the type or types of disposal systems acceptable for installation on the lot shall be recommended within ten working days, unless there are conditions revealed in the initial evaluation that require further investigation, and a copy of the findings furnished the applicant.~~
5. ~~If the soil/site evaluation indicates no design based system can be recommended, the department shall state in writing the reasons for the disapproval and inform the applicant that he/she has the option to employ an engineer to design an onsite wastewater system for the site.~~
6. ~~Providing all forms necessary for compliance with this Regulation.~~
7. ~~Upon request approve all systems that comply with provisions of this Regulation based on an inspection as required and by completing the approval form.~~

107.07 ~~If the property is to be subdivided, the subdivider shall be responsible for the following:~~

1. ~~Furnishing a legal description and site plan of the entire area to be developed. The site plan shall show lot lines, lot sizes (dimensions and total area), and existing ground contours on two foot intervals. The site plan shall show all lakes, ponds, streams and any known or possible wetland areas. Names of adjacent property owners and their property lines abutting the proposed development shall be shown. Property adjoining the proposed subdivision of which the subdivider holds legal title must also be shown with a letter of intention concerning this property.~~
2. ~~Submitting the feasibility study to the Mississippi Department of Health, Division of Onsite Wastewater whenever 35 or more lots are involved. The Division of Onsite Wastewater must review and respond to said study before any lot can be evaluated or approved. When residential subdivisions are proposed which are composed of fewer than thirty five (35) lots, and no system of sanitary sewers is available to which collection sewers may be feasibly connected, the State Health Officer may waive the requirement for a feasibility study. Such waiver of the feasibility study~~

will not be granted if the proposed development meets any one of the following criteria:

- a. ~~Is within a wastewater utility district where that utility has certified it will provide sewer service~~
  - b. ~~Is within a regional wastewater authority that has certified it will provide sewer service~~
  - c. ~~Is within one mile of a city with sewer availability that has certified it will provide sewer service~~
  - d. ~~MSDH analysis reflects that soil and site conditions may not be conducive for Individual Onsite Wastewater Disposal Systems.~~
3. ~~No feasibility study or community sewage system shall be required for subdivisions designed, laid out, platted or partially constructed before July 1, 1988 or subdivisions platted and recorded between July 1, 1995 and June 30, 1996.~~

107.08 ~~The certified installer shall be responsible for the following:~~

1. ~~Constructing the system in accordance with Mississippi State Board of Health Regulations.~~
2. ~~In a subdivision with less than 35 lots, where the feasibility has been waived, pursuant to Section 41-67-4(2), Mississippi Code of 1972, if the installer chooses to construct a system other than one of the systems recommended by the Health Authority, the installer must give written certification that the system(s) proposed will adequately serve the site(s) with an approved wastewater disposal system(s) in compliance with the Regulation.~~
3. ~~Notifying the local health department at least 48 hours prior to the date construction is to begin if approval has been requested for the individual onsite wastewater disposal system to be installed.~~
4. ~~Signing and filing with the county health department an affidavit for all systems installed.~~

107.09 ~~The professional engineer shall be responsible for the following:~~

1. ~~Designing, constructing, and/or installing individual onsite wastewater disposal systems that comply with the Regulation Governing Individual Onsite Wastewater Disposal and the Mississippi Individual Onsite Wastewater Disposal System Law of 1978, as amended.~~

2. ~~Notifying the county health department in writing of any individual onsite wastewater disposal system for which he/she will provide design, construction, and/or installation service.~~
3. ~~Providing, for Department review and comment, appropriate documentation to include but not limited to soil/site evaluation, plot plan with legal description and a detailed set of plans and specifications for the design and construction of said proposed system bearing the registered engineer's seal on all systems.~~
4. ~~Providing an approvable design modification for any submitted design where deficiencies with law or regulation were identified by the Department.~~
5. ~~Providing, to the property owner or the developer, complete information, including all applicable requirements and regulations on all systems recommended with the requirements and regulations for the systems he/she recommends for installation.~~
6. ~~Signing and filing with the local county health Department a letter of completion, bearing the registered engineer's seal, stating the system was installed in compliance with the approved design plans and an affidavit by the installer stating the system was installed according to the engineer's design and specifications for all systems he/she has designed, constructed or installed.~~

#### 107.10 Penalties:

1. ~~Violation of 106.08 and 106.09 above will result in an administrative fine not to exceed \$1000 dollars.~~
2. ~~Violations of Section 2.5 (32.b), Section 2.17 (1.e), Section 2.18 (1.b), or Section 2.19 (1.b) shall result in a penalty equal to one and one-half (1½) times the amount of the fee due and payable.~~

## 108 RESPONSIBILITIES

### 108.01 Mississippi State Board of Health MS Code of 1972, Annotated 41-67-3

1. To exercise general supervision over the design, construction, operation and maintenance of Individual On-site Wastewater Disposal Systems;
2. To adopt, modify, repeal and promulgate rules and regulations, after due notice and hearing, and where not otherwise prohibited by federal or state law, to make exceptions to, to grant exemptions from and to enforce rules and regulations implementing or effectuating the duties of the Board under this chapter to protect the public health. The Board may grant variances from rules and regulations adopted under this chapter, including

requirements for buffer zones or from setbacks required under **Section 41-67-7** where the granting of a variance shall not subject the public to unreasonable health risks or jeopardize environmental resources.

3. To provide or deny certification for persons engaging in the business of the design, construction or installation of Individual On-site Wastewater Disposal Systems and persons engaging in the removal and disposal of the sludge and liquid waste from those systems.
4. To provide or deny certifications issued to persons engaging in the business of the design, construction or installation of Individual On-site Wastewater Disposal Systems and persons engaging in the removal and disposal of the sludge and liquid waste from those systems.
5. To suspend or revoke certifications issued to persons engaging in the business of the design, construction or installation of Individual On-site Wastewater Disposal Systems or persons engaging in the removal and disposal of the sludge and liquid waste from those systems, when it is determined the person has violated this chapter or applicable rules and regulations;
6. To require the submission of information deemed necessary by the Department to determine the suitability of individual lots for Individual On-site Wastewater Disposal Systems; and
7. To adopt, modify, repeal and promulgate rules and regulations, after due notice and hearing, and where not otherwise prohibited by federal or state law, as necessary to determine the suitability of Individual On-site Wastewater Disposal Systems in subdivisions.
8. To assure the effective and efficient administration of this chapter, the Board shall adopt rules governing the design, construction or installation, operation and maintenance of Individual On-site Wastewater Disposal Systems, including rules concerning the:
  - a. Review and approval of Individual On-site Wastewater Disposal Systems in accordance with **Section 41-67-6**;
  - b. Certification of installers and persons engaging in the removal and disposal of the sludge and liquid waste;
  - c. Registration and requirements for testing and listing of Manufacturers of advanced treatment systems;
  - d. Certification of Certified Maintenance Providers;
  - e. Certification of Certified Professional Evaluators;

- f. Create regulations that authorize the original and any subsequent homeowner to be trained by factory installers or other factory representatives in order to educate the homeowner with the necessary knowledge to provide maintenance to the homeowner's system, thus allowing the homeowner to meet the requirements of Section 41-67-6(8).
9. In addition, the Board shall adopt rules establishing performance standards for Individual On-site Wastewater Disposal Systems for single-family residential generators and rules concerning the operation and maintenance of Individual On-site Wastewater Disposal Systems designed to meet those standards. The performance standards shall be consistent with the Federal Clean Water Act, maintaining the wastes on the property of the generator and protection of the public health. Rules for the operation and maintenance of Individual On-site Wastewater Disposal Systems designed to meet performance standards shall include rules concerning the following:
  - a. A standard application form and requirements for supporting documentation;
  - b. Application review;
  - c. Approval or denial of authorization for proposed systems;
  - d. Requirements as deemed appropriate by the Board, for annual renewal of authorization;
  - e. Enforcement, of the requirements and conditions of authorization; and
  - f. Inspection, monitoring, sampling and reporting on the performance of the system. Any system proposed for authorization in accordance with performance standards must be designed by a Certified Engineer Evaluator.
10. To the extent practicable, all rules and regulations adopted under this chapter shall give maximum flexibility to persons installing Individual On-site Wastewater Disposal Systems and a maximum number of options consistent with the Federal Clean Water Act, consistent with maintaining the wastes on the property of the generator and consistent with protection of the public health. In addition, all rules and regulations, to the extent practicable, shall encourage the use of economically feasible systems, including alternative techniques and technologies for Individual On-Site Wastewater Disposal Systems.
11. All regulations shall be applied uniformly in all areas of the state and shall take into consideration and make provision for different types of soil in the state when performing Soil and Site Evaluations.

108.02 Division of On-site Wastewater

1. Provide or deny certifications or registrations issued to Manufacturers, Professional Evaluators, Installers, Pumps, Maintenance Provider, and Qualified Homeowner Maintenance Providers.
2. Suspend or revoke certifications for Certified Professional Evaluators, Certified Installers, Certified Maintenance Providers, Certified Pumps and Qualified Homeowner Maintenance Providers.
3. Provide necessary forms and documents to determine the suitability of lots and tracts of land for an Individual On-site Wastewater Disposal System.
4. Promulgate rules and regulations to determine the suitability of Individual On-Site Wastewater Disposal Systems in Subdivisions.
5. Review and approve the submittal for all designs submitted by Certified Professional Evaluators or Certified Engineer Evaluators.
6. Coordinate initial certification, continuing education and training for Certified Professional Evaluators, Certified Installers, Certified Maintenance Providers, Certified Pumps and Qualified Homeowner Maintenance Providers of Individual On-site Wastewater Disposal Systems as outlined in 2.0 Regulation Governing Residential Individual On-site Wastewater Disposal Systems: Certification.
7. Review submissions and requirement for registration of all specified manufactured wastewater products.
8. Promulgate rules and regulations for Design and Performance-based Systems.
9. Promulgate the rules and regulations to give maximum flexibility to persons installing and maximum number of options to the property owner.
10. Determine the feasibility of centralized sewerage system for subdivisions.
11. Develop Policy and Procedure and provide technical assistance.
12. Coordinate training, continuing education and determine competency of Environmentalists.
13. Monitor Commercial Development and Performance-based System evaluations and documented findings entered in the wastewater computer program.

14. Determine “feasibility” of Subdivisions, and approve Commercial Developments and Performance-based Systems and enter appropriate data related to systems.
15. Monitor Districts/Counties and Certified Professional Evaluators through Quality Assurance Program implemented by the Environmental Health Program Specialists.
16. Ensure computer data is accurate and updated for all certifications and registrations.

108.03 Environmental Health Program Specialist

1. Assist District Environmentalist with variance request.
2. Provide or deny certifications or registrations issued to Manufacturers, Professional Evaluators, Installers, Pumpers, Maintenance Provider, and Qualified Homeowner Maintenance Providers.
3. Suspend or revoke certifications for Certified Professional Evaluators, Certified Installers, Certified Maintenance Providers, Certified Pumpers and Qualified Homeowner Maintenance Providers.
4. Conduct field evaluations, when necessary, on all designs submitted by Certified Professional Evaluators.
5. Provide training and continuing education for Certified Professional Evaluators, Certified Installers, Certified Maintenance Providers, Certified Pumpers and Qualified Homeowner Maintenance Providers of Individual On-site Wastewater Disposal Systems as outlined in *2.0 Regulation Governing Residential Individual On-site Wastewater Disposal Systems: Certification*.
6. Conduct field inspections on all specified manufactured wastewater products, as deemed necessary.
7. Monitor and ensure maximum flexibility to Persons installing and maximum number of options to the property owner.
8. Conduct field visits to determine the “suitability” of Individual On-Site Wastewater Disposal Systems in Subdivisions and enter data in the wastewater computer program.
9. Implement Policy and Procedures and provide technical assistance.
10. Provide training, continuing education and determine competency of Environmentalists.

11. Investigate and enforce all statutes, regulations in regards to violations by Manufacturers, Professional Evaluators, Installers, Pumpers, Maintenance Provider, and Qualified Homeowner Maintenance Providers.
12. Schedule with Hearing Officer within 10 working days on all enforcement proceedings for Manufacturers, Professional Evaluators, Maintenance Provider, and Qualified Homeowner Maintenance Providers.
13. Perform Quality Assurance for trained Environmentalists and Certified Professional Evaluators.
14. Perform Commercial Development and Performance-based System evaluations and document findings in the wastewater computer program.

#### 108.04 District Environmentalist

1. Provide supervision over Regional and County Environmentalists to ensure the design, construction, installation and approval of an Individual On-site Wastewater Disposal Systems.
2. Submit written variance request from property owner to State Health Officer.
3. Suspend or revoke certifications for Certified Installers and Certified Pumpers.
4. Inspect, or designate inspections of, Certified Pumper's vehicle(s).
5. Ensure, and gather if necessary, all information needed to complete Permit/Recommendation, Installer re-inspection and Applicant final approval request.
6. Assist Qualified Homeowner Maintenance Providers, if necessary.
7. Ensure that Regional and County Environmentalists give maximum flexibility to property owners by recommending the maximum number of approvable options.
8. Demonstrate competency as a Certified Professional Evaluator and Certified Maintenance Provider.
9. Ensure that all regulations are applied uniformly in their areas of the state.
10. Monitor and enter all referred encounters and complaints into the wastewater computer program.
11. Ensure or perform the Soil and Site evaluation within 5 working days of the receiving of a completed Notice of Intent.

12. Ensure or process the Permit/Recommendation within 10 workings days of the completed Soil and Site Evaluation.
13. Approve all Designed-based Systems based on a final inspection.
14. Schedule a hearing within the required 10 working days on all enforcement proceedings for Certified Installer and Certified Pumper.
15. Enter outcome of all Administrative Level Hearings into wastewater computer program.
16. Attend a minimum of 8 hours of Continuing Education Units endorsed by the Division in a calendar year to maintain your certification.

#### 108.05 Regional Environmentalist

1. Provide supervision over County Environmentalist(s) to ensure the design, construction, installation and approval of an Individual On-site Wastewater Disposal System.
2. Issue notice to suspend or revoke certifications for Certified Installers and Certified Pumpers.
3. Inspect, or designate inspections of Certified Pumper's vehicle(s).
4. Ensure, and gather if necessary, all information needed to complete Permit/Recommendations, Installer re-inspections and Applicant final approval requests.
5. Ensure that County Environmentalists give maximum flexibility to property owners by recommending the maximum number of approvable options.
6. Demonstrate competency as a Certified Professional Evaluator and Certified Maintenance Provider.
7. Coordinate with the District Environmentalist on all enforcement issues.
8. Assist Qualified Homeowner Maintenance Providers, if necessary.
9. Ensure that all regulations are applied uniformly in their areas of the state.
10. Monitor and/or enter, all referred encounters and complaints into the wastewater computer program.
11. Ensure or perform the Soil and Site evaluation within 5 working days of the receiving of a completed Notice of Intent.

12. Ensure or process the Permit/Recommendation within 10 workings days of the completed Soil and Site Evaluation.
13. Approve all Designed-based Systems based on a final inspection.
14. Attend a minimum of 8 hours of Continuing Education Units endorsed by the Division in a calendar year to maintain your certification.

108.06 Environmentalist

1. Ensure the design of an Individual On-site Wastewater Disposal System can be constructed, installed and approved.
2. Issue notice to suspend or revoke certifications for Certified Installers and Certified Pumpers.
3. Inspect Certified Pumper's vehicle(s).
4. Gather, if necessary, all information needed to complete Permit/Recommendation, Installer re-inspection and Applicant final approval request, if necessary.
5. Provide maximum flexibility to property owners by recommending the maximum number of approvable options.
6. Demonstrate competency as a Certified Professional Evaluator and Certified Maintenance Provider.
7. Assist Qualified Homeowner Maintenance Providers, if necessary.
8. Investigate complaints and enforce all statutes, regulations, and certification violation for Certified Installer and Certified Pumper.
9. Coordinate with the Regional Environmentalist on all enforcement issues.
10. Ensure that all regulations are applied uniformly in their areas of the state.
11. Perform the Soil and Site Evaluation within 5 working days of the submittal of a completed Notice of Intent.
12. Process the Permit/Recommendation within 10 workings days of the completed Soil and Site Evaluation.
13. Approve all Designed-based Systems based on a final inspection.
14. Initiate all complaints received, within 48 hours.
15. Monitor and/or enter, all environmental health related encounters and complaints into the wastewater computer program.

16. Attend a minimum of 8 hours of Continuing Education Units endorsed by the Division in a calendar year to maintain your certification.

#### 108.07 Clerk

1. Receive from the Applicant a completed Notice of Intent application along with all required documentation including, but not limited to, the following:
  - a. Plat;
  - b. Legal Description;
  - c. Existing System Affidavit; and  
(only if approval of an existing system is requested)
  - d. Fee
2. Process the fee into PIMS and enter the Notice of Intent information into the wastewater computer program.
3. Place the completed Notice of Intent with attached documentation in a folder with PIMS labels which must be returned to the Environmentalist.
4. Process fees for Pumper vehicle inspection, the Installer re-inspection and Applicant final approval request into PIMS.
5. Notify the Environmentalist when Certified Installer/Certified Professional Evaluator/Applicant schedules installation inspection.
6. Receive all required documentation for final approval and issue to the Environmentalist:
  - a. Affidavit, Certified Installer
  - b. Affidavit, Continuous Maintenance Agreement, and
  - c. Approval Fee.

#### 108.08 Applicant

1. Submit a Notice of Intent to the Department prior to constructing or placing any mobile, modular or permanently constructed residence, building or facility, which may require the installation of an Individual On-site Wastewater Disposal System.
2. Submit the Permit/Recommendation, for a Temporary Water Service Connection, which is an approved plan for a sewage treatment and disposal system. The Applicant must agree to have system inspected and approved by the Department, before a Permanent Water Service Connection is made.

3. Select an Individual On-site Wastewater Disposal System to be installed and approved from the option(s) listed on the Permit/Recommendation form.
4. Shall provide a final approval request containing the following to the Department:
  - a. Submit a signed Affidavit from the Certified Installer or Certified Professional Evaluator, and any additional required documentation, that the system was installed in compliance with all requirements, regulations and permit conditions applicable to the system installed; and
  - b. Submit an Affidavit agreeing to a continuing maintenance agreement in perpetuity on any Alternative System installed, at the end of the required manufacturer's maintenance agreement, and
    - i. Shall keep a continuing maintenance agreement with a Certified Maintenance Provider; or
    - ii. Become a Qualified Homeowner Maintenance Provider.
5. Violating paragraph 4 above will result in penalties and damages as provided in **Section 41-67-28(5)**.

Any Applicant who violates **Section 41-67-6(8)** may be assessed an administrative fine in the amount of Five Hundred Dollars (\$500.00) and the public water system may discontinue service to that property owner until the failure to comply with **Section 41-67-6(8)** has been corrected.
6. Shall have the right to appeal an adverse determination through the procedures set out in **Section 41-67-29**.

#### 108.09 Public Water Supply

No public utility supplying water shall make connection to any dwelling house, mobile home or residence without the prior written approval from the Department certifying that the sewage treatment and disposal system at the location of the property complies with this chapter. Temporary connections of water utilities may be made during construction if the Department has approved a plan (Permit/Recommendation) for a sewage treatment and disposal system and the Applicant has agreed to have the system inspected and approved by the Department before the use or occupancy of the property.

No Temporary or Permanent Water Service Connection shall be provided to any mobile, modular or permanently constructed residence, building or facility unless the Applicant shows proof of the submission of the Notice of Intent required by this section.

109 ~~PROCEDURES FOR INTENT TO INSTALL AND SYSTEM  
RECOMMENDATIONS~~

- 109.01 ~~Prior to construction or placement of any mobile, modular, or permanently constructed residence which may require the installation of an individual on-site wastewater disposal system the developer, owner or owners or their agent shall submit a signed Notice of Intent to the county health department.~~
- 109.02 ~~No new residential water service connection shall be provided to any mobile, modular or permanently constructed building or facility unless the owner, lessee or developer shows proof of the submission of the Notice of Intent.~~
- 109.03 ~~The property owner or developer must present a copy of the completed Notice of Intent to the water supplier to obtain a water connection.~~
- 109.04 ~~Upon receipt of the Notice of Intent, the Health Authority shall charge a fee of \$50.00 to the developer owner or owners or their agent for a soil and site evaluation and recommendation of individual onsite wastewater disposal systems (if any) suitable for installation. The fee is payable upon submitting the Notice of Intent. Failure to pay shall result in penalties as required by law.~~
- 109.05 ~~The fee authorized shall not be assessed for any system operated by state agencies or institutions, including without limitation, foster homes licensed by the State Department of Human Services.~~
- 109.06 ~~The Department shall provide such owner or developer with complete information on individual on-site wastewater disposal systems, including but not limited to applicable rules and regulations regarding the design, construction, installation, operation, and maintenance of individual on-site wastewater disposal systems and known requirements of lending institutions, except in cases where a professional engineer provides services relating to design, construction or installation of the individual on-site wastewater disposal system.~~
- 109.07 ~~Upon submission, by the developer, owner or owners or their agent, of a Notice of Intent, plot plan and a legal description, the County Environmentalist shall make a soil and site evaluation.~~
- 109.08 ~~County Environmentalists are required by law to make the soil and site evaluation within five days of the request. This is to be interpreted in the following manner:~~
1. ~~The soil and site evaluation shall be performed as soon as possible but not later than five working days after the Notice of Intent, plot plan and a legal description have been submitted.~~
  2. ~~After the soil and site evaluation, the department has 10 additional working days to provide a list of system recommendations, unless there are conditions requiring further investigation that are revealed in the initial~~

~~evaluation. This information shall be given to the property owner or developer so that the owner or developer may select the system to be installed.~~

~~109.09 The department must approve or disapprove the request, for site evaluation, within fifteen (15) working days following submission of all required documentation. If the department disapproves the request, the department shall state in writing the reasons for the disapproval. If the department does not respond to the request within fifteen (15) working days, the request for approval of an individual on-site wastewater disposal system shall be deemed approved.~~

~~109.10 The system/systems recommendation will be valid for one year from the date of the soil/site evaluation. An evaluation that is more than one year old can be reviewed for continuation. If there have been no changes in the regulation, potential wastewater flow, house location or condition of the lot, the system recommendation can be continued.~~

## 110 CERTIFICATION ADVISORY BOARD

### 110.01 Purpose

The Certification Advisory Board is responsible for advising the Division on matters pertaining to applicable regulations, technical review of Manufacturer products, and issuing, suspending or revoking of Certification credentials for Certified Manufacturers, Certified Professional Evaluators, Certified Installers, Certified Pumpers, and Certified Maintenance Providers including Qualified Homeowner Maintenance Providers.

### 110.02 Role

1. Advise the Department regarding the minimum qualifications for a Certified Manufacturer, Certified Professional Evaluator, Certified Installer, Certified Pumper, Certified Maintenance Provider and Qualified Homeowner Maintenance Provider.
2. Advise the Department regarding proposed issuance, suspension or revocation of Certifications of Certified Manufacturers, Certified Professional Evaluators, Certified Installers, Certified Pumpers, and Certified Maintenance Providers including Qualified Homeowner Maintenance Providers.

### 110.03 Composition and Appointment

1. This 5 member Board shall consist of a licensed Professional Engineer, a Registered Professional Geologists, a licensed Soil Classifier, a Department representative and a member of the Wastewater Advisory Committee.

2. Members shall be appointed by the Department from a list provided by the Mississippi Board of Licensure for Professional Engineers and Surveyors, Mississippi State Board of Registered Professional Geologists, and a Mississippi Certified Soil Classifier listed with the Mississippi Department of Agriculture, Bureau of Plant Industry, Regulation of Professional Services. A member of the Wastewater Advisory Committee will be elected from its members. All members shall be subject to professional ethics of registration and/or Mississippi Ethic Commission.

#### 110.04 Term

Appointments are for 2 years, and each Member is not eligible for re-nomination and reappointment for consecutive terms. The term of office shall coincide with the Fiscal Year of the State of Mississippi, **July 1 through June 30**. The Professional Engineer, Registered Geologists and Soil Classifier will be appointed to the first Board's term for 3 years and every 2 years thereafter.

#### 110.05 Voting

All members, including the Chairman, shall be entitled to vote and to make or second motions. A majority vote of those present is required to pass a motion. A member expecting to be absent for a vote may provide written comments as to his position; however he may not grant a vote by proxy.

#### 110.06 Election and Duties of Officers

1. The Board shall elect during the last scheduled meeting (**2<sup>nd</sup> Tuesday of October**) the following officers: Chairman and Vice Chairman.
  - a. Chairman – The Chairman shall be the executive officer. When present he/she shall preside at all meetings. He/she shall appoint such committees as the Certification Advisory Board as deemed necessary. He/she shall cast 1 vote on all roll calls.
  - b. Vice-Chairman – The Vice Chairman, in the absence of the Chairman, shall perform the duties delegated to the Chairman.

#### 110.07 Meetings and Attendance

1. The Division shall schedule at least 4 regular meetings each year, 1 in each calendar quarter. The meeting will be held on **2nd Tuesday of January, April, July and October** of each year.
2. Robert's Rules of Order, Revised shall govern the proceedings of the Certification Advisory Board except as otherwise provided herein or by statute.

3. If a Certification Advisory Board member is absent from 3 consecutive regularly scheduled meetings or is absent from more than 3 meetings during a single fiscal year unless the absence is excused for 1 of the following reasons, the member shall be removed. A court order, subpoena, business with a court which has the sole prerogative of setting the date of such business, death of a family member, or illness of the Certification Advisory Board member, or illness of the member's immediate family.
4. Quorum – 3 or more members present.
5. Order of Business – The order of business at all regular and special meetings shall normally be as recommended by the Division.
6. Special Meetings – Special meetings may be held as needed or as called by the Division. A call for a special meeting under emergency conditions may be issued by telephone and/or other electronic communications.
7. Open Meetings – In compliance with Open Meeting Laws of the State of Mississippi, members of the public are welcome to attend meetings of the Certification Advisory Board. The Certification Advisory Board has adopted the following rules of conduct for members of the general public attending meetings of the Board.
  - a. Members of the public are requested to register with the Division. Organized groups may have only 1 spokesperson.
  - b. Upon request, an individual or a spokesperson will be allowed to address the Certification Advisory Board. Speaking time is limited to 10 minutes, unless extended by the presiding officer.
  - c. When the Certification Advisory Board votes to go into Executive Session, all members of the general public must leave the meeting room; they will be advised when they may re-enter.
  - d. Members of the general public will behave in a calm and measured manner.
  - e. Failure to comply with these rules will be grounds for dismissal from the meeting.
  - f. If members of the public require special provisions accommodating a qualifying temporary or permanent disability in order to attend a Certified Advisory Board meeting, a written request identifying the disability and accommodations needed must be submitted to the Chairman 30 calendar days before the meeting. If this request is not submitted in advance, the availability of on-site accommodations is not guaranteed.

## 111 SITE EVALUATION

- 111.01 ~~Upon receipt of the Notice of Intent, a plot plan and a legal description, the soil and site evaluation will be conducted by the county Environmentalist.~~
- 111.02 ~~Information obtained during the soil and site evaluation will determine which type(s) of IOWDS may be utilized for an individual lot.~~
- 111.03 ~~Prior to completing the Soil and Site Evaluation/System Recommendation, the Environmentalist shall visit the lot and conduct the soil and site evaluation.~~
- 111.04 ~~The soil determinations will be made based on soil borings to a depth of five feet or to a depth sufficient to reach a restrictive horizon. Restrictive soil or site conditions may preclude the use of any subsurface disposal system.~~
- 111.05 ~~A soil and site evaluation will be based on the following criteria:~~
- ~~1. Absence of or protection from frequent flooding.~~
  - ~~2. Landscape position with good surface runoff.~~
  - ~~3. Slopes of less than 15%.~~
  - ~~4. Depth to high water table of greater than four feet.~~
  - ~~5. Depth to bedrock, fragipan or plinthite of greater than four feet.~~
  - ~~6. Soil texture and color defined by the Natural Resource Conservation Service as indicating good drainage and suitability for soil absorption, based on a soil boring of five feet.~~
  - ~~7. Available area in which to install an individual onsite wastewater disposal system meeting all requirements of this regulation. The area for repairs and future extensions shall be no less than 50% of the space required for the recommended system. Systems utilizing surface land application discharge are exempt from the 50% additional area requirement.~~
- 111.06 ~~The non-compliance of one or more of the above items may (1) require a design alteration of an underground system or (2) prohibit the use of some or all design based IOWDS on the site.~~

## 112 PROCEDURE FOR NOTICE OF INTENT

- 112.01** SECTION 12. Section 41-67-15, Mississippi Code of 1972, is reenacted and amended as follows:

Nothing in this chapter shall limit the authority of a municipality or Board of supervisors to adopt similar ordinances which may be, in whole or in part, more restrictive than this chapter, and in those cases the more restrictive ordinances

will govern. The Department shall not approve any system that does not comply with an ordinance adopted by a municipality or board of supervisors under the authority of this section.

- 112.02 Prior to construction or placement of any mobile, modular, or permanently constructed residence which may require the installation of an Individual On-site Wastewater Disposal System, the Applicant shall submit a signed Notice of Intent to the Department.
- 112.03 Upon receipt of the Notice of Intent, the Department shall charge a fee to the Applicant for a Soil and Site evaluation and Permit/Recommendation for Individual On-site Wastewater Disposal Systems (if any) suitable for installation. The fee is payable upon submitting the Notice of Intent.
- 112.04 The Department shall provide Applicant with complete information on Individual On-site Wastewater Disposal Systems, including but not limited to, applicable rules and regulations regarding the design, construction, installation, operation, and maintenance of Individual On-site Wastewater Disposal Systems and known requirements of lending institutions. This does not apply to cases where a Certified Professional Evaluator provides services relating to design, construction or installation of the Individual On-site Wastewater Disposal System.
- 112.05 No new Permanent Water Service Connection shall be provided to any mobile, modular or permanently constructed building or facility unless the Applicant shows proof of an approved on-site wastewater system.
- 112.06 Environmentalists are required by law to make the Soil and Site Evaluation within 5 days of the submission of a completed Notice of Intent. This is to be interpreted in the following manner:
1. The Soil and Site Evaluation shall be performed as soon as possible but not later than 5 working days after the Notice of Intent, plat, legal description, and fee have all been submitted.
  2. After the Soil and Site Evaluation, the Department has 10 additional working days to provide a Permit/Recommendation, unless there are conditions requiring further investigation that are revealed in the initial evaluation. This information shall be given to the Applicant so he/she may select the system to be installed.
- 112.07 The Permit/Recommendation is nontransferable and will be valid for 1 year.

### 113 ~~SOIL WETNESS EVALUATION~~

- 113.01 ~~Soil wetness conditions caused by a seasonal high water table, perched water table, tidal water, seasonally saturated soil or by lateral water movement shall be~~

determined by field evaluation for soil wetness colors and field observations, and may be assessed by well monitoring.

1. ~~Basic Field Evaluation Procedures: A soil wetness condition shall be determined by field evaluation utilizing one of the following procedures:~~
  - a. ~~A soil wetness condition may be determined by the indication of colors of chroma 2 or less (Munsell Color Charts) at 0.2% of soil volume in mottles or matrix of a horizon or horizon subdivision.~~
  - b. ~~Soil wetness condition may be determined by the indication of redoximorphic features at 0.2% of soil volume of a horizon or horizon subdivision in accordance with methods in the Field Book for Describing and Sampling Soils, NRCS, USDA. This procedure shall take precedence over the Subitem (a) of this Paragraph. The Field Book is hereby incorporated by reference, including any subsequent amendments and editions.~~
2. ~~A Soil wetness condition shall also be determined by the periodic direct observation or indication of saturated soils or a perched water table, or lateral water movement flowing into a bore hole, monitoring well, or open excavation above a less permeable horizon or horizon subdivision, that may occur without the presence of colors of chroma 2 or less or redoximorphic features. A soil wetness condition caused by saturated soils or a perched water table shall be confirmed to extend for at least three consecutive days. The shallowest depth to soil wetness condition determined by Subparagraph (1) or (2) of this Section shall take precedence~~
3. ~~Alternative Procedures for Soil Wetness Determination:~~
  - a. ~~The Owner or the Owner's Legal Representative (Applicant) shall have the opportunity to submit documentation that the soil wetness condition and resultant site classification be alternately determined and reclassified by direct monitoring in accordance with a Direct Monitoring Procedure made pursuant to Paragraph (4) of this Regulation. This determination shall take precedence over the determination made pursuant to the Basic Field Evaluation Procedures [Paragraph (1) of this Regulation], when the conditions of Paragraph (4) of this Regulation are met.~~
4. ~~Direct Monitoring Procedure:~~
  - a. ~~Soil wetness conditions may be determined by direct observation of the water surface in wells during periods of typically high water elevations utilizing the following monitoring procedures and interpretation method.~~

- b. ~~The applicant shall notify the Division of Onsite Wastewater of the intent to monitor water surface elevations by submitting a proposal that includes a site plan, well and soil profile at each monitoring location, and a monitoring plan no later than 30 days prior to the monitoring period. An applicant other than the property owner shall have written authorization from the owner to be the owner's legal representative. Soil wetness and rainfall monitoring shall be conducted under the responsible charge of a third party consultant, an Engineer licensed in the State of Mississippi. The Owner shall submit the name(s) of the consultant(s) performing any monitoring on their behalf to the Division of Onsite Wastewater.~~
- c. ~~The applicant or his/her agent shall submit a site plan showing proposed sites for wastewater system, shall provide the longitude and latitude of the site, location of monitoring wells, and all drainage features that may influence the soil wetness conditions, and specify any proposed fill and drainage modifications.~~
- d. ~~The applicant or his/her agent shall submit a monitoring plan indicating the proposed number, installation depth, screening depth, soil and well profile, materials and installation procedures for each monitoring well, and proposed method of analysis. A minimum of three water level monitoring wells shall be installed for water surface observation at each site. Additional wells shall be required for sites handling systems with a design flow greater than 600 gallons per day (minimum of one additional well per 600 gallons per day increment).~~
- e. ~~The Division of Onsite Wastewater shall be given the opportunity to conduct a site visit and verify the appropriateness of the proposed plan. Well locations shall include portions of the initial and replacement disposal site(s) containing the most limiting soil/site conditions. Prior to installation of the wells the Division of Onsite Wastewater shall approve the plan. If the plan is disapproved, the Division of Onsite Wastewater shall include specific changes necessary for approval of the monitoring plan.~~
- f. ~~Wells shall extend at least five feet below the natural soil surface. However, a well or wells which extend(s) down only 40 inches may be used if they provide a continuous record of the water table for at least half of the monitoring period, and one or more shallower wells may be required on sites where shallow lateral water movement or perched soil wetness conditions are anticipated.~~
- g. ~~Water surface in the monitoring wells shall be recorded at least daily from December 1 to March 31, taken at the same time during the day (plus or minus three hours). A rain (precipitation) gauge is required within one half mile of the site. At least daily rainfall shall be~~

recorded beginning no later than November 1 through March 31 (the end of the well monitoring period).

5. A report of the investigations made for the Direct Monitoring Procedure shall be prepared prior to approval of the soil wetness condition determination by the Department. Reports prepared by the registered professional shall bear the professional seal of the engineer who conducted the investigation. A request for technical review of the report by the Department shall include digital copies of monitoring data and digital copies of model inputs, output data, and graphic results, as applicable.

#### 114 ~~DESIGN-BASED SYSTEMS~~

- 114.01 ~~The system types [TABLE I] will be determined by the findings of the soil and site evaluation. The property owner or developer will be furnished a detailed list of all onsite wastewater disposal systems that can be recommended for the particular site.~~
- 114.02 ~~Within the limitations posed by the Mississippi Individual Onsite Wastewater Disposal Law of 1978, as subsequently amended, it will be the homeowner's prerogative to choose, from the list of system recommendations, the type of system to be installed.~~
- 114.03 ~~It should be recognized that some lots, because of size and/or severe soil/site conditions, cannot support an IOWDS. In such cases, **no design-based system** shall be recommended by the Health Authority.~~

#### 115 DESIGN-BASED SYSTEMS

Any Individual On-site Wastewater Disposal System which can be designed by an Environmentalist/Certified Professional Evaluator. Some properties cannot support an Individual On-site Wastewater Disposal System due to lot size, soil conditions, site modifications or topography. In such cases, the Department will refer the property owner to a Certified Engineer Evaluator for a Performance-based System design

#### 116 ABANDONMENT (SEPTIC TANK AND PRIVATE WELL)

- 116.01 Septic tank: When the use of a sewage septic tank is discontinued the tank shall be abandoned, and its further use is prohibited. Septic tanks shall be properly pumped out by the Certified Pumper. An empty tank may be removed at the property owner's option. The hole left by removal shall be filled with sand or soil. An empty tank left in place shall be crushed then filled with sand or soil.
- 116.02 Private well: When the use of a well is discontinued the well shall be abandoned, and its further use is prohibited. In sealing an abandoned well, the solution involves the consideration of the construction of the well and the geological and hydrological conditions of the area. The main factors for proper sealing involves elimination of any physical hazard, the prevention of any

possible contamination of the ground water, the conservation and maintenance of the yield and hydrostatic pressure of the aquifer, and the prevention of any possible contact between desirable and undesirable waters. It is suggested that the lower portion is best protected when filled with concrete, cement grout, neat cement or clays with sealing properties. When dug or bored wells are filled, as much of the lining should be removed as possible so that surface water will not reach the water-bearing strata.

## 117 PERFORMANCE BASED SYSTEMS

Performance based wastewater systems may be approved on lots that, as a result of the soil/site evaluation, have restrictions that preclude the use of a design based onsite wastewater disposal system.

### 117.01 Prescribed Performance Standards:

1. Lots that do not border sensitive waters will be required to have systems that will treat the wastewater to a standard of ten (10) mg/l Biochemical Oxygen Demand (BOD), ten (10)mg/l Total Suspended Solids (TSS), five (5) mg/l nitrogen, three (3) mg/l phosphorous and fecal coliform levels less than or equal to 200 colony forming units per 100 milliliters.
2. Lots that border sensitive waters will be required to have systems that will treat the wastewater to a standard of five (5) mg/l Biochemical Oxygen Demand (BOD), five (5) mg/l Total Suspended Solids (TSS), two (2) mg/l nitrogen, one (1) mg/l phosphorous and fecal coliform levels not to exceed 200 colony forming units per 100 milliliters or equal to or less than the (historical) background count if that background count is less than 200 colony forming units per 100 milliliters.

The treated effluent will be measured at the outfall line of the treatment facility before it enters the final disposal site.

### 117.02 System Design

1. The performance based system must be designed by a professional engineer to meet the prescribed standards in 111.01 (1) or (2) and maintain the effluent on the property of the generator.
2. The design must be certified by the engineer and submitted, along with supporting documentation, to the Division of Onsite Wastewater for review and concurrence.

### 117.03 System Authorization

1. The performance based system will be authorized on an annual basis.

2. ~~The property owner will be required to have samples collected and monitoring reports compiled, by a professional engineer or a licensed wastewater operator holding a class II or greater certification, and submitted as required.~~
3. ~~Monitoring reports must be submitted to the Department on the following schedule:~~
  - a. ~~Systems that are authorized for use on lots that border sensitive waters must be monitored and reports provided on a quarterly basis.~~
  - b. ~~Systems that do not border sensitive waters must be monitored and reports provided on a semiannual basis.~~
  - c. ~~The Department will, on a random schedule, collect monitoring samples of all systems authorized under performance standards.~~
4. ~~Samples must be run in accordance with the most current version of the Code of Federal Regulations (CFR 40 part 136) Guideline Establishing Test Procedures for The Analysis of Pollutants.~~
5. ~~Upon receipt of the monitoring report(s) verifying the system to be in compliance with the prescribed performance standards the system authorization will be continued.~~

#### 117.04 ~~Violation of Performance Standards~~

~~If at any time the authorized system is in violation of the prescribed performance standards the property owner will be required to initiate repairs to bring the system back into compliance. Failure to maintain the system to performance standards will result in a fine as prescribed by law.~~

#### 117.05 ~~Fine for Non-compliance~~

~~The property owner or lessee of an individual onsite wastewater disposal system authorized pursuant to **Section 41-67-3 (4), Mississippi Code of 1972, Annotated** shall incur a civil penalty not to exceed fifty dollars (\$50.00) for each day the system fails to meet the performance standards of that system after the thirty day period specified in **Section 41-67-21 (1) Mississippi Code of 1972, Annotated**.~~

### 118 ~~APPROVAL OF DISPOSAL SYSTEMS~~

- 118.01 ~~If the individual requests an approval by the Department of the system installed, the County Environmentalist shall make a final inspection of the system as constructed. If the design, construction and installation of such system is in accordance with the rules and regulations of the Department, and upon receipt of the installer's affidavit, approval shall be granted.~~

~~If a professional engineer designs, constructs or installs or directly supervises the construction or installation of a design-based IOWDS in accordance with the regulation and stamps the appropriate documentation with that professional engineer's seal, the department shall approve the design, construction or installation of the system, if requested.~~

~~Approval shall be granted only after the Environmentalist has determined that all administrative requirements stated in this Regulation have been satisfied.~~

- 118.02 ~~The Department reserves the right to deny the approval if there is extensive grading of the lot or change of house or individual well location after the system recommendations have been issued. Final approval of the system should not be issued until both the house and well have been constructed.~~
- 118.03 ~~The issuance of an approval by the Health Authority does not denote or imply any guarantee that the wastewater disposal system will function for any specified period of time.~~

## 119 APPROVAL OF DISPOSAL SYSTEMS

- 119.01 An approval is required by current state law for all new Individual On-Site Wastewater Disposal System installed for a permanent water connection. The Environmentalist shall make a final inspection of the system as constructed. If the design, construction and installation of such system are in accordance with the rules and regulations of the Department, and upon receipt of the installer's affidavit, fee, and maintenance agreement (where applicable), approval shall be granted.

If a Certified Professional Evaluator designs, constructs or installs or directly supervises the construction or installation of a Design-based Individual On-Site Wastewater Disposal System in accordance with the regulation and stamps the appropriate documentation with that Certified Professional Evaluator's number, the Department shall approve the design, construction or installation of the system, if requested.

Approval shall be granted only after the Environmentalist has determined that all administrative requirements stated in this Regulation have been satisfied.

- 119.02 If an inspection is requested, the Department cannot issue a final approval until the property owner has met the following conditions:
1. Notification prior to beginning construction;
  2. Completed affidavit of installation signed and dated;
  3. Remittance of fee; and

4. For any Alternative System, the qualified homeowner shall remit an affidavit agreeing to a continuing maintenance agreement on the installed system. Depending upon the type of system, this maintenance agreement will be in effect from the time of installation, or for Advanced Treatment Systems, at the end of the required manufacturer's maintenance agreement. **Section 41-67-6 (7) (b), MS Code of 1972, Annotated**
- 119.03 If the scheduled requested inspection requires any additional inspections due to noncompliance, a \$25.00 fee will be required for each additional inspection prior to the collection of the approval fee and issuance of the final approval.
- 119.04 The Department reserves the right to deny (void) the Permit/Recommendation(s) if there is extensive grading of the lot or change of house or individual well location after the system recommendations have been issued. Final approval of the system shall not be issued until both the house and well have been constructed.
- 119.05 The issuance of an approval by the Department does not denote or imply any guarantee that the Individual On-site Wastewater Disposal System will function for any specified period of time.
- 119.06 The Department must approve or disapprove the request, for site evaluation, within 15 working days following submission of all required documentation. If the Department disapproves the request, the Department shall state in writing the reasons for the disapproval. If the Department does not respond to the request within 15 working days, the request for approval of an Individual On-site Wastewater Disposal System shall be deemed approved.

## 120 ~~EXISTING SYSTEMS~~

~~The request for an inspection of an existing system must be on forms provided by the county health department. The homeowner must indicate to the best of his/her ability the system type, location and status of the system.~~

- 120.01 ~~Existing systems that do not discharge off the property of the generator, may be inspected and shall be considered acceptable if they are functioning properly, subject to the following criteria:~~
1. ~~Subsurface disposal~~
    - a. ~~The residence shall have been occupied for a minimum of six months inclusive of inspection date.~~
    - b. ~~No effluent discharge off the property of the generator.~~
    - c. ~~No effluent from an underground type system seeping to the surface.~~

- d. ~~If a private or public water supply is present, the well is located a minimum of 100 feet from and at a higher elevation than the disposal system and is protected from surface contamination by a concrete slab of a thickness of at least four (4) inches extending at least two (2) feet in all directions from the well casing.~~
2. ~~Gravity fed (overland) surface discharge~~
    - a. ~~The system must have been in operation for minimum of one month~~
    - b. ~~No effluent discharge off the property of the generator (except as specified in Section 2.11 part 2)~~
    - c. ~~If a private or public water supply is present, the well is located a minimum of 100 feet from and at a higher elevation than the disposal system and is protected from surface contamination by a concrete slab of a thickness of at least four (4) inches extending at least two (2) feet in all directions from the well casing.~~
  3. ~~Mechanical treatment and other mechanical land application systems~~
    - a. ~~The system must be in operation to allow for a visual inspection for compliance with the regulation.~~
    - b. ~~No effluent discharge off the property of the generator (except as specified in Section 2.11 part 2)~~
    - c. ~~If a private or public water supply is present, the well is located a minimum of 100 feet from and at a higher elevation than the disposal system and is protected from surface contamination by a concrete slab of a thickness of at least four (4) inches extending at least two (2) feet in all directions from the well casing.~~
  4. ~~Existing systems that were originally allowed under a variance can be accepted if there is record of the variance in the file and the system is installed and functioning in accordance with the conditions of the variance.~~
- 120.02 ~~Previous Health Department approvals of existing systems that discharge off the property of the generator shall continue to be honored by the Health Department when:~~
1. ~~Such approvals were made in compliance with then existing State Laws and Regulations~~
  2. ~~Such systems are in operation and are presently functioning properly.~~

- 120.03 ~~For systems at residences that have not been occupied for the required length of time, in lieu of an approval, system recommendations shall be given after a satisfactory soil and site evaluation, indicating that the lot is acceptable for the use of an onsite wastewater disposal system. Later, after occupancy of the residence the required length of time and if an inspection of the existing system determines it is functioning properly, a final acceptance of the system may be granted.~~
- 120.04 ~~For properly functioning existing systems, in cases where a medical necessity requires the housing of an immediate family member in a mobile home adjacent to a permanent dwelling, a connection may be made to an existing system, provided the wastewater flow is not projected to increase significantly more than if the family member were housed in the permanent dwelling. A doctor's statement of the medical necessity shall be on file with the Department. The approval shall be valid only for this particular situation.~~
- 120.05 ~~A \$50.00 fee will be charged for a soil/site evaluation of an existing system.~~
- 120.06 ~~The fee shall not be charged again after payment of the initial fee for any system that has been installed in accordance with all requirements within a period of twenty four (24) months following the date that the system was originally installed.~~

## 121 EXISTING SYSTEMS

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

1. Existing Individual On-site Wastewater Disposal Systems shall be considered acceptable, provided the following requirements are met:
  - a. The lot is located in an area or subdivision where Individual On-site Wastewater Disposal Systems are considered acceptable under this chapter;
  - b. The residence, building or facility has previously been occupied for a period of time deemed by the Department necessary to determine the functioning capability of the Individual On-site Wastewater Disposal System;
  - c. The system is functioning properly with no evidence that any insufficiently treated effluent is or has been seeping to the surface of the ground and any discharge of treated effluent is confined within the boundaries of the property of the generator; and
  - d. If a private water supply well is present, the well should be located at a higher elevation than the disposal system and is protected from

surface contamination by a concrete slab of a thickness of at least 4 inches extending at least 2 feet in all directions from the well casing.

2. If an existing residential Individual On-site Wastewater Disposal System is malfunctioning, the system should be replaced, where possible, with a system meeting all requirements of this chapter and rules and regulations of the Board. If replacement of the existing system is not possible, the existing system shall be repaired to reduce the volume of effluent, to adequately treat the effluent and to the greatest extent possible, to confine the discharge to the property of the generator. If repairs are made to significantly upgrade the existing Individual On-site Wastewater Disposal System, the Department shall approve the system, if requested.
3. The request for an inspection of an existing system must be on forms provided by the Department. The Applicant must indicate to the best of his/her ability the system type, location and status of the system.

121.02 Existing systems that do not discharge off the property of the generator, may be inspected and shall be considered acceptable, if they are functioning properly, subject to the following criteria:

1. Conventional System
  - a. The residence shall have been occupied for a minimum of **6 months**, inclusive of inspection date.
  - b. No effluent discharge off the property of the generator.
  - c. No effluent from an underground type system seeping to the surface.
  - d. If a private or public water supply is present, the well must be located a minimum of 100 feet from and should be at a higher elevation than the disposal system and is protected from surface contamination by a concrete slab of a thickness of at least 4 inches extending at least 2 feet in all directions from the well casing. Wells at lower or equal elevations must be properly protected from surface flow.
2. Alternative System
  - a. The residence shall have been occupied for a minimum of **6 months**, inclusive of inspection date.
  - b. No effluent discharge off the property of the generator
  - c. If a private or public water supply is present, the well is must be located a minimum of 100 feet from and should be at a higher elevation than the disposal system and is protected from surface contamination by a concrete slab of a thickness of at least 4 inches

extending at least 2 feet in all directions from the well casing. Wells at lower or equal elevations must be properly protected from surface flow.

- d. Provide a copy of maintenance agreement with Certified Maintenance Provider
  - e. Provide affidavit agreeing to a continuing maintenance agreement in perpetuity.
3. Advanced Treatment System
- a. The residence shall have been occupied for a minimum of **1 month**, inclusive of inspection date.
  - b. The system must be in operation to allow for a visual inspection for compliance with the regulation.
  - c. The system must also be inspected by a manufacturer's authorized representative and appropriate form submitted.
  - d. No effluent discharge off the property of the generator
  - e. If a private or public water supply is present, the well must be located a minimum of 100 feet from and should be at a higher elevation than the disposal system and is protected from surface contamination by a concrete slab of a thickness of at least 4 inches extending at least 2 feet in all directions from the well casing. Wells at lower or equal elevations must be properly protected from surface flow.
4. Existing systems that were originally allowed under a variance can be accepted if there is record of the variance in the file and the system is installed and functioning in accordance with the conditions of the variance.

121.03 For systems at residences that have not been occupied for the required length of time, in lieu of an acceptance, a Permit/Recommendation(s) shall be given after a satisfactory Soil and Site Evaluation, indicating that the lot is acceptable for the use of an Individual On-site Wastewater Disposal System. Later, after occupancy of the residence the required length of time and if an inspection of the existing system determines it is functioning properly, a final acceptance of the system may be granted. If system is not functioning, it must be replaced with recommended system.

121.04 A fee will be charged for a Soil and Site Evaluation of an existing system.

## 122 ~~REPAIR OF ONSITE WASTEWATER DISPOSAL SYSTEMS~~

- 122.01 ~~Repairs to wastewater disposal systems do not have to be approved by the Department. However, **Section 41-67-21, Mississippi Code of 1972, Annotated** states the following:~~
1. ~~The State Department of Health may require a property owner to repair a malfunctioning IOWDS on the owner's property not later than the thirtieth day after the date on which the owner is notified by the department of the malfunctioning system.~~
  2. ~~The property owner must take adequate measures as soon as practicable to abate an immediate health hazard.~~
  3. ~~The property owner may be assessed a penalty not to exceed five dollars (\$5.00) per day following the thirty-day period specified in **Section 41-67-21 (1), Mississippi Code of 1972, Annotated** that the individual onsite wastewater disposal system remains unrepaired.~~
- 122.02 ~~In all cases failing existing systems should be repaired or replaced, where possible, with a fully functioning system meeting all requirements of the regulation. However, in cases where the repair or replacement of the existing system, to full compliance with regulation, is not possible, the existing system shall be repaired to adequately treat the effluent, reduce the volume of effluent and to the greatest extent possible confine the discharge to the property of the generator. If repairs are made to significantly upgrade the failing existing individual onsite wastewater system, the department shall approve the system, if requested.~~

## 123 REPAIRED SYSTEMS

- 123.01** Repairs to Conventional Individual On-site Wastewater Disposal Systems do not have to be approved by the Department, as long as part of the existing system is utilized. Repairs to alternative disposal systems must be in compliance with regulations or in compliance with Section 41-67-9 (2) and must have a signed affidavit from property owner agreeing to a continued maintenance agreement with a certified maintenance provider.
- 123.02** SECTION 14. Section 41-67-21, Mississippi Code of 1972, is reenacted as follows:
1. The Board or the Department may require a property owner or lessee to repair a malfunctioning Individual On-site Wastewater Disposal System on the owner's or lessee's property before the 30th day after the date on which the owner or lessee is notified by the Department of the malfunctioning system.
  2. The property owner or lessee shall take adequate measures as soon as practicable to abate an immediate health hazard.

3. The property owner or lessee may be assessed a civil penalty not to exceed Five Dollars (\$5.00) for each day the Individual On-site Wastewater Disposal System remains un-repaired after the 30 day period.
4. The Board may assess the property owner or lessee of an Individual On-site Wastewater Disposal System authorized pursuant to Section 41-67-3(4) a civil penalty not to exceed Fifty Dollars (\$50.00) for each day the system fails to meet the performance standards of that system after the 30 day period.
5. All penalties collected by the Board under this section shall be deposited in the State General Fund.
6. Appeals from the imposition of civil penalty under this section may be taken as provided in Section 41-67-29.

**123.03** If an existing residential Individual On-site Wastewater Disposal System is malfunctioning, the system should be replaced, where possible, with a system meeting all requirements of this chapter and rules and regulations of the Board.

If replacement of the existing system is not possible, the existing system shall be repaired to reduce the volume of effluent, to adequately treat the effluent and to the greatest extent possible, to confine the discharge to the property of the generator. If repairs are made to significantly upgrade the existing Individual On-site Wastewater Disposal System, the Department shall approve the system, if requested. **Section 41-67-9 (2), MS Code of 1972**

The Department may require a property owner or lessee to repair an improper sewer connection to a sewer system on the owner's or lessee's property before the 10th day after the date on which the owner or lessee is notified by the Department of the malfunction.

A repair must be performed by a Certified Installer.

## 124 ~~TEMPORARY ONSITE WASTEWATER DISPOSAL SYSTEMS~~

~~Temporary individual onsite wastewater disposal systems may be approved in otherwise unapprovable areas only after a contract has been awarded for the construction of municipal or community sewers that upon completion will adequately serve the property. Temporary individual onsite wastewater disposal systems shall only be approved under the following conditions:~~

- ~~124.01 If the proposed central system shall not be completed and available for use within six (6) months, a complete IOWDS complying with all requirements of the board may be installed. Upon completion of the sewer construction the onsite system shall be abandoned and connection be made to the sewer.~~

124.02 ~~If the proposed central system shall be available and ready for use within a period not to exceed six (6) months, or where a minor extension is to be made to a municipal system by the municipality and no contract is to be awarded, an IOWDS with a minimum capacity of three hundred (300) gallons capacity and at least sixty percent (60%) of the required disposal system may be installed. No approval under this subsection can be granted unless the professional engineer designing the sewer system has certified in writing that the public sewer or extension shall be completed within six (6) months, and the owner of the temporary system has certified in writing that connection to the public sewer shall be made as soon as it becomes available.~~

## 125 TEMPORARY SYSTEMS

Section 41-67-11, Mississippi Code of 1972, is reenacted and amended as follows:

Temporary Individual On-site Wastewater Disposal Systems may be approved in an area where Individual On-site Wastewater Disposal Systems otherwise would not be approved because of the availability or feasibility of connection to a centralized sewerage system. Temporary individual onsite wastewater disposal systems are acceptable only after a contract has been awarded or other definite commitments as are deemed sufficient to the Department are formalized for the construction of municipal or community sewers that upon completion will adequately serve the property. Temporary Individual On-site Wastewater Disposal Systems shall only be approved if the municipal or community sewers will be completed and available for use within 36 months.

125.01 The Department may approve the installation of a temporary system under these circumstances only if the system will comply with the requirements of **Section 41-67-5 (1)** and comply with all construction requirements of the Board. The temporary system may be installed only after the developer has signed a written agreement with the centralized sewer provider stating that the Developer will connect to the centralized sewer system when it becomes available, and the provider of the centralized sewer system being constructed certifies that the centralized sewer system will have adequate capacity to accept the sewage to be produced by the temporary systems. The Developer shall install an internal sewage collection system from each lot to the connection point to the central sewer system as he develops the streets of the subdivision. Upon completion of the sewer construction, all systems shall be abandoned and all residences, buildings or facilities connected to the sewer.

125.02 The Board may approve the installation of sewage holding tanks in districts created under **Sections 19-5-151 through 19-5-207** for the purpose of providing sewage services. The District shall be required to maintain, or provide for the maintenance of, those holding tanks. The Board shall require that residences be connected to a municipal or community sewage system when that system is available.

125.03 In cases where a medical necessity requires the housing of an immediate family member in a mobile home adjacent to a permanent dwelling, a temporary connection may be made to a property functioning existing system, provided the wastewater flow is not projected to increase significantly. A doctor's statement of the medical necessity shall be on file with the Notice of Intent.

## 126 ~~PROHIBITED USE OF INDIVIDUAL ONSITE WASTEWATER DISPOSAL~~

### PROHIBITED USES

Individual On-Site Wastewater Disposal System shall not be used to treat and dispose of the following and therefore must be referred to the Department of Environmental Quality, Office of Pollution Control:

Waste from commercial slaughterhouses;

Embalming wastes from funeral homes;

Any waste containing high levels of any contaminants; and

~~Any waste containing high levels of contaminants that might pollute groundwater or endanger drinking water supplies.~~

Other waste, as determined by the Department.

## 127 ~~LOCATION OF ONSITE WASTEWATER DISPOSAL SYSTEMS~~

127.01 ~~All components of the onsite wastewater disposal system shall be located a minimum of:~~

1. ~~five feet from any dwelling.~~
2. ~~ten feet from any property line.~~

127.02 ~~Any vessel holding wastewater shall be located a minimum of 50 feet from any public, private or individual potable water source.~~

127.03 ~~The effluent disposal field (subsurface, land application or mound type) shall be located at a lower elevation and a minimum of 100 feet from any public, private or individual potable water source.~~

127.04 ~~Potable water lines shall not pass under or through any part of the sewage disposal system. Where a water supply line must cross a sewer line, the bottom of the water service within ten feet of the point of crossing, shall be at least 12 inches above the top of the sewer line. The sewer line shall be of Schedule 40 pipe with cemented joints at least ten feet on either side of the crossing. Water and sewer lines shall not be laid in the same trench. The water and sewer lines,~~

~~when laid on the same grade, shall maintain a minimum separation distance of 10 feet.~~

- 127.05 ~~The surface of or the surface above the disposal field shall not be used for vehicular traffic or vehicular parking.~~
- 127.06 ~~No portion of an onsite wastewater disposal system shall be located under dwellings or other permanent structures.~~
- 127.07 ~~Effluent disposal systems shall not be located in depressed areas where surface water will accumulate. Provision shall be made to minimize the flow of surface water over the effluent disposal field.~~
- 127.08 ~~Subsurface wastewater disposal fields located on slopes of less than eight percent shall have a minimum setback from recreational waters, shellfish waters or other sensitive areas as prescribed in TABLE II.~~
- 127.09 ~~Subsurface wastewater disposal fields located on slopes of greater than eight percent shall be located a minimum of 100 feet from recreational waters, shellfish waters and other sensitive areas.~~
- 127.10 ~~Slopes of greater than 30% shall not be considered for subsurface disposal installation.~~
- 127.11 ~~Where all or part of the onsite wastewater disposal system is proposed to be installed on property other than the owner's, an easement in perpetuity shall be legally recorded in the proper county. The easement shall be of sufficient area to permit access, construction and maintenance of the onsite sewage disposal system.~~
- 127.12 ~~No site for an effluent disposal field or expansion area shall be approved which is located wholly within an area which is frequently flooded, swamp, marsh, or wetland. Except that if permits have been issued by the proper regulatory agency authorizing the use of wetlands for building sites, the property shall be evaluated using standard soil and site criteria for IOWDS.~~
- 127.13 ~~When a proposed lot is located partially within a frequently flooded area, that portion of said lot not within the flood prone area may be considered for approval for the effluent disposal field.~~
- 127.14 ~~There shall be maintained a minimum of 12 inches of unsaturated soil between the bottom of the subsurface disposal system and a perched or seasonal water table in soils that contain a restrictive horizon (fragipan, chalk, bedrock, clay or silty clay) within five feet of the surface.~~
- 127.15 ~~There shall be maintained a minimum of 24 inches of unsaturated soil between the bottom of the subsurface disposal system and any perched or seasonal water~~

~~table in soils that do not contain a restrictive horizon (fragipan, chalk, bedrock, clay or silty clay) within five feet of the surface.~~

- 127.16 ~~Easements or right-of-way areas for utilities, surface or subsurface drainage, roads, streets, ponds or lakes shall not be used as available space for location of individual onsite sewage disposal systems.~~

## 128 ~~PIPE SPECIFICATIONS FOR INDIVIDUAL ONSITE WASTEWATER DISPOSAL~~

- 128.01 ~~The pipe shall conform to all applicable ASTM standards and must be marked with the ASTM specification which it meets.~~
- 128.02 ~~Pipe used for conventional subsurface effluent disposal lines shall be a minimum of four inches in diameter.~~
- 128.03 ~~Schedule 40 pipe (4 inches in diameter) shall be used into and out of any septic tank, treatment plant, chlorine contact chamber or pumping chamber for a distance sufficient to reach undisturbed earth; provided, pipe used for conducting treated effluent to surface discharge may be a minimum of three inches in diameter. However if the house sewer stub-out is 3 inches in diameter the effluent line connecting the house stub-out to the 4-inch inlet of the tank may be a 3-inch schedule 40 pipe.~~
- 128.04 ~~Standard manufactured fittings compatible with the pipe shall be used to connect all piping within a wastewater disposal system.~~

## 129 ~~EXPERIMENTAL ONSITE WASTEWATER DISPOSAL SYSTEM PROTOCOL~~

- 129.01 ~~Manufacturers shall make application to the Division of Onsite Wastewater for an Experimental Individual Onsite Wastewater Disposal Temporary Permit for the installation of a limited number of systems to be evaluated over a prescribed period of time. The application shall include:~~
1. ~~A letter listing their distributors and installers in the State of Mississippi. Installers shall be licensed in accordance with Section 41-67-25, Mississippi Code. Certified installers shall be the only personnel approved to install experimental onsite wastewater systems. The letter shall certify all their distributors and installers have been instructed and trained on the installation and operation of the experimental onsite wastewater disposal system.~~
  2. ~~A monitoring protocol, outlining a testing plan for a representative number of installations. The protocol shall include a defined list of parameters to be monitored and a schedule for the completion of the outlined activities.~~
  3. ~~Remittance of the \$100.00 manufacturer's registration fee.~~

- 129.02 ~~The Division of Onsite Wastewater shall review proposed experimental systems and issue an Experimental Onsite Wastewater Disposal Temporary Permit and system registration to the manufacturer. This permit will indicate the conditions under which a limited number of experimental systems may be installed. A copy of this permit will be distributed to all District Environmentalists.~~
- 129.03 ~~Authorized distributors or installers shall make application for each installation of an approved experimental system to the District Environmentalist. In addition to documentation required by Section 41-67-25 Mississippi Code, the application will include:~~
- ~~1. A consent letter from the property owner or authorized agent, on forms provided by the Department, acknowledging the experimental nature of the system and holding the Mississippi State Department of Health harmless regarding the installation or use of an experimental system. The property owner or authorized agent shall agree to allow the distributor, installer and personnel from the Mississippi State Department of Health access to the site at reasonable hours to evaluate the functioning of the system.~~
  - ~~2. A copy of the written warranty to the property owner or his/her authorized agent certifying the replacement of a failing experimental system with an approved alternative system within the testing period.~~
  - ~~3. A copy of the Experimental Onsite Wastewater Disposal Temporary Permit for the system.~~
- 129.04 ~~The District Environmentalist and Program Specialist will evaluate the application, perform a site evaluation, complete a Soil and Site Evaluation/System Recommendation (Form 335) for each application, and forward the review, along with all required documentation, to the Division of Onsite Wastewater for approval.~~
- 129.05 ~~The Division of Onsite Wastewater shall approve or deny requests for individual installations of approved experimental systems based on the review of information submitted by the District Environmentalist and Program Specialist. Approval or denial shall be issued within ten days of the receipt of the review information.~~
- 129.06 ~~On approval from the Division of Onsite Wastewater, construction of the experimental system can start. The District/County staff and the Program Specialist will observe the installation of the experimental system. The District Environmentalist will forward a copy of the completed IOWDS Approval Form to the Division of Onsite Wastewater when final approval has been granted to the installation.~~
- 129.07 ~~Repairs or modification to an approved experimental system must be recorded and reported to the Division of Onsite Wastewater by the manufacturer.~~

~~129.08 The Division of Onsite Wastewater will maintain a separate filing system and data base to track experimental system installations.~~

~~129.09 The Division of Onsite Wastewater will maintain records on all approved experimental system installations. The Division of Onsite Wastewater will design and implement a monitoring and testing procedure for each approved experimental system. Upon completion of the monitoring and testing period, the Division of Onsite Wastewater will issue a final disposition on the status of the experimental system. This will consist of denial or approval as an alternative onsite wastewater disposal system for statewide use.~~

### ~~130 CERTIFICATION FOR INSTALLERS OF INDIVIDUAL ONSITE WASTEWATER DISPOSAL SYSTEMS (IOWDS)~~

#### ~~130.01 Certification Required~~

- ~~1. No person shall be engaged in the business of constructing onsite sewage/wastewater treatment and disposal systems in Mississippi without first applying for and receiving a certification, as herein required by the Department.~~

~~However, an individual may install a system on his/her own property and a professional engineer may operate as an installer without being certified [Section 41-67-25 (1), Mississippi Code of 1972, Annotated]~~

- ~~2. Certification applications, on forms approved by the Department, shall be submitted to the Division of Onsite Wastewater. A certification fee shall be charged in the amount of \$50.00 per year.~~
- ~~3. The certification shall be valid statewide.~~

#### ~~130.02 Certification of Installers~~

- ~~1. Every installer shall attend a basic certification course approved by the MSDH which includes training on the Wastewater Law, the MSDH Regulation Governing Individual Onsite Wastewater Disposal Systems, soil/site evaluations, design, and installation and construction criteria for individual onsite wastewater disposal systems.~~
- ~~2. The installer shall complete and pass an examination for certification. An option shall be provided for either a written or an oral test. A passing score for the test shall be 70%; provided a re-examination is permitted if the initial score is below 70%.~~
- ~~3. Provides proof of having a valid public liability insurance policy in effect with liability limits of at least Fifty Thousand Dollars (\$50,000.00) per occurrence and at least One Hundred Thousand Dollars (\$100,000.00) in total aggregate amount.~~

4. ~~The Department may initiate levels of certification for the installation of specific types of onsite wastewater systems. This certification may include training and testing above the basic level of certification.~~

#### 130.03 ~~Re-Certification~~

1. ~~The installer's certification is valid for one year. The certification may be renewed annually provided:~~
  - a. ~~There is no outstanding fine owed.~~
  - b. ~~The applicant submits proof of attendance at a minimum of three hours of continuing education in wastewater disposal, approved by the MSDH, in the last 12 months for each re-certification thereafter.~~
  - c. ~~Provides proof of having a valid public liability insurance policy in effect with liability limits of at least Fifty Thousand Dollars (\$50,000.00) per occurrence and at least One Hundred Thousand Dollars (\$100,000.00) in total aggregate amount.~~
  - d. ~~The applicant pays a \$50.00 fee.~~

#### 130.04 **Responsibilities of The Certified Installer (See also Section 2.5, 98, a, c & d)**

1. ~~It shall be the responsibility of the installer to install wastewater disposal systems in accordance with applicable State Laws and Regulations.~~
2. ~~The certified installer, who designs or installs the system, shall sign and file with the county health department an affidavit that he/she constructed the system in compliance with all requirements and regulations applicable to that type of system. The affidavit and layout drawings for all systems installed must be submitted to the county health department.~~
3. ~~Each certified installer shall furnish proof of certification to a property owner, the owner's representative, or occupant of the property on which an individual onsite wastewater disposal system is to be designed, constructed, repaired or installed by such installer and if requested by the Department or its Authorized Agent.~~
4. ~~If the Department has been requested to approve the design, construction or installation of an onsite wastewater disposal system, a certified installer may not begin the construction or installation of such system unless he/she notifies the Department of the date on which the installer plans to begin work on the system. This notification shall be given a minimum of 48 hours before the system is to be installed.~~

#### 130.05 ~~Administrative Fine~~

1. ~~The certified installer shall be subject to an administrative fine of \$1,000 if such installer or engineer fails to comply with all construction requirements and regulations applicable to the type of IOWDS he/she installed. Any failure to comply with the provisions of this Regulation or construction requirements relating to the IOWDS installed shall be documented with sufficient proof.~~
2. ~~Prior to assessing and collecting the administrative fine, the Public Health District shall provide written notification by Certified Mail/Return Receipt Requested to the licensee, stating the basis for the fine, and setting an administrative hearing date at the district level within 5-20 days of mailing of such notification.~~
3. ~~Upon determination at a district hearing of sufficient reason for the fine to be assessed, the installer shall have ten days from receipt of such determination to request an additional hearing at the state level, if he wishes to appeal the decision of the district hearing officer.~~
4. ~~At the State level, a hearing officer appointed by the State Health Officer shall conduct a hearing to be scheduled within 30 calendar days of receipt of the request for such hearing.~~

#### 130.06 Hearing Procedures

1. ~~The state level hearing shall be held at the Mississippi State Department of Health, Osbourne Building, 570 East Woodrow Wilson, O-300, Jackson, Mississippi. The appellant will be provided procedural rules.~~
2. ~~The decision to be made by the State Health Officer will be based solely on the oral, written and documentary evidence presented. After considering all findings of fact, conclusions of law and recommendations of the hearing officer, the State Health Officer will make the final decision whether to sustain the decision made by the district hearing official and assess and collect the fine. The decision of the State Health Officer will be binding on the Public Health District. The appellant will be notified in writing by certified mail of the State Health Officer's decision.~~
3. ~~In case of an adverse decision the appellant will be advised of the right to pursue judicial review.~~
4. ~~No individual may file a petition for judicial review with a court of competent jurisdiction until a final written decision and order have been provided by the Mississippi State Department of Health.~~

#### 130.07 Suspension/Revocation of Certification

1. ~~Any installer or his/her employee(s) constructing an onsite wastewater treatment and disposal system (IOWDS) in violation of State Laws,~~

~~Regulations and Standards shall be subject to suspension of certification and to penalties, as defined in Section 41-3-59, Mississippi Code of 1972. Repeat violations shall constitute grounds for revocation of certification. The interference by a certified installer or his/her employee(s) with the Health Authority in performance of his/her duties with respect to this Regulation shall constitute grounds for revocation of certification. The suspension/revocation may be in addition to the \$1,000 dollar fine in Section 41-67-6(5). A suspension/revocation is effective statewide.~~

- ~~2. Any installer whose certification is revoked shall be eligible to apply for a new certification no sooner than six months from the date of revocation. Any person whose certification previously has been revoked and who obtains a subsequent certification and violates the provisions of the Regulation, which results in the revocation of his/her certification for the second time, shall not be granted another certification.~~
- ~~3. Prior to suspension/revocation, the issuing official shall provide written notification to the certified installer, stating the basis for suspension or revocation, and advising the certification shall be suspended or revoked on the tenth day following the mailing of the written notification, unless a written request for a hearing is filed with the issuing official, by the certified installer, within the ten day period.~~
- ~~4. A hearing shall be scheduled within the Public Health District not more than ten days after the request for hearing has been filed. The decision of the hearing officer and reasons for the decision shall be forwarded to the appellant by certified mail.~~
- ~~5. A certification may be summarily suspended by the issuing official pending a hearing, as herein provided, if the holder of the certification acts in such a manner as to pose an immediate or serious threat to the public health. In the case of a summary suspension, the certified installer shall be given a hearing as soon as possible after the issuing official receives a written request for a hearing.~~

~~131 LICENSURE FOR PERSONS ENGAGED IN THE BUSINESS OR PRACTICE OF REMOVING AND DISPOSING OF THE SLUDGE AND LIQUID WASTE (SEPTAGE) FROM INDIVIDUAL ONSITE WASTEWATER DISPOSAL SYSTEMS~~

~~131.01 License Required~~

- ~~1. On and after January 1, 1988, no person shall be engaged in the business of removing and disposing of the sludge and liquid waste (septage) from individual onsite wastewater disposal systems without first applying for and receiving a license as herein required by the Mississippi State Department of Health.~~

2. License applications, on forms approved by the Mississippi State Department of Health, shall be submitted in the Public Health District in which the contractor's (sewage pumper's) business is based. A license fee (~~Section 41-67-12 (1)(b), Mississippi Code 1972~~) shall be charged, each business entity, in the amount of \$50.00 per year, except for any sewage pumper who shall show proof that he was in the septage business in Mississippi prior to July 1, 1987.
3. The license shall be issued annually upon a satisfactory inspection of his/her pumping and hauling equipment, approval of his/her disposal site and receipt of fee, if required.
4. The license shall be valid on a reciprocal basis in any other designated Public Health District where the contractor engages in removing and disposing of sludge and liquid waste from individual onsite wastewater disposal systems.

#### 131.02 ~~Vehicles and Equipment~~

1. ~~All vehicles engaged in septage removal or hauling shall carry the name and address of the contractor and the license number on both sides of the vehicle.~~
2. ~~All such equipment used shall be capable of delivering the septage to its intended destination without spillage or loss of septage while en route.~~
3. ~~Spillage or dumping of septage at any site other than those authorized by the Department of Environmental Quality, Office of Pollution Control constitutes grounds for suspension or revocation of license.~~

#### 131.03 ~~Disposal~~

1. ~~All septage shall be disposed of in a manner consistent with regulations promulgated by the Mississippi State Board of Health and the Commission on Environmental Quality.~~
2. ~~Such disposal methods include the authorized discharge of the septage into a waste treatment facility permitted by the Department of Environmental Quality, Office of Pollution Control. At the time of initial application or re-licensure, written permission shall be submitted from the proper official when waste is to be disposed of into a public or community wastewater treatment facility. At the time of re-licensure, a current written permission shall be submitted.~~
3. ~~If disposal is proposed by any other means, approval of the method and location shall be obtained from the Department of Environment Quality, prior to receiving a license.~~

#### 131.04 ~~Suspension/revocation of License~~

1. ~~Any person engaged in the business of removing and disposing of the sludge and liquid waste from individual onsite wastewater disposal systems in violation of State Laws, Regulations and Standards shall be subject to suspension of license and to penalties defined in Section 41-3-59, of the Mississippi Code of 1972.~~
2. ~~Repeat violations shall constitute grounds for revocation of license. The interference of a licensee or his/her employee(s) with the Health Authority in performance of his/her duties with respect to this Regulation shall constitute grounds for revocation of license.~~
3. ~~Any person whose license is revoked shall be eligible to apply for a new license no sooner than six months from the date of revocation. Any person whose license previously has been revoked and who obtains a subsequent license and violates the provisions of the Regulation, which results in the revocation of his/her license for the second time, shall not be granted another license.~~
4. ~~Prior to such action, the issuing official shall provide written notification to the licensee, stating the basis for suspension or revocation, and advising the licensee that the license shall be suspended or revoked on the tenth day following the mailing of the written notification, unless a written request for a hearing is filed with the issuing official, by the licensee, within the ten day period.~~
5. ~~A hearing shall be scheduled within the Public Health District not more than ten days after the request for hearing has been filed. The decision of the hearing officer and reasons for the decision shall be forwarded to the appellant by certified mail.~~
6. ~~A license may be summarily suspended by the issuing official pending a hearing, as herein provided, if the holder of the license acts in such a manner as to pose an immediate or serious threat to the public health. In the case of a summary suspension, the licensee shall be given a hearing as soon as possible after the issuing official receives a written request for a hearing.~~

#### 132 REGISTRATION OF MANUFACTURERS

132.01 ~~Each manufacturer of an individual on-site wastewater disposal system (including but not limited to aerobic treatment plants, septic tanks, subsurface drip irrigation systems, alternative technology and systems under experimental protocol) shall hold a valid registration issued by the State Department of Health in order to operate a business in or do business in the State of Mississippi.~~

132.02 ~~Each manufacturer must submit the following to the department:~~

1. ~~Information including specifications of each system and/or component part of the system as deemed necessary by the Department for review.~~
  2. ~~\$100 annual registration fee.~~
- 132.03 ~~After receipt of the fee and required information, the department shall evaluate the documentation for compliance with the minimum standards set forth in Regulation. Upon verification that the system is in compliance with these standards the Department shall issue a certificate of registration when the following additional requirements are met:~~
1. ~~Aerobic treatment plants—documentation, from a third party certifier accredited by the American National Standards Institute that the manufacturer's product has successfully completed the testing and listing process.~~
  2. ~~On or before October 1, 1996 each manufacturer not currently tested and listed by a third party certifier, accredited by the American National Standards Institute, shall submit to the department evidence that such manufacturer has commenced the testing/listing process. Within nine (9) months after the submission of such evidence, each manufacturer must have completed the testing/listing process.~~

~~Each manufacturer must have established procedures which send representatives to a minimum of ten percent of its distributors in Mississippi on an annual basis to conduct evaluations to assure the distributor of certified aerobic treatment systems is providing proper maintenance, has sufficient replacement parts available and is maintaining service records. Annual monitoring reports, from the manufacturer and third party certifier must be submitted to the Department prior to re-registration.~~
  3. ~~Septic tanks—The Department shall review, including an on-site inspection if deemed necessary, the plans, specifications, and construction criteria and shall determine them to be in compliance with the regulation.~~
  4. ~~Subsurface Drip irrigation systems—The Department shall review, including an on-site inspection if deemed necessary, the plans, specifications and construction criteria and shall determine them to be in compliance with the regulation.~~
  5. ~~Spray Irrigation Systems—The Department shall review equipment intended to be utilized in the construction of spray irrigation systems to verify compliance with the regulation.~~
  6. ~~Alternative Wastewater Technology—All alternative wastewater treatment and/or disposal systems/products must be documented and reviewed by the~~

~~Division of Onsite Wastewater to verify compliance with the applicable standards:~~

7. ~~Systems under experimental protocol—Such systems shall comply with requirements of Section 2.17 of this Regulation.~~

### 133 ~~REQUIREMENTS FOR THIRD PARTY CERTIFIERS~~

133.01 ~~Aerobic treatment systems may be installed only if they have been tested and listed by a third party certifying program. Such aerobic treatment systems shall be in compliance with standards for Class I systems as defined by the most current revision of American National Standards Institute/National Sanitation Foundation (ANSI/NSF) International Standard Number 40, hereby incorporated by reference. An approved third party certifying program shall comply with the following provisions in order for systems which it has certified to be installed in Mississippi:~~

1. ~~On and after October 1, 1996 an approved third party certifying program shall be accredited by the American National Standards Institute (ANSI).~~
2. ~~Have established procedures which send representatives to a minimum of one distributor of each manufacturer in Mississippi on an annual basis to conduct evaluations to assure the distributor of certified aerobic treatment systems is providing proper maintenance, has sufficient replacement parts available and is maintaining service records.~~
3. ~~Notify the department of the results of monitoring visits to manufacturers and distributors within sixty (60) days of the conclusion of the monitoring.~~
4. ~~Submit completion reports on testing and evaluation of each aerobic treatment system verifying compliance with ANSI/NSF STANDARD 40. Such reports shall include but not be limited to the following:~~
  - a. ~~Materials~~
  - b. ~~Design and construction~~
  - c. ~~Performance requirement (BOD, SS, pH)~~
  - d. ~~Operation and maintenance~~
5. ~~The third party certifying entity must be disassociated with and have no vested interest in the manufacturer to which certification services are provided.~~

### 134 ~~HEARINGS AND APPEALS~~

- 134.01 Any person who has been denied an approval or whose property has been declared unsuitable for recommendation of any wastewater disposal system or who has been charged with a violation of this regulation can request a district level hearing in writing within 10 days of notification of the denial or violation. A hearing will be scheduled within 10 calendar days after the request has been filed. The appellant will be notified in writing of the decision of the District Hearing Officer.
- 134.02 The appellant shall have the right to appeal an unfavorable decision to the State Health Officer in writing within 10 days of notification of results of the district-level hearing. A hearing will be scheduled within 30 calendar days after the request has been filed. The decision of the State Health Officer or his/her designee as Hearing Officer will be based solely on the oral, written and documentary evidence presented. The appellant will be notified in writing of the decision.
- 134.03 No individual may file a petition for judicial review with a court of competent jurisdiction until a final written decision and order have been issued.

### 135 HEARINGS AND APPEALS

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

1. Any person who is aggrieved by any final decision of the Board may appeal that final decision to the chancery court of the county of the situs in whole or in part of the subject matter. The appellant shall give a cost bond with sufficient sureties, payable to the state in a sum to be fixed by the Board or the court and to be filed with and approved by the clerk of the court. The aggrieved party may, within 30 days following a final decision of the Board, petition the chancery court for an appeal with supersedeas and the chancellor shall grant a hearing on the petition. Upon good cause shown the chancellor may grant the appeal with supersedeas. The appellant shall be required to post a bond with sufficient sureties according to law in an amount to be determined by the chancellor. The chancery court shall always be deemed open for hearing of appeals and the chancellor may hear the appeal in termtime or in vacation at any place in his district. The appeal shall have precedence over all civil cases, except election contests. The chancery court shall review all questions of law and of fact and may enter a final order or remand the matter to the Board for appropriate action as may be indicated or necessary under the circumstances. Appeals may be taken from the chancery court to the Supreme Court in the manner as now required by law, but if a supersedeas is desired by the party appealing to the chancery court, that party may apply therefore to the chancellor, who shall award a writ of supersedeas, without additional bond, if in the chancellor's judgment material damage is not likely to result. If material damage is likely to result, the chancellor

shall require a supersedeas bond as deemed proper, which shall be liable to the state for any damage.

135.02 **SECTION 20.**

1. The Department shall adopt and use procedures for conducting reviews requested by any person aggrieved by the disapproval or requirements for an On-site Wastewater Disposal System as provided by the Department in written form under Section 41-67-6. The procedures shall include that the person may request review by submitting a written request of review to the Director of the Office of Environmental Health. The request for review shall identify the matter contested and state the person's name, mailing address and home and daytime phone numbers. Within 10 business days of the receipt of the request for review, the Department shall issue in writing a ruling and determination to the person and if any corrections are necessary to any form previously issued by the Department, then new forms shall be submitted to the Applicant.
2. Any Applicant aggrieved by the ruling issued by the Director of the Office of Environmental Health may apply for a hearing. Any hearing shall be conducted by a hearing officer designated by the Department. At the hearing, the hearing officer may conduct reasonable questioning of persons who make relevant factual allegations concerning the proposal. The hearing officer shall require that all persons be sworn before they may offer any testimony at the hearing, and the hearing officer is authorized to administer oaths. Any Applicant so choosing may be represented by counsel at the hearing. A record of the hearing shall be made, which shall consist of a transcript of all testimony received, all documents and other material introduced, the staff report and recommendation, and any other material as the hearing officer considers relevant. He shall make a recommendation within a reasonable period of time after the hearing is closed and after he has had an opportunity to review, study and analyze the evidence presented during the hearing. The completed record shall be certified to the State Health Officer, who shall consider only the record in making his decision, and shall not consider any evidence or material that is not included. All final decisions regarding the disapproval or requirements for an on-site wastewater disposal system shall be made by the State Health Officer. The State Health Officer shall make his written findings and issue his order after reviewing the record, not to exceed 30 days following his receipt of the record.

135.03 Any Applicant who has been denied an approval or whose property has been declared unsuitable for recommendation of any wastewater disposal system or who has been charged with a violation of this regulation can request a district level hearing in writing within 10 days of notification of the denial or violation. A hearing will be scheduled within 10 calendar days after the request has been

filed. The appellant will be notified in writing of the decision of the District Hearing Officer.

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

135.05 No individual may file a petition for judicial review with a court of competent jurisdiction until a final written decision and order have been issued.

### 136 ~~EXCEPTIONS, EXEMPTIONS, AND VARIANCES~~

136.01 ~~The State Health Officer may grant, extend, deny, or revoke any exception or exemption where such action will not subject the public to unreasonable health risks or jeopardize environmental resources.~~

136.02 ~~A variance may be requested, by the property owner, only after the results of a soil/site evaluation has determined a design-based IOWDS that conforms to the regulation cannot be recommended for installation.~~

1. ~~The State Health Officer may grant a variance if a thorough investigation reveals that strict application of the Regulation would cause the applicant undue hardship which results from conditions peculiar to the site or situation under consideration, which conditions could not reasonably have been anticipated in the writing of the Regulation. Further, the granting of such a variance shall not subject the public to unreasonable health risks or jeopardize environmental resources.~~
2. ~~A request for a variance from the Regulation must be submitted, by the District Supervising environmentalist, in writing with supporting documentation. This documentation shall include:~~
  - a. ~~The written request for variance from the property owner.~~
  - b. ~~The complete file: soil/site evaluation, plot plan, any field notes etc...~~
  - c. ~~A follow-up site evaluation made by the District Environmentalist and the Program Specialist to confirm the original soil/site evaluation to be correct and that no approvable systems can be installed in compliance with the regulation.~~
  - d. ~~A system recommendation, from the District Environmentalist and Program Specialist that could be installed with a variance.~~

- e. ~~A detailed dimensioned drawing of the lot, indicating the recommended system location, any wells, the house and other related information.~~
  - f. ~~If no system can be recommended for variance, documentation supporting this determination along with the complete file to this office for review.~~
- 3. ~~The State Health Officer may revoke any request for variance.~~
  - 4. ~~A variance, if granted, is not transferrable from one person to another or from one site to another.~~

### 137 VARIANCE

137.01 A variance may be requested, by the property owner, only after the results of a soil/site evaluation has determined a design-based Individual On-Site Wastewater Disposal System that conforms to the regulation cannot be recommended for installation.

- 1. The State Health Officer may grant a variance if a thorough investigation reveals that strict application of the Regulation would cause the Applicant undue hardship which results from conditions peculiar to the site or situation under consideration, which conditions could not reasonably have been anticipated in the writing of the Regulation. Further, the granting of such a variance shall not subject the public to unreasonable health risks or jeopardize environmental resources.
- 2. A request for a variance from the Regulation must be submitted, by the District Supervising Environmentalist, in writing with supporting documentation. This documentation shall include:
  - a. The written initial request for variance from the property owner.
  - b. The complete file must include:
    - i. Plat, representing location and/or dimensions of: property, water supply, residence/driveway, sensitive waters (if applicable), setbacks, recommended system location and soil borings;
    - ii. Soil Profile Sheet; and
    - iii. Photos, if necessary.
  - c. A follow-up site evaluation made by the District Environmentalist and the Program Specialist to confirm the original Soil/Site evaluation to be correct and that no approvable systems can be installed in compliance with the regulation.

- d. A system recommendation, from the District Environmentalist and Program Specialist that could be installed with a variance.
  - e. If no system can be recommended for variance, documentation supporting this determination along with the complete file to this office for review.
- 3. The State Health Officer may revoke any request for variance.
  - 4. A variance, if granted, is not transferable from one Applicant to another or from one site to another.

### 138 RESEARCH PROJECTS

~~The Department may initiate research projects and may consider projects if submitted by registered professional engineers and/or professional soil scientists. The purpose of these projects shall be to determine the feasibility of new technology, new design criteria and/or alteration of existing design criteria for IOWDS.~~

### 139 PENALTY FOR VIOLATION OF REGULATIONS

~~The violation of this Regulation is a misdemeanor under Section 41-3-59 and 41-67-28 Mississippi Code of 1972, Annotated, and is punishable by fine in the amount stated therein.~~

### 140 UNCONSTITUTIONALITY CLAUSE

~~Should any paragraph, item, sentence, clause, or phrase of this Regulation be declared unconstitutional or invalid for any reason, the remainder of this Regulation shall not be affected thereby.~~

### 141 FINAL APPROVAL

~~In accordance with Section 41-3-15(4)(e) and Section 41-3-18(b) MS Code of 1972, Annotated, if an inspection is requested, the Department cannot issue a final approval until the installer has met the following conditions:~~

- 141.01 ~~Notification prior to beginning construction,~~
- 141.02 ~~Completed affidavit of installation signed and dated, and~~
- 141.03 ~~Remittance of \$75.00 fee.~~

~~If the scheduled requested inspection requires any additional inspections (non-compliance or other inspection after the initial inspection) a \$25.00 fee will be required for each inspection prior to the collection of the approval fee and issuance of the final approval.~~

### 142 APPROVAL OF DISPOSAL SYSTEMS

142.01 An approval is required by current state law for all new Individual On-Site Wastewater Disposal System installed for a permanent water connection. The Environmentalist shall make a final inspection of the system as constructed. If the design, construction and installation of such system are in accordance with the rules and regulations of the Department, and upon receipt of the installer's affidavit, fee, and maintenance agreement (where applicable), approval shall be granted.

If a Certified Professional Evaluator designs, constructs or installs or directly supervises the construction or installation of a Design-based Individual On-Site Wastewater Disposal System in accordance with the regulation and stamps the appropriate documentation with that Certified Professional Evaluator's number, the Department shall approve the design, construction or installation of the system, if requested.

Approval shall be granted only after the Environmentalist has determined that all administrative requirements stated in this Regulation have been satisfied.

142.02 If an inspection is requested, the Department cannot issue a final approval until the property owner has met the following conditions:

1. Notification prior to beginning construction;
2. Completed affidavit of installation signed and dated;
3. Remittance of fee; and
4. For any Alternative System, the qualified homeowner shall remit an affidavit agreeing to a continuing maintenance agreement on the installed system. Depending upon the type of system, this maintenance agreement will be in effect from the time of installation, or for Advanced Treatment Systems, at the end of the required manufacturer's maintenance agreement.  
**Section 41-67-6 (7) (b), MS Code of 1972, Annotated**

142.03 If the scheduled requested inspection requires any additional inspections due to noncompliance, a \$25.00 fee will be required for each additional inspection prior to the collection of the approval fee and issuance of the final approval.

142.04 The Department reserves the right to deny (void) the Permit/Recommendation(s) if there is extensive grading of the lot or change of house or individual well location after the system recommendations have been issued. Final approval of the system shall not be issued until both the house and well have been constructed.

142.05 The issuance of an approval by the Department does not denote or imply any guarantee that the Individual On-site Wastewater Disposal System will function for any specified period of time.

142.06 The Department must approve or disapprove the request, for site evaluation, within 15 working days following submission of all required documentation. If the Department disapproves the request, the Department shall state in writing the reasons for the disapproval. If the Department does not respond to the request within 15 working days, the request for approval of an Individual On-site Wastewater Disposal System shall be deemed approved.

#### 143 ~~CERTIFICATION OF REGULATION~~

~~This is to certify that the above REGULATION GOVERNING INDIVIDUAL ONSITE WASTEWATER DISPOSAL SYSTEMS was adopted by the Mississippi State Board of Health on July 10, 1996 to become effective August 10, 1996.~~

~~Amended July, 2001~~

~~Section 2.18 Certification for Installers of Individual Onsite Wastewater Disposal Systems (Iowds)~~

#### ~~2. Certification of Installers~~

~~c. Provides proof of having a valid public liability insurance policy in effect with liability limits of at least Fifty Thousand Dollars (\$50,000.00) per occurrence and at least One Hundred Thousand Dollars (\$100,000.00) in total aggregate amount.~~

#### ~~3. Re-Certification~~

~~iii. Provides proof of having a valid public liability insurance policy in effect with liability limits of at least Fifty Thousand Dollars (\$50,000.00) per occurrence and at least One Hundred Thousand Dollars (\$100,000.00) in total aggregate amount.~~

~~Amended October, 2001~~

#### ~~Section 2.5 Responsibilities~~

~~8. If the property is to be subdivided, the subdivider shall be responsible for the following:~~

~~a. Furnishing a legal description and site plan of the entire area to be developed. The site plan shall show lot lines, lot sizes (dimensions and total area), and existing ground contours on two foot intervals. The site plan shall show all lakes, ponds, streams and any known or possible wetland areas. Names of adjacent property owners and their property lines abutting the proposed development shall be shown. Property adjoining the proposed subdivision of which the subdivider holds legal title must also be shown with a letter of intention concerning this property.~~

Amended July, 2003

## 2.5 Responsibilities

7. The County Environmentalist shall be responsible for the following:

e. If the soil/site evaluation indicates no design based system can be recommended, the department shall state in writing the reasons for the disapproval and inform the applicant that he/she has the option to employ an engineer to design an onsite wastewater system for the site.

8. If the property is to be subdivided, the subdivider shall be responsible for the following:

b. When residential subdivisions are proposed which are composed of fewer than thirty-five (35) lots, and no system of sanitary sewers is available to which collection sewers may be feasibly connected, the State Health Officer may waive the requirement for a feasibility study. Such waiver of the feasibility study will not be granted if the proposed development meets any one of the following criteria:

i. Is within a wastewater utility district where that utility has certified it will provide sewer service

ii. Is within a regional wastewater authority that has certified it will provide sewer service

iii. Is within one mile of a city with sewer availability that has certified it will provide sewer service

iv. MSDH analysis reflects that soil and site conditions may not be conducive for Individual Onsite Wastewater Disposal Systems.

## 2.6 Procedures for Intent to Install and System Recommendations

9. The department must approve or disapprove the request, for site evaluation, within fifteen (15) working days following submission of all required documentation. If the department disapproves the request, the department shall state in writing the reasons for the disapproval. If the department does not respond to the request within fifteen (15) working days, the request for approval of an individual on-site wastewater disposal system shall be deemed approved.

## 2.23 Exceptions, Exemptions and Variances

1. The State Health Officer may grant, extend, deny, or revoke any exception or exemption where such action will not subject the public to unreasonable health risks or jeopardize environmental resources.

Amended April, 2004

144 2.5—Responsibilities

10.—The Professional Engineer shall be responsible for the following:

e.—~~Providing, for Department review and comment, appropriate documentation to include but not limited to soil/site evaluation, plot plan with legal description and a detailed set of plans and specifications for the design and construction of said proposed system bearing the registered engineer's seal on all systems.~~

d.—~~Providing an approvable design modification for any submitted design where deficiencies with law or regulation were identified by the Department.~~

f.—~~Signing and filing with the local county health department a letter of completion, bearing the registered engineer's seal, stating the system was installed in compliance with the approved design plans and an affidavit by the installer stating the system was installed according to the engineer's design and specifications for all systems he/she has designed, constructed or installed.~~

~~Secretary and Executive Officer~~

~~In addition Design Standards were adopted into the Regulation as follows:~~

~~Design Standard I—Adopted by the Mississippi State Board of Health on January 8, 1997 to become effective February 17, 1997.~~

~~Design Standard II—Adopted by the Mississippi State Board of Health on January 8, 1997 to become effective February 17, 1997.~~

~~Design Standard III—Adopted by the Mississippi State Board of Health on January 8, 1997 to become effective February 17, 1997.~~

~~Design Standard IV—Adopted by the Mississippi State Board of Health on July 10, 1995 to become effective August 10, 1995.~~

~~Design Standard V—Adopted by the Mississippi State Board of Health on January 8, 1997 to become effective February 17, 1997.~~

~~Design Standard VI—Adopted by the Mississippi State Board of Health on April 9, 1997 to become effective May 12, 1997.~~

~~Design Standard VII—Adopted by the Mississippi State Board of Health on April 9, 1997 to become effective May 12, 1997.~~

~~Design Standard VIII—Adopted by the Mississippi State Board of Health on January 8, 1997 to become effective February 17, 1997.~~

~~Design Standard IX—Adopted by the Mississippi State Board of Health on January 8, 1997 to become effective February 17, 1997.~~

~~Design Standard X—Adopted by the Mississippi State Board of Health on April 9, 1997 to become effective May 12, 1997.~~

~~Design Standard XI—Adopted by the Mississippi State Board of Health on April 9, 1997 to become effective May 12, 1997.~~

~~Design Standard XII—Adopted by the Mississippi State Board of Health on April 9, 1997 to become effective May 12, 1997.~~

~~Design Standard XIII—Adopted by the Mississippi State Board of Health on January 8, 1997 to become effective February 17, 1997.~~

## 145 **FEES**

### 145.01 Soil and Site Evaluation

1. Notice of Intent application.....\$25.00
2. Permit/Recommendation.....\$50.00

### 145.02 Private Water Well

1. Sample .....\$25.00
2. Approval .....\$10.00

### 145.03 Submittal Review

1. Design-based System.....\$100.00
2. Performance-based System.....\$250.00

145.04 Final Approval

- 1. Design-based System.....\$75.00
- 2. Performance-based System.....\$250.00
- 3. Re-inspection (per inspection) .....\$25.00

145.05 The fee authorized under this section shall not be assessed for any system operated by state agencies or institutions, including, without limitation, foster homes licensed by the State Department of Human Services. The fee authorized under this section shall not be charged again after payment of the initial fee for any system that has been installed in accordance with this chapter, within a period of 24 months following the date that the system was originally installed.

**146 CERTIFICATION OF REGULATION**

This is to certify that the above **REGULATION GOVERNING RESIDENTIAL INDIVIDUAL ON-SITE WASTEWATER DISPOSAL SYSTEMS: ADMINISTRATION** was adopted by the Mississippi State Board of Health on Put Date Here to become effective Put Date Here .

\_\_\_\_\_  
F E Thompson, MD  
State Health Officer

**Title 15 - Mississippi Department of Health**

**Part III – Office of Health Protection**

**Subpart 77 – On-Site Wastewater**

**Chapter 01      2. 0 REGULATION GOVERNING RESIDENTIAL INDIVIDUAL ON-SITE WASTEWATER DISPOSAL SYSTEMS: ADMINISTRATIVE**

**100      PURPOSE**

The purpose of this regulation is to establish standards regarding the design, construction, installation and approval of On-site Wastewater Disposal Systems, to the extent necessary for the protection of public health. This section of regulations deals specifically with administrative issues, protocols, and responsibilities of concerned parties.

**101      AUTHORITY**

The State Board of Health is authorized to promulgate these rules under and by virtue of **Section 41-3-15 (4) (a) (b) (f), (h), (k), (l), Section 41-3-17 and Sections 41-67-1 through 41-67-39, MS Code of 1972, Annotated.**

**102      INTRODUCTION**

At any place where a person(s) resides, are employed and/or congregate, there shall be a sanitary method for the disposal of all human excreta and other liquid waste.

All such places mentioned above where a system of wastewater collection and disposal is available shall have a properly constructed connection to the system into which all human excreta and other liquid waste shall be disposed.

Where a system of wastewater collection and disposal is not available, all human excreta and other liquid waste shall be disposed of into a properly constructed and maintained On-Site Wastewater Disposal System. No such system shall be allowed to discharge in a manner, which will jeopardize public health, welfare or the environment, and/or results in the effluent leaving the property of the generator.

Liquid wastes from homes or business establishments, offices, and places where people reside, are employed, or congregate, not covered in preceding sections, shall be disposed of in a manner which will not jeopardize public health, welfare or the environment.

Individual On-site Wastewater Disposal Systems require periodic maintenance. Periodic maintenance and maintenance providers must be in compliance with **MS Code of 1972, Annotated 41-67-1 Section 21.**

### 103 DEFINITIONS

- 103.01 Administrative Fine – a fine imposed by the Department for violations of statutes, regulations and orders of the Department.
- 103.02 Advanced Treatment System – an Individual On-Site Wastewater treatment system that complies with Section 41-67-10. **MS Code of 1972, Annotated 41-67-2(a)**
- 103.03 Affidavit (Installation) – a sworn statement in writing by a Certified Installer, Certified Professional Evaluator or Certified Engineer Evaluator to the State of Mississippi attesting that an Individual On-Site Wastewater Disposal System is installed, constructed, repaired or replaced and is in compliance with statutes, requirements, regulations and permit conditions.
- 103.04 Affidavit (Maintenance) – a sworn statement in writing by a property owner to the State of Mississippi agreeing to a continuing maintenance agreement on the installed alternative system at the end of the required manufacturer's maintenance agreement.
- 103.05 Alternative Systems – any on-site sewage treatment and disposal system used in lieu of a conventional system. **MS Code of 1972, Annotated 41-67-2(b)**
- 103.06 Applicant – an owner, lessee, or developer.
- 103.07 Biochemical Oxygen Demand (BOD<sub>5</sub>) – the concentration of oxygen (expressed as *mg/l*) utilized by microorganisms in the oxidation of organic matter during a 5 day period at a temperature of 20 °C (68 °F).
- 103.08 Board – the Mississippi State Board of Health. **MS Code of 1972, Annotated 41-67-2(c)**
- 103.09 Board of Supervisors – officials from the districts of each county elected to a four (4) year term that can implement ordinances within the county elected.
- 103.10 Carbonaceous 5 day Biochemical Oxygen Demand (CBOD<sub>5</sub>) – the concentration of oxygen (expressed as *mg/l*) utilized by microorganisms in the non-nitrogenous oxidation of organic matter during a 5 day period at a temperature of 20 °C (68 °F).
- 103.11 Centralized sewerage system – pipelines or conduits, pumping stations, force mains, and all other construction, devices and appliances appurtenant thereto, used for the collection and conveyance of sewage to a treatment works or point of ultimate disposal other than an Individual On-site Wastewater Disposal System. **MS Code of 1972, Section 41-67-2(d)**
- 103.12 Certification Advisory Board – an organization established to advise the Department regarding certification standards for Certified Manufacturers.

Certified Professional Evaluators, Certified Installers, Certified Maintenance Providers, Certified Pumpers and Qualified Homeowner Maintenance Providers.

- 103.13 Construction – the act of installing, repairing or replacing of an Individual On-Site Wastewater Disposal System.
- 103.14 Continuing Education Unit (CEU) – an educational course provided through the Department or other entities approved by the Department for the purpose of meeting continuing education and/or Professional Development Hours (PDH) required for the Certified Professional Evaluator/Environmental, Certified Installer, Certified Maintenance Provider, Qualified Homeowner Maintenance Provider, and Certified Pumper.
- 103.15 Department – the Mississippi State Department of Health.
- 103.16 Department of Environmental Quality – the Mississippi Department of Environmental Quality, Office of Pollution Control.
- 103.17 Design-based System – an Individual On-site Wastewater Disposal System designed and installed in accordance with design standards outlined in this regulation.
- 103.18 Developer – a person who develops real estate for residential or commercial use.
- 103.19 Discharge – to pour forth, emit or release treated effluent on the surface of the property of the generator.
- 103.20 Division – the Mississippi State Department of Health, Division of On-Site Wastewater.
- 103.21 Effluent – sewage, water, or other liquid, partially or completely treated or in its natural state, flowing out of a septic tank, subsurface wastewater infiltration system, aerobic treatment unit, other treatment system or system component.
- 103.22 Failure – breakage, weakness, or defect that causes a malfunction in the treatment, distribution, disposal, or dispersal of effluent into the soil absorption field, or that causes a wash-out or disruption of the effluent disposal field as evidenced by:
1. Surfacing or ponding of effluent at, over or around any component.
  2. Backing up of sewage within the residence or establishment.
  3. Contamination of ground or surface waters.

- 103.23 Federal Clean Water Act – federal legislation amended in 1972 to regulate discharges of pollutants into the waters of the United States. It gave the *United States Environmental Protection Agency (EPA)* the authority to implement pollution control programs such as setting wastewater standards for industry. The Clean Water Act also continued requirements to set water quality standards for all contaminants in surface waters. The Act made it unlawful for any person to discharge any pollutant from a point source into navigable waters, unless a permit was obtained under its provisions.
- 103.24 Final Approval – a document issued to the Applicant indicating the Individual On-site Wastewater Disposal System has been completed by the installer in accordance with this regulation, county ordinance or lending institution requirements.
- 103.25 Functioning – an Individual On-site Wastewater Disposal System that has no hydraulically overloaded soil conditions, seepage or discharge to the surface of the property of the generator.
- 103.26 Generator – any person whose act or process produces sewage or other material suitable for disposal in an Individual On-Site Wastewater Disposal System. **MS Code of 1972, Annotated 41-67-2(i)**
- 103.27 Individual On-site Wastewater Disposal System (Existing) – a sewage treatment and effluent disposal system that does not discharge into waters of the state, that serves only 1 legal tract, that accepts only residential waste and similar waste streams maintained on the property of the generator, and that is designed and installed in accordance with law and regulations of the Board and has been occupied for a specific period of time deemed necessary for determining if properly functioning by the Department.
- 103.28 Individual On-site Wastewater Disposal System (New) – a sewage treatment and effluent disposal system that does not discharge into waters of the state, that serves only 1 legal tract, that accepts only residential waste and similar waste streams maintained on the property of the generator, and that is designed and installed in accordance with this law and regulations of the Board. **MS Code of 1972, Annotated 41-67-2(j)**
- 103.29 Individual On-site Wastewater Disposal System (Repair) – a sewage treatment and effluent disposal system that can be made approvable or compliant with Section 41-67-9 (2) by replacing some portion of the sewage treatment and effluent disposal system.
- 103.30 Individual On-site Wastewater Disposal System (Temporary) – an option for wastewater disposal as outlined in Section 41-67-11 of **MS Code of 1972, Annotated.**

- 103.31 Malfunctioning – any On-Site Wastewater Disposal System or component part that fails to operate as intended or not in compliance with regulation or state laws.
- 103.32 Maximum Flexibility – the latitude in judgment to be used by authorized agents of the Department to recommend all applicable wastewater disposal systems in compliance with statutes, regulations and rules of the State of Mississippi.
- 103.33 Notice of Intent – required information from an Applicant, which is used by the Department to design an Individual On-site Wastewater Disposal System.
- 103.34 Performance-based System – an Individual On-site Wastewater Disposal System designed to meet standards established to designate a level of treatment of wastewater that an IOWDS must meet, including, but not limited to Biochemical Oxygen Demand (BOD), Total Suspended Solids (TSS), nutrient reduction and fecal coliform. **MS Code of 1972, Annotated 41-67-2(l)**
- 103.35 Permanent Water Service Connection – a water service connection made to an Applicant's property once the Department has approved the Individual On-Site Wastewater Disposal System.
- 103.36 Permit/Recommendation – documentation given to a Applicant listing all viable options for Individual On-site Wastewater Disposal for the Applicant's lot, tract or parcel.
- 103.37 Person – any individual, trust, firm, joint-stock company, public or private corporation (including a government corporation), partnership, association, state, or any agency or institution thereof, municipality, commission, political subdivision of a state or any interstate body, and includes any officer or governing or managing body of any municipality, political subdivision, or the United States or any officer or employee thereof.
- 103.38 Plat – a descriptive drawing, including a legal description of the property, indicating the property dimensions, house location, plumbing stub-out(s), driveways and other pertinent information.
- 103.39 Portable Toilet (Self-Contained) – a single or multi-unit toilet and holding tank combination system that is required to be collected, removed, transported and disposed by a Certified Pumper.
- 103.40 Private Water Supply – a deep hole or shaft sunk into the earth to obtain potable water for an individual lot, tract or parcel.
- 103.41 Property of the Generator – land owned by or under permanent legal easement or lease to the generator in perpetuity to the generator, duly recorded in the courthouse. **MS Code of 1972, Annotated 41-67-2(n)**

- 103.42 Public Water Supply – a system that provides water, via piping or other constructed conveyances, for human consumption to at least 15 service connections or serves an average of at least 25 people for at least 60 days each year. **Note:** There are 3 types: Community (towns), Non-transient non-community (schools or factories), or Transient non-community systems (rest stops or parks).
- 103.43 Quality Assurance – a program for the systematic monitoring and evaluation of the various aspects of the Mississippi State Department of Health’s On-site Wastewater Program to ensure that standards of quality, laws and regulations are being met.
- 103.44 Repair – the construction, installation and correcting of a malfunctioning Individual On-Site Wastewater Disposal System that cannot be performed as routine maintenance and must be provided by a Certified Installer.
- 103.45 Revocation – permanent withdrawal of rights and privileges granted to certified entity/person.
- 103.46 Seeping – wastewater surfacing typically from an underground system as indicated by hydraulically overloaded soil conditions.
- 103.47 Sensitive Waters – public or private waters used for recreation (swimming, skiing, fishing), shellfish harvesting, potable water intake or other situations where people are likely to come into contact with the water.
- 103.48 Septage – the liquid, solid, and semisolid material that results from wastewater pretreatment in a septic tank or advanced treatment units, which must be pumped, hauled, treated, and disposed of properly. The mixture of solids and liquids removed during cleaning of a septic tank, grease trap, or any other part of an onsite sewage treatment and disposal system, holding tank, of self-contained toilet which receives domestic sewage; includes the liquid, solid and semi-solid materials which settle to the bottom of transport containers.
- 103.49 Sewage – any liquid waste containing animal, vegetable, or chemical matter in suspension or solution from water closets, urinals, lavatories, bathtubs, laundry tubs or devices, floor drains, drinking fountains or other water-using fixtures. This does not include commercial or hazardous waste generating facility.
- 103.50 Soil and Site Evaluation – the evaluation to determine if a property can support an Individual On-Site Wastewater Disposal System by use of a soil auger to a depth of 5 feet to determine the soil texture, color, mottling and seasonal water table.
- 103.51 Suspension – temporary withdrawal of rights and privileges granted to a certified entity/person.

- 103.52 Temporary Water Service Connection – a water connection made for the purpose of construction and site preparation after the Applicant has received his/her Permit/Recommendation from the Department and agreed to have the Individual On-Site Wastewater Disposal System approved. This will be valid for 1 year, or until converted to a permanent water service connection, whichever comes first. Extensions may be granted in 6 month increments, if the residence is not complete and not being occupied.
- 103.53 Total Suspended Solids (TSS) – the quantity of solids (expressed as *mg/L*) which can be readily removed from a well-mixed sample with standard laboratory filtering procedures.
- 103.54 Variances – a contract between the Department and an Applicant that would be contrary to the regulations and rules of the Board.
- 103.55 Violation – the act of breaking or disregarding the statues, regulations, orders of the Board, permit condition or certification standards.

#### 104 RESPONSIBILITIES

##### 104.02 Mississippi State Board of Health **MS Code of 1972, Annotated 41-67-3**

1. To exercise general supervision over the design, construction, operation and maintenance of Individual On-site Wastewater Disposal Systems;
2. To adopt, modify, repeal and promulgate rules and regulations, after due notice and hearing, and where not otherwise prohibited by federal or state law, to make exceptions to, to grant exemptions from and to enforce rules and regulations implementing or effectuating the duties of the Board under this chapter to protect the public health. The Board may grant variances from rules and regulations adopted under this chapter, including requirements for buffer zones or from setbacks required under **Section 41-67-7** where the granting of a variance shall not subject the public to unreasonable health risks or jeopardize environmental resources.
3. To provide or deny certification for persons engaging in the business of the design, construction or installation of Individual On-site Wastewater Disposal Systems and persons engaging in the removal and disposal of the sludge and liquid waste from those systems.
4. To provide or deny certifications issued to persons engaging in the business of the design, construction or installation of Individual On-site Wastewater Disposal Systems and persons engaging in the removal and disposal of the sludge and liquid waste from those systems.
5. To suspend or revoke certifications issued to persons engaging in the business of the design, construction or installation of Individual On-site Wastewater Disposal Systems or persons engaging in the removal and

disposal of the sludge and liquid waste from those systems, when it is determined the person has violated this chapter or applicable rules and regulations;

6. To require the submission of information deemed necessary by the Department to determine the suitability of individual lots for Individual On-site Wastewater Disposal Systems; and
7. To adopt, modify, repeal and promulgate rules and regulations, after due notice and hearing, and where not otherwise prohibited by federal or state law, as necessary to determine the suitability of Individual On-site Wastewater Disposal Systems in subdivisions.
8. To assure the effective and efficient administration of this chapter, the Board shall adopt rules governing the design, construction or installation, operation and maintenance of Individual On-site Wastewater Disposal Systems, including rules concerning the:
  - a. Review and approval of Individual On-site Wastewater Disposal Systems in accordance with **Section 41-67-6**;
  - b. Certification of installers and persons engaging in the removal and disposal of the sludge and liquid waste;
  - c. Registration and requirements for testing and listing of Manufacturers of advanced treatment systems;
  - d. Certification of Certified Maintenance Providers;
  - e. Certification of Certified Professional Evaluators;
  - f. Create regulations that authorize the original and any subsequent homeowner to be trained by factory installers or other factory representatives in order to educate the homeowner with the necessary knowledge to provide maintenance to the homeowner's system, thus allowing the homeowner to meet the requirements of **Section 41-67-6(8)**.
9. In addition, the Board shall adopt rules establishing performance standards for Individual On-site Wastewater Disposal Systems for single-family residential generators and rules concerning the operation and maintenance of Individual On-site Wastewater Disposal Systems designed to meet those standards. The performance standards shall be consistent with the Federal Clean Water Act, maintaining the wastes on the property of the generator and protection of the public health. Rules for the operation and maintenance of Individual On-site Wastewater Disposal Systems designed to meet performance standards shall include rules concerning the following:

- a. A standard application form and requirements for supporting documentation;
  - b. Application review;
  - c. Approval or denial of authorization for proposed systems;
  - d. Requirements as deemed appropriate by the Board, for annual renewal of authorization;
  - e. Enforcement, of the requirements and conditions of authorization; and
  - f. Inspection, monitoring, sampling and reporting on the performance of the system. Any system proposed for authorization in accordance with performance standards must be designed by a Certified Engineer Evaluator.
10. To the extent practicable, all rules and regulations adopted under this chapter shall give maximum flexibility to persons installing Individual On-site Wastewater Disposal Systems and a maximum number of options consistent with the Federal Clean Water Act, consistent with maintaining the wastes on the property of the generator and consistent with protection of the public health. In addition, all rules and regulations, to the extent practicable, shall encourage the use of economically feasible systems, including alternative techniques and technologies for Individual On-Site Wastewater Disposal Systems.
  11. All regulations shall be applied uniformly in all areas of the state and shall take into consideration and make provision for different types of soil in the state when performing Soil and Site Evaluations.

#### 104.03 Division of On-site Wastewater

1. Provide or deny certifications or registrations issued to Manufacturers, Professional Evaluators, Installers, Pumpers, Maintenance Provider, and Qualified Homeowner Maintenance Providers.
2. Suspend or revoke certifications for Certified Professional Evaluators, Certified Installers, Certified Maintenance Providers, Certified Pumpers and Qualified Homeowner Maintenance Providers.
3. Provide necessary forms and documents to determine the suitability of lots and tracts of land for an Individual On-site Wastewater Disposal System.
4. Promulgate rules and regulations to determine the suitability of Individual On-Site Wastewater Disposal Systems in Subdivisions.

5. Review and approve the submittal for all designs submitted by Certified Professional Evaluators or Certified Engineer Evaluators.
6. Coordinate initial certification, continuing education and training for Certified Professional Evaluators, Certified Installers, Certified Maintenance Providers, Certified Pumpers and Qualified Homeowner Maintenance Providers of Individual On-site Wastewater Disposal Systems as outlined in *2.0 Regulation Governing Residential Individual On-site Wastewater Disposal Systems: Certification*.
7. Review submissions and requirement for registration of all specified manufactured wastewater products.
8. Promulgate rules and regulations for Design and Performance-based Systems.
9. Promulgate the rules and regulations to give maximum flexibility to persons installing and maximum number of options to the property owner.
10. Determine the feasibility of centralized sewerage system for subdivisions.
11. Develop Policy and Procedure and provide technical assistance.
12. Coordinate training, continuing education and determine competency of Environmentalists.
13. Monitor Commercial Development and Performance-based System evaluations and documented findings entered in the wastewater computer program.
14. Determine "feasibility" of Subdivisions, and approve Commercial Developments and Performance-based Systems and enter appropriate data related to systems.
15. Monitor Districts/Counties and Certified Professional Evaluators through Quality Assurance Program implemented by the Environmental Health Program Specialists.
16. Ensure computer data is accurate and updated for all certifications and registrations.

#### 104.04 Environmental Health Program Specialist

1. Assist District Environmentalist with variance request.
2. Provide or deny certifications or registrations issued to Manufacturers, Professional Evaluators, Installers, Pumpers, Maintenance Provider, and Qualified Homeowner Maintenance Providers.

3. Suspend or revoke certifications for Certified Professional Evaluators, Certified Installers, Certified Maintenance Providers, Certified Pumpers and Qualified Homeowner Maintenance Providers.
4. Conduct field evaluations, when necessary, on all designs submitted by Certified Professional Evaluators.
5. Provide training and continuing education for Certified Professional Evaluators, Certified Installers, Certified Maintenance Providers, Certified Pumpers and Qualified Homeowner Maintenance Providers of Individual On-site Wastewater Disposal Systems as outlined in *2.0 Regulation Governing Residential Individual On-site Wastewater Disposal Systems: Certification*.
6. Conduct field inspections on all specified manufactured wastewater products, as deemed necessary.
7. Monitor and ensure maximum flexibility to Persons installing and maximum number of options to the property owner.
8. Conduct field visits to determine the "suitability" of Individual On-Site Wastewater Disposal Systems in Subdivisions and enter data in the wastewater computer program.
9. Implement Policy and Procedures and provide technical assistance.
10. Provide training, continuing education and determine competency of Environmentalists.
11. Investigate and enforce all statutes, regulations in regards to violations by Manufacturers, Professional Evaluators, Installers, Pumpers, Maintenance Provider, and Qualified Homeowner Maintenance Providers.
12. Schedule with Hearing Officer within 10 working days on all enforcement proceedings for Manufacturers, Professional Evaluators, Maintenance Provider, and Qualified Homeowner Maintenance Providers.
13. Perform Quality Assurance for trained Environmentalists and Certified Professional Evaluators.
14. Perform Commercial Development and Performance-based System evaluations and document findings in the wastewater computer program.

#### 104.05 District Environmentalist

1. Provide supervision over Regional and County Environmentalists to ensure the design, construction, installation and approval of an Individual On-site Wastewater Disposal Systems.

2. Submit written variance request from property owner to State Health Officer.
3. Suspend or revoke certifications for Certified Installers and Certified Pumpers.
4. Inspect, or designate inspections of, Certified Pumper's vehicle(s).
5. Ensure, and gather if necessary, all information needed to complete Permit/Recommendation, Installer re-inspection and Applicant final approval request.
6. Assist Qualified Homeowner Maintenance Providers, if necessary.
7. Ensure that Regional and County Environmentalists give maximum flexibility to property owners by recommending the maximum number of approvable options.
8. Demonstrate competency as a Certified Professional Evaluator and Certified Maintenance Provider.
9. Ensure that all regulations are applied uniformly in their areas of the state.
10. Monitor and enter all referred encounters and complaints into the wastewater computer program.
11. Ensure or perform the Soil and Site evaluation within 5 working days of the receiving of a completed Notice of Intent.
12. Ensure or process the Permit/Recommendation within 10 workings days of the completed Soil and Site Evaluation.
13. Approve all Designed-based Systems based on a final inspection.
14. Schedule a hearing within the required 10 working days on all enforcement proceedings for Certified Installer and Certified Pumper.
15. Enter outcome of all Administrative Level Hearings into wastewater computer program.
16. Attend a minimum of 8 hours of Continuing Education Units endorsed by the Division in a calendar year to maintain your certification.

#### 104.06 Regional Environmentalist

1. Provide supervision over County Environmentalist(s) to ensure the design, construction, installation and approval of an Individual On-site Wastewater Disposal System.

2. Issue notice to suspend or revoke certifications for Certified Installers and Certified Pumpers.
3. Inspect, or designate inspections of Certified Pumper's vehicle(s).
4. Ensure, and gather if necessary, all information needed to complete Permit/Recommendations, Installer re-inspections and Applicant final approval requests.
5. Ensure that County Environmentalists give maximum flexibility to property owners by recommending the maximum number of approvable options.
6. Demonstrate competency as a Certified Professional Evaluator and Certified Maintenance Provider.
7. Coordinate with the District Environmentalist on all enforcement issues.
8. Assist Qualified Homeowner Maintenance Providers, if necessary.
9. Ensure that all regulations are applied uniformly in their areas of the state.
10. Monitor and/or enter, all referred encounters and complaints into the wastewater computer program.
11. Ensure or perform the Soil and Site evaluation within 5 working days of the receiving of a completed Notice of Intent.
12. Ensure or process the Permit/Recommendation within 10 workings days of the completed Soil and Site Evaluation.
13. Approve all Designed-based Systems based on a final inspection.
14. Attend a minimum of 8 hours of Continuing Education Units endorsed by the Division in a calendar year to maintain your certification.

#### 104.07 Environmentalist

1. Ensure the design of an Individual On-site Wastewater Disposal System can be constructed, installed and approved.
2. Issue notice to suspend or revoke certifications for Certified Installers and Certified Pumpers.
3. Inspect Certified Pumper's vehicle(s).
4. Gather, if necessary, all information needed to complete Permit/Recommendation, Installer re-inspection and Applicant final approval request, if necessary.

5. Provide maximum flexibility to property owners by recommending the maximum number of approvable options.
6. Demonstrate competency as a Certified Professional Evaluator and Certified Maintenance Provider.
7. Assist Qualified Homeowner Maintenance Providers, if necessary.
8. Investigate complaints and enforce all statutes, regulations, and certification violation for Certified Installer and Certified Pumper.
9. Coordinate with the Regional Environmentalist on all enforcement issues.
10. Ensure that all regulations are applied uniformly in their areas of the state.
11. Perform the Soil and Site Evaluation within 5 working days of the submittal of a completed Notice of Intent.
12. Process the Permit/Recommendation within 10 working days of the completed Soil and Site Evaluation.
13. Approve all Designed-based Systems based on a final inspection.
14. Initiate all complaints received, within 48 hours.
15. Monitor and/or enter, all environmental health related encounters and complaints into the wastewater computer program.
16. Attend a minimum of 8 hours of Continuing Education Units endorsed by the Division in a calendar year to maintain your certification.

#### 104.08 Clerk

1. Receive from the Applicant a completed Notice of Intent application along with all required documentation including, but not limited to, the following:
  - a. Plat;
  - b. Legal description;
  - c. Existing System Affidavit; and  
(only if approval of an existing system is requested)
  - d. Fee
2. Process the fee into PIMS and enter the Notice of Intent information into the wastewater computer program.

3. Place the completed Notice of Intent with attached documentation in a folder with PIMS labels which must be returned to the Environmentalist.
4. Process fees for Pumper vehicle inspection, the Installer re-inspection and Applicant final approval request into PIMS.
5. Notify the Environmentalist when Certified Installer/Certified Professional Evaluator/Applicant schedules installation inspection.
6. Receive all required documentation for final approval and issue to the Environmentalist:
  - a. Affidavit, Certified Installer
  - b. Affidavit, Continuous Maintenance Agreement, and
  - c. Approval Fee.

#### 104.09 Applicant

1. Submit a Notice of Intent to the Department prior to constructing or placing any mobile, modular or permanently constructed residence, building or facility, which may require the installation of an Individual On-site Wastewater Disposal System.
2. Submit the Permit/Recommendation, for a Temporary Water Service Connection, which is an approved plan for a sewage treatment and disposal system. The Applicant must agree to have system inspected and approved by the Department, before a Permanent Water Service Connection is made.
3. Select an Individual On-site Wastewater Disposal System to be installed and approved from the option(s) listed on the Permit/Recommendation form.
4. Shall provide a final approval request containing the following to the Department:
  - a. Submit a signed Affidavit from the Certified Installer or Certified Professional Evaluator, and any additional required documentation, that the system was installed in compliance with all requirements, regulations and permit conditions applicable to the system installed; and
  - b. Submit an Affidavit agreeing to a continuing maintenance agreement in perpetuity on any Alternative System installed, at the end of the required manufacturer's maintenance agreement, and
    - i. Shall keep a continuing maintenance agreement with a Certified Maintenance Provider; or

- ii. Become a Qualified Homeowner Maintenance Provider.
5. Violating paragraph 4 above will result in penalties and damages as provided in **Section 41-67-28(5)**.

Any Applicant who violates **Section 41-67-6(8)** may be assessed an administrative fine in the amount of Five Hundred Dollars (\$500.00) and the public water system may discontinue service to that property owner until the failure to comply with **Section 41-67-6(8)** has been corrected.

6. Shall have the right to appeal an adverse determination through the procedures set out in **Section 41-67-29**.

#### 104.10 Public Water Supply

No public utility supplying water shall make connection to any dwelling house, mobile home or residence without the prior written approval from the Department certifying that the sewage treatment and disposal system at the location of the property complies with this chapter. Temporary connections of water utilities may be made during construction if the Department has approved a plan (Permit/Recommendation) for a sewage treatment and disposal system and the Applicant has agreed to have the system inspected and approved by the Department before the use or occupancy of the property.

No Temporary or Permanent Water Service Connection shall be provided to any mobile, modular or permanently constructed residence, building or facility unless the Applicant shows proof of the submission of the Notice of Intent required by this section.

## 102 CERTIFICATION ADVISORY BOARD

#### 104.11 Purpose

The Certification Advisory Board is responsible for advising the Division on matters pertaining to applicable regulations, technical review of Manufacturer products, and issuing, suspending or revoking of Certification credentials for Certified Manufacturers, Certified Professional Evaluators, Certified Installers, Certified Pumpers, and Certified Maintenance Providers including Qualified Homeowner Maintenance Providers.

#### 104.12 Role

1. Advise the Department regarding the minimum qualifications for a Certified Manufacturer, Certified Professional Evaluator, Certified Installer, Certified Pumper, Certified Maintenance Provider and Qualified Homeowner Maintenance Provider.

2. Advise the Department regarding proposed issuance, suspension or revocation of Certifications of Certified Manufacturers, Certified Professional Evaluators, Certified Installers, Certified Pumpers, and Certified Maintenance Providers including Qualified Homeowner Maintenance Providers.

#### 104.13 Composition and Appointment

1. This 5 member Board shall consist of a licensed Professional Engineer, a Registered Professional Geologists, a licensed Soil Classifier, a Department representative and a member of the Wastewater Advisory Committee.
2. Members shall be appointed by the Department from a list provided by the Mississippi Board of Licensure for Professional Engineers and Surveyors, Mississippi State Board of Registered Professional Geologists, and a Mississippi Certified Soil Classifier listed with the Mississippi Department of Agriculture, Bureau of Plant Industry, Regulation of Professional Services. A member of the Wastewater Advisory Committee will be elected from its members. All members shall be subject to professional ethics of registration and/or Mississippi Ethic Commission.

#### 104.14 Term

Appointments are for 2 years, and each Member is not eligible for re-nomination and reappointment for consecutive terms. The term of office shall coincide with the Fiscal Year of the State of Mississippi, **July 1 through June 30**. The Professional Engineer, Registered Geologists and Soil Classifier will be appointed to the first Board's term for 3 years and every 2 years thereafter.

#### 104.15 Voting

All members, including the Chairman, shall be entitled to vote and to make or second motions. A majority vote of those present is required to pass a motion. A member expecting to be absent for a vote may provide written comments as to his position; however he may not grant a vote by proxy.

#### 104.16 Election and Duties of Officers

1. The Board shall elect during the last scheduled meeting (**2<sup>nd</sup> Tuesday of October**) the following officers: Chairman and Vice Chairman.
  - a. Chairman – The Chairman shall be the executive officer. When present he/she shall preside at all meetings. He/she shall appoint such committees as the Certification Advisory Board as deemed necessary. He/she shall cast 1 vote on all roll calls.

- b. Vice-Chairman – The Vice Chairman, in the absence of the Chairman, shall perform the duties delegated to the Chairman.

#### 104.17 Meetings and Attendance

1. The Division shall schedule at least 4 regular meetings each year, 1 in each calendar quarter. The meeting will be held on **2nd Tuesday of January, April, July and October** of each year.
2. *Robert's Rules of Order, Revised* shall govern the proceedings of the Certification Advisory Board except as otherwise provided herein or by statute.
3. If a Certification Advisory Board member is absent from 3 consecutive regularly scheduled meetings or is absent from more than 3 meetings during a single fiscal year unless the absence is excused for 1 of the following reasons, the member shall be removed. A court order, subpoena, business with a court which has the sole prerogative of setting the date of such business, death of a family member, or illness of the Certification Advisory Board member, or illness of the member's immediate family.
4. Quorum – 3 or more members present.
5. Order of Business – The order of business at all regular and special meetings shall normally be as recommended by the Division.
6. Special Meetings – Special meetings may be held as needed or as called by the Division. A call for a special meeting under emergency conditions may be issued by telephone and/or other electronic communications.
7. Open Meetings – In compliance with Open Meeting Laws of the State of Mississippi, members of the public are welcome to attend meetings of the Certification Advisory Board. The Certification Advisory Board has adopted the following rules of conduct for members of the general public attending meetings of the Board.
  - a. Members of the public are requested to register with the Division. Organized groups may have only 1 spokesperson.
  - b. Upon request, an individual or a spokesperson will be allowed to address the Certification Advisory Board. Speaking time is limited to 10 minutes, unless extended by the presiding officer.
  - c. When the Certification Advisory Board votes to go into Executive Session, all members of the general public must leave the meeting room; they will be advised when they may re-enter.

- d. Members of the general public will behave in a calm and measured manner.
- e. Failure to comply with these rules will be grounds for dismissal from the meeting.
- f. If members of the public require special provisions accommodating a qualifying temporary or permanent disability in order to attend a Certified Advisory Board meeting, a written request identifying the disability and accommodations needed must be submitted to the Chairman 30 calendar days before the meeting. If this request is not submitted in advance, the availability of on-site accommodations is not guaranteed.

## 101 PROHIBITED USE

Individual On-Site Wastewater Disposal System shall not be used to treat and dispose of the following and therefore must be referred to the Department of Environmental Quality, Office of Pollution Control:

- Waste from commercial slaughterhouses;
- Embalming wastes from funeral homes;
- Any waste containing high levels of any contaminants; and
- Other waste, as determined by the Department.

## 102 PROCEDURE FOR NOTICE OF INTENT

102.01 **SECTION 12.** Section 41-67-15, Mississippi Code of 1972, is reenacted and amended as follows:

Nothing in this chapter shall limit the authority of a municipality or Board of supervisors to adopt similar ordinances which may be, in whole or in part, more restrictive than this chapter, and in those cases the more restrictive ordinances will govern. The Department shall not approve any system that does not comply with an ordinance adopted by a municipality or board of supervisors under the authority of this section.

- 102.02 Prior to construction or placement of any mobile, modular, or permanently constructed residence which may require the installation of an Individual On-site Wastewater Disposal System, the Applicant shall submit a signed Notice of Intent to the Department.
- 102.03 Upon receipt of the Notice of Intent, the Department shall charge a fee to the Applicant for a Soil and Site evaluation and Permit/Recommendation for

Individual On-site Wastewater Disposal Systems (if any) suitable for installation. The fee is payable upon submitting the Notice of Intent.

- 102.04 The Department shall provide Applicant with complete information on Individual On-site Wastewater Disposal Systems, including but not limited to, applicable rules and regulations regarding the design, construction, installation, operation, and maintenance of Individual On-site Wastewater Disposal Systems and known requirements of lending institutions. This does not apply to cases where a Certified Professional Evaluator provides services relating to design, construction or installation of the Individual On-site Wastewater Disposal System.
- 102.05 No new Permanent Water Service Connection shall be provided to any mobile, modular or permanently constructed building or facility unless the Applicant shows proof of an approved on-site wastewater system.
- 102.06 Environmentalists are required by law to make the Soil and Site Evaluation within 5 days of the submission of a completed Notice of Intent. This is to be interpreted in the following manner:
1. The Soil and Site Evaluation shall be performed as soon as possible but not later than 5 working days after the Notice of Intent, plat, legal description, and fee have all been submitted.
  2. After the Soil and Site Evaluation, the Department has 10 additional working days to provide a Permit/Recommendation, unless there are conditions requiring further investigation that are revealed in the initial evaluation. This information shall be given to the Applicant so he/she may select the system to be installed.
- 102.07 The Permit/Recommendation is nontransferable and will be valid for 1 year.

### 103 DESIGN-BASED SYSTEMS

Any Individual On-site Wastewater Disposal System which can be designed by an Environmentalist/Certified Professional Evaluator. Some properties cannot support an Individual On-site Wastewater Disposal System due to lot size, soil conditions, site modifications or topography. In such cases, the Department will refer the property owner to a Certified Engineer Evaluator for a Performance-based System design

### 104 EXISTING SYSTEMS

- 104.01 **SECTION 8.** Section 41-67-9, Mississippi Code of 1972, is reenacted and amended as follows:
1. Existing Individual On-site Wastewater Disposal Systems shall be considered acceptable, provided the following requirements are met:

- a. The lot is located in an area or subdivision where Individual On-site Wastewater Disposal Systems are considered acceptable under this chapter;
  - b. The residence, building or facility has previously been occupied for a period of time deemed by the Department necessary to determine the functioning capability of the Individual On-site Wastewater Disposal System;
  - c. The system is functioning properly with no evidence that any insufficiently treated effluent is or has been seeping to the surface of the ground and any discharge of treated effluent is confined within the boundaries of the property of the generator; and
  - d. If a private water supply well is present, the well should be located at a higher elevation than the disposal system and is protected from surface contamination by a concrete slab of a thickness of at least 4 inches extending at least 2 feet in all directions from the well casing.
2. If an existing residential Individual On-site Wastewater Disposal System is malfunctioning, the system should be replaced, where possible, with a system meeting all requirements of this chapter and rules and regulations of the Board. If replacement of the existing system is not possible, the existing system shall be repaired to reduce the volume of effluent, to adequately treat the effluent and to the greatest extent possible, to confine the discharge to the property of the generator. If repairs are made to significantly upgrade the existing Individual On-site Wastewater Disposal System, the Department shall approve the system, if requested.
  3. The request for an inspection of an existing system must be on forms provided by the Department. The Applicant must indicate to the best of his/her ability the system type, location and status of the system.

104.02 Existing systems that do not discharge off the property of the generator, may be inspected and shall be considered acceptable, if they are functioning properly, subject to the following criteria:

1. Conventional System
  - a. The residence shall have been occupied for a minimum of **6 months**, inclusive of inspection date.
  - b. No effluent discharge off the property of the generator.
  - c. No effluent from an underground type system seeping to the surface.
  - d. If a private or public water supply is present, the well must be located a minimum of 100 feet from and should be at a higher elevation than

the disposal system and is protected from surface contamination by a concrete slab of a thickness of at least 4 inches extending at least 2 feet in all directions from the well casing. Wells at lower or equal elevations must be properly protected from surface flow.

2. Alternative System

- a. The residence shall have been occupied for a minimum of **6 months**, inclusive of inspection date.
- b. No effluent discharge off the property of the generator
- c. If a private or public water supply is present, the well must be located a minimum of 100 feet from and should be at a higher elevation than the disposal system and is protected from surface contamination by a concrete slab of a thickness of at least 4 inches extending at least 2 feet in all directions from the well casing. Wells at lower or equal elevations must be properly protected from surface flow.
- d. Provide a copy of maintenance agreement with Certified Maintenance Provider
- e. Provide affidavit agreeing to a continuing maintenance agreement in perpetuity.

3. Advanced Treatment System

- a. The residence shall have been occupied for a minimum of **1 month**, inclusive of inspection date.
- b. The system must be in operation to allow for a visual inspection for compliance with the regulation.
- c. The system must also be inspected by a manufacturer's authorized representative and appropriate form submitted.
- d. No effluent discharge off the property of the generator
- e. If a private or public water supply is present, the well must be located a minimum of 100 feet from and should be at a higher elevation than the disposal system and is protected from surface contamination by a concrete slab of a thickness of at least 4 inches extending at least 2 feet in all directions from the well casing. Wells at lower or equal elevations must be properly protected from surface flow.

4. Existing systems that were originally allowed under a variance can be accepted if there is record of the variance in the file and the system is installed and functioning in accordance with the conditions of the variance.

104.03 For systems at residences that have not been occupied for the required length of time, in lieu of an acceptance, a Permit/Recommendation(s) shall be given after a satisfactory Soil and Site Evaluation, indicating that the lot is acceptable for the use of an Individual On-site Wastewater Disposal System. Later, after occupancy of the residence the required length of time and if an inspection of the existing system determines it is functioning properly, a final acceptance of the system may be granted. If system is not functioning, it must be replaced with recommended system.

104.04 A fee will be charged for a Soil and Site Evaluation of an existing system.

## 105 REPAIRED SYSTEMS

105.01 Repairs to Conventional Individual On-site Wastewater Disposal Systems do not have to be approved by the Department, as long as part of the existing system is utilized. Repairs to alternative disposal systems must be in compliance with regulations or in compliance with Section 41-67-9 (2) and must have a signed affidavit from property owner agreeing to a continued maintenance agreement with a certified maintenance provider.

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

1. The Board or the Department may require a property owner or lessee to repair a malfunctioning Individual On-site Wastewater Disposal System on the owner's or lessee's property before the 30th day after the date on which the owner or lessee is notified by the Department of the malfunctioning system.
2. The property owner or lessee shall take adequate measures as soon as practicable to abate an immediate health hazard.
3. The property owner or lessee may be assessed a civil penalty not to exceed Five Dollars (\$5.00) for each day the Individual On-site Wastewater Disposal System remains un-repaired after the 30 day period.
4. The Board may assess the property owner or lessee of an Individual On-site Wastewater Disposal System authorized pursuant to Section 41-67-3(4) a civil penalty not to exceed Fifty Dollars (\$50.00) for each day the system fails to meet the performance standards of that system after the 30 day period.
5. All penalties collected by the Board under this section shall be deposited in the State General Fund.
6. Appeals from the imposition of civil penalty under this section may be taken as provided in Section 41-67-29.

- 105.03 If an existing residential Individual On-site Wastewater Disposal System is malfunctioning, the system should be replaced, where possible, with a system meeting all requirements of this chapter and rules and regulations of the Board.

If replacement of the existing system is not possible, the existing system shall be repaired to reduce the volume of effluent, to adequately treat the effluent and to the greatest extent possible, to confine the discharge to the property of the generator. If repairs are made to significantly upgrade the existing Individual On-site Wastewater Disposal System, the Department shall approve the system, if requested. **Section 41-67-9 (2), MS Code of 1972**

The Department may require a property owner or lessee to repair an improper sewer connection to a sewer system on the owner's or lessee's property before the 10th day after the date on which the owner or lessee is notified by the Department of the malfunction.

A repair must be performed by a Certified Installer.

## 106 TEMPORARY SYSTEMS

**Section 41-67-11, Mississippi Code of 1972, is reenacted and amended as follows:**

Temporary Individual On-site Wastewater Disposal Systems may be approved in an area where Individual On-site Wastewater Disposal Systems otherwise would not be approved because of the availability or feasibility of connection to a centralized sewerage system. Temporary individual onsite wastewater disposal systems are acceptable only after a contract has been awarded or other definite commitments as are deemed sufficient to the Department are formalized for the construction of municipal or community sewers that upon completion will adequately serve the property. Temporary Individual On-site Wastewater Disposal Systems shall only be approved if the municipal or community sewers will be completed and available for use within 36 months.

- 106.01 The Department may approve the installation of a temporary system under these circumstances only if the system will comply with the requirements of **Section 41-67-5 (1)** and comply with all construction requirements of the Board. The temporary system may be installed only after the developer has signed a written agreement with the centralized sewer provider stating that the Developer will connect to the centralized sewer system when it becomes available, and the provider of the centralized sewer system being constructed certifies that the centralized sewer system will have adequate capacity to accept the sewage to be produced by the temporary systems. The Developer shall install an internal sewage collection system from each lot to the connection point to the central sewer system as he develops the streets of the subdivision. Upon completion of the sewer construction, all systems shall be abandoned and all residences, buildings or facilities connected to the sewer.

- 106.02 The Board may approve the installation of sewage holding tanks in districts created under **Sections 19-5-151 through 19-5-207** for the purpose of providing sewage services. The District shall be required to maintain, or provide for the maintenance of, those holding tanks. The Board shall require that residences be connected to a municipal or community sewage system when that system is available.
- 106.03 In cases where a medical necessity requires the housing of an immediate family member in a mobile home adjacent to a permanent dwelling, a temporary connection may be made to a property functioning existing system, provided the wastewater flow is not projected to increase significantly. A doctor's statement of the medical necessity shall be on file with the Notice of Intent.

## 107 ABANDONMENT (SEWAGE HOLDING VESSELS)

- 107.01 When the use of a sewage holding vessel (i.e. septic tank, advanced treatment system, holding tank, pump chamber, etc.) is discontinued the vessel shall be abandoned, and its further use is prohibited. Septic tanks shall be properly pumped out by the Certified Pumper. An empty tank may be removed at the property owner's option. The hole left by removal shall be filled with sand or soil. An empty tank left in place shall be crushed then filled with sand or soil.

## 108 PERFORMANCE BASED SYSTEMS

Performance-based wastewater systems may be approved on property that, as a result of the Soil and Site Evaluation, has restrictions that preclude the use of a Design-based Individual On-site Wastewater Disposal System.

### 108.01 Prescribed Performance Standards:

1. Property that does not border sensitive waters will be required to have systems that will treat the wastewater to a standard of 10 *mg/l* Biochemical Oxygen Demand (BOD), 10 *mg/l* Total Suspended Solids (TSS), 5 *mg/l* nitrogen, 3 *mg/l* phosphorous and fecal coliform levels less than or equal to 200 colony forming units per 100 *milliliters*.
2. Property that borders sensitive waters will be required to have systems that will treat the wastewater to a standard of 5 *mg/l* Biochemical Oxygen Demand (BOD), 5 *mg/l* Total Suspended Solids (TSS), 2 *mg/l* nitrogen, 1 *mg/l* phosphorous and fecal coliform levels not to exceed 200 colony forming units per 100 *milliliters* or equal to or less than the (historical) background count if that background count is less than 200 colony forming units per 100 *milliliters*.
3. The treated effluent will be measured at the outfall line of the treatment facility before it enters the final disposal site.

### 108.02 System Design

1. The Performance-based System must be designed by a Certified Engineer Evaluator to meet the prescribed standards and maintain the effluent on the property of the generator.
2. The design must be certified by the Certified Engineer Evaluator and submitted, along with supporting documentation, to the Division for review and concurrence.

#### 108.03 System Authorization

1. The Performance-based System will be authorized on an annual basis.
2. The property owner will be required to have samples collected and monitoring reports compiled, by the Certified Engineer Evaluator or a licensed wastewater operator holding a Class II or greater certification, and submitted as required.
3. Monitoring reports must be submitted to the Division on the following schedule:
  - a. Systems that are authorized for use on properties that border sensitive waters must be monitored and reports provided on a quarterly basis.
  - b. Systems that do not border sensitive waters must be monitored and reports provided on a semiannual basis.
  - c. The Department will, on a random schedule, collect monitoring samples of all systems authorized under performance standards.
4. Samples must be run in accordance with the most current version of the *Code of Federal Regulations (CFR 40 part 136) Guideline Establishing Test Procedures for The Analysis of Pollutants*.
5. Upon receipt of the monitoring report(s) verifying the system to be in compliance with the prescribed performance standards the system authorization will be continued.

#### 108.04 Penalties

If at any time the authorized system is in violation of the prescribed performance standards the property owner will be required to initiate repairs to bring the system back into compliance. Failure to maintain the system to performance standards will result in a fine as prescribed by law.

#### 108.05 Fine for Non-compliance

The property owner or lessee of an Individual On-site Wastewater Disposal System authorized pursuant to Section 41-67-3 (4), Mississippi Code of 1972,

Annotated shall incur a civil penalty not to exceed fifty dollars (\$50.00) for each day the system fails to meet the performance standards of that system after the thirty-day period specified in Section 41-67-21 (1) Mississippi Code of 1972, Annotated.

## 109 APPROVAL

- 109.01 An approval is required by current state law for all new Individual On-Site Wastewater Disposal System installed for a permanent water connection. The Environmentalist shall make a final inspection of the system as constructed. If the design, construction and installation of such system are in accordance with the rules and regulations of the Department, and upon receipt of the installer's affidavit, fee, and maintenance agreement (where applicable), approval shall be granted.

If a Certified Professional Evaluator designs, constructs or installs or directly supervises the construction or installation of a Design-based Individual On-Site Wastewater Disposal System in accordance with the regulation and stamps the appropriate documentation with that Certified Professional Evaluator's number, the Department shall approve the design, construction or installation of the system, if requested.

Approval shall be granted only after the Environmentalist has determined that all requirements have been met.

- 109.02 If an inspection is requested, the Department cannot issue a final approval until the property owner has met the following conditions:

1. Notification prior to beginning construction;
2. Completed affidavit of installation signed and dated;
3. Remittance of fee; and
4. For any Alternative System, the qualified homeowner shall remit an affidavit agreeing to a continuing maintenance agreement on the installed system. Depending upon the type of system, this maintenance agreement will be in effect from the time of installation, or for Advanced Treatment Systems, at the end of the required manufacturer's maintenance agreement. **Section 41-67-6 (7) (b), MS Code of 1972, Annotated**

- 109.03 If the scheduled requested inspection requires any additional inspections due to noncompliance, a Re-inspection fee will be required for each additional inspection prior to the collection of the approval fee and issuance of the final approval.

- 109.04 The Department reserves the right to deny (void) the Permit/Recommendation(s) if there is extensive grading of the lot or change of house or individual well

location after the system recommendations have been issued. Final approval of the system shall not be issued until both the house and well have been constructed.

- 109.05 The issuance of an approval by the Department does not denote or imply any guarantee that the Individual On-site Wastewater Disposal System will function for any specified period of time.
- 109.06 The Department must approve or disapprove the request, for site evaluation, within 15 working days following submission of all required documentation. If the Department disapproves the request, the Department shall state in writing the reasons for the disapproval. If the Department does not respond to the request within 15 working days, the request for approval of an Individual On-site Wastewater Disposal System shall be deemed approved.

## 110 RESEARCH PROJECTS

The Department may initiate research projects and may consider projects if submitted by a registered Professional Engineer or Professional Soil Scientist. The purpose of these projects shall be to determine the feasibility of new technology, new design criteria and/or alteration of existing design criteria for Individual On-Site Wastewater Disposal Systems.

## 111 VARIANCE

- 111.01 A variance may be requested, by the property owner, only after the results of a Soil and Site Evaluation has determined a Design-based Individual On-Site Wastewater Disposal System that conforms to the regulation cannot be recommended for installation.
1. The State Health Officer may grant a variance if a thorough investigation reveals that strict application of the Regulation would cause the Applicant undue hardship which results from conditions peculiar to the site or situation under consideration, which conditions could not reasonably have been anticipated in the writing of the Regulation. Further, the granting of such a variance shall not subject the public to unreasonable health risks or jeopardize environmental resources.
  2. A request for a variance from the Regulation must be submitted, by the District Supervising Environmentalist, in writing with supporting documentation. This documentation shall include:
    - a. The written initial request for variance from the property owner.
    - b. The complete file must include:

- i. Plat, representing location and/or dimensions of: property, water supply, residence/driveway, sensitive waters (if applicable), setbacks, recommended system location and soil borings;
  - ii. Soil Profile Sheet; and
  - iii. Photos, if necessary.
- c. A follow-up site evaluation made by the District Environmentalist and the Program Specialist to confirm the original Soil and Site Evaluation to be correct and that no approvable system(s) can be installed in compliance with the regulation.
  - d. A system recommendation, from the District Environmentalist and Program Specialist that could be installed with a variance.
  - e. If no system can be recommended for variance, documentation supporting this determination along with the complete file to this office for review.
- 3. The State Health Officer may revoke any request for variance.
  - 4. A variance, if granted, is not transferable from one Applicant to another or from 1 site to another.

## 112 PENALTIES

112.01 **SECTION 18.** Section 41-67-28, Mississippi Code of 1972, is reenacted and amended as follows:

- 1. Except as otherwise provided in this chapter, any person who shall knowingly violate this chapter or any rule or regulation or written order of the Board in pursuance thereof is, upon conviction, guilty of a misdemeanor and shall be punished as provided in Section 41-3-59.
- 2. Each day of a continuing violation is a separate violation.
- 3. (a) In addition to all other statutory and common law rights, remedies and defenses, any person who purchases an Individual On-site Wastewater Disposal System and suffers any ascertainable loss of money or property, real or personal, may bring an action at law in the court having jurisdiction in the county in which the installer or manufacturer has the principal place of business, where the act allegedly occurred, to recover any loss of money or damages for the loss of any property resulting from any of the following:
  - a. Improper installation of an Individual On-site Wastewater Disposal System due to faulty workmanship;

- b. Failure of an Individual On-site Wastewater Disposal System to operate properly due to failure to install the system in accordance with any requirements of the manufacturer or in compliance with any rules and regulations of the Board; or
  - c. Failure of an Individual On-site Wastewater Disposal System to operate properly due to defective design or construction.
3. (b) Nothing in this chapter shall be construed to permit any class action or suit, but every private action must be maintained in the name of and for the sole use and benefit of the individual person.
  4. A person who violates this chapter thereby causing a discharge off the property of the generator shall be liable to the party aggrieved or damaged by that violation for the actual damages and additional punitive damages equal to a maximum of 25 percent of the actual damages proven by the aggrieved party, to be taxed by the court where the suit is heard on an original action, by appeal or otherwise and recovered by a suit at law in any court of competent jurisdiction. In addition, the court may award the prevailing party reasonable attorney's fees and court costs. Before filing suit, the party aggrieved or damaged must give a 30 days written notice of its intent to file suit to the alleged violator.
  5. Any Applicant who violates Section 41-67-6(8) may be assessed an administrative fine in the amount of Five Hundred Dollars (\$500.00) and the public water system may discontinue service to that property owner until the failure to comply with Section 41-67-6(8) has been corrected.

All violators shall be given 30 days notice before any adverse action.

Any violator shall have the right to appeal an adverse determination through the procedures set out in Section 41-67-29.

The violation of this Regulation is a misdemeanor under Section 41-3-59 and 41-67-28 Mississippi Code of 1972, Annotated, and is punishable by fine in the amount stated therein.

#### 112.02 Penalties:

1. Violations of Section shall result in a penalty equal to 1 1/2 times the amount of the fee due and payable.

### 113 HEARINGS AND APPEALS

#### 113.01 Section 41-67-29, Mississippi Code of 1972

1. Any person who is aggrieved by any final decision of the Board may appeal that final decision to the chancery court of the county of the situs in whole or

in part of the subject matter. The appellant shall give a cost bond with sufficient sureties, payable to the state in a sum to be fixed by the Board or the court and to be filed with and approved by the clerk of the court. The aggrieved party may, within 30 days following a final decision of the Board, petition the chancery court for an appeal with supersedeas and the chancellor shall grant a hearing on the petition. Upon good cause shown the chancellor may grant the appeal with supersedeas. The appellant shall be required to post a bond with sufficient sureties according to law in an amount to be determined by the chancellor. The chancery court shall always be deemed open for hearing of appeals and the chancellor may hear the appeal in term time or in vacation at any place in his district. The appeal shall have precedence over all civil cases, except election contests. The chancery court shall review all questions of law and of fact and may enter a final order or remand the matter to the Board for appropriate action as may be indicated or necessary under the circumstances. Appeals may be taken from the chancery court to the Supreme Court in the manner as now required by law, but if a supersedeas is desired by the party appealing to the chancery court, that party may apply therefore to the chancellor, who shall award a writ of supersedeas, without additional bond, if in the chancellor's judgment material damage is not likely to result. If material damage is likely to result, the chancellor shall require a supersedeas bond as deemed proper, which shall be liable to the state for any damage.

113.02 Section 41-67-33, Mississippi Code of 1972

1. The Department shall adopt and use procedures for conducting reviews requested by any person aggrieved by the disapproval or requirements for an On-site Wastewater Disposal System as provided by the Department in written form under Section 41-67-6. The procedures shall include that the person may request review by submitting a written request of review to the Director of the Office of Environmental Health. The request for review shall identify the matter contested and state the person's name, mailing address and home and daytime phone numbers. Within 10 business days of the receipt of the request for review, the Department shall issue in writing a ruling and determination to the person and if any corrections are necessary to any form previously issued by the Department, then new forms shall be submitted to the person.
2. Any person aggrieved by the ruling issued by the Director of the Office of Environmental Health may apply for a hearing. Any hearing shall be conducted by a hearing officer designated by the Department. At the hearing, the hearing officer may conduct reasonable questioning of persons who make relevant factual allegations concerning the proposal. The hearing officer shall require that all persons be sworn before they may offer any testimony at the hearing, and the hearing officer is authorized to administer oaths. Any person so choosing may be represented by counsel at the hearing. A record of the hearing shall be made, which shall consist of a

transcript of all testimony received, all documents and other material introduced, the staff report and recommendation, and any other material as the hearing officer considers relevant. He shall make a recommendation within a reasonable period of time after the hearing is closed and after he has had an opportunity to review, study and analyze the evidence presented during the hearing. The completed record shall be certified to the State Health Officer, who shall consider only the record in making his decision, and shall not consider any evidence or material that is not included. All final decisions regarding the disapproval or requirements for an on-site wastewater disposal system shall be made by the State Health Officer. The State Health Officer shall make his written findings and issue his order after reviewing the record, not to exceed 30 days following his receipt of the record.

- 113.03 Any person who has been denied an approval or whose property has been declared unsuitable for recommendation of any wastewater disposal system or who has been charged with a violation of this regulation can request a district level hearing in writing within 10 days of notification of the denial or violation. A hearing will be scheduled within 10 calendar days after the request has been filed. The appellant will be notified in writing of the decision of the District Hearing Officer.
- 113.04 The appellant shall have the right to appeal an unfavorable decision to the State Health Officer in writing within 10 days of notification of results of the district-level hearing. A hearing will be scheduled within 30 calendar days after the request has been filed. The decision of the State Health Officer or his/her designee as Hearing Officer will be based solely on the oral, written and documentary evidence presented. The appellant will be notified in writing of the decision.
- 113.05 No individual may file a petition for judicial review with a court of competent jurisdiction until a final written decision and order have been issued.

#### 114 FEES

- 114.01 Soil and Site Evaluation
1. Permit/Recommendation.....\$50.00
- 114.02 Submittal Review
1. Design-based System.....\$100.00
  2. Performance-based System.....\$250.00

## 114.03 Final Approval

1. Design-based System.....\$75.00
2. Performance-based System.....\$250.00
3. Re-inspection (per inspection) .....\$25.00

114.04 The fee authorized under this section (41-67-12) shall not be assessed for any system operated by state agencies or institutions, including, without limitation, foster homes licensed by the State Department of Human Services. The fee authorized under this section shall not be charged again after payment of the initial fee for any system that has been installed in accordance with this chapter, within a period of 24 months following the date that the system was originally installed.

114.05 All fees due the Department shall be paid by check or money order.

Pending

**115 CERTIFICATION OF REGULATION**

This is to certify that the above **REGUALTION GOVERNING RESIDENTIAL INDIVIDUAL ON-SITE WASTEWATER DISPOSAL SYSTEMS: ADMINISTRATION** was adopted by the Mississippi State Board of Health on July 8, 2009 to become effective August 8, 2009.

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F E Thompson, MD  
Secretary and Executive Officer

Pending

**Title 15 - Mississippi Department of Health**

**Part III – Office of Health Protection**

**Subpart 77 – On-Site Wastewater**

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**CHAPTER 16      2. 0 REGULATION GOVERNING RESIDENTIAL INDIVIDUAL  
ON-SITE WASTEWATER DISPOSAL SYSTEMS:  
CERTIFICATION**

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**100      PURPOSE**

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

**101      AUTHORITY**

The State Board of Health is authorized to promulgate these rules under and by virtue of **Section 41-3-15 (4) (a) (b) (f)** and **Sections 41-67-1** through **41-67-29** and **Sections 20** through **23 MS Code of 1972, Annotated.**

**102      DEFINITIONS**

102.01      Advanced Aerobic Treatment Unit Distributor – a person authorized by the registered manufacturer to sell aerobic treatment units to authorized Certified Installer in the State of Mississippi.

102.02      Advanced Aerobic Treatment Unit Manufacturer – a person authorized by the *American National Standards Institute/National Sanitation Foundation (ANSI/NSF) International Standard Number 40* to construct an aerobic treatment unit that is listed and registered by the State of Mississippi.

102.03      Alternative techniques/technologies – a technique or technology used to achieve acceptable treatment and dispersal of wastewater through advanced treatment schemes as deemed by the Department. **MS Code of 1972, Section 41-67-3(5)**

102.04      Authorized Representative – an organization, group, individual, or other entity that is authorized by the manufacturer to distribute, sell, install, or service residential wastewater treatment systems.

102.05      Certification – the act of confirming competency to design, construct, maintain, install, removal and/or disposal of sludge and liquid waste from Individual On-site Wastewater Disposal Systems.

- 102.06 Certified Engineer Evaluator – any person who has met the requirements of Section 23 of this act. **MS Code of 1972, Annotated 41-67-1 “Mississippi Individual On-Site Wastewater Disposal System Law” and MS Code of 1972, Annotated 73-13-29. MS Code of 1972, Annotated 41-67-2(f), 41-67-3(2)**
- 102.07 Certified Installer – any person who has met the requirements of Section 41-67-25. **MS Code of 1972, Annotated 41-67-2(k)**
- 102.08 Certified Maintenance Provider – any person who holds a written certification issued by the Department allowing the person to provide maintenance services associated with approved on-site wastewater treatment and disposal systems. **MS Code of 1972, Annotated 41-67-2(e)**
- 102.09 Certified Professional Evaluator – any person who has met the requirements of Section 23 of this act. **MS Code of 1972, Annotated 41-67-1 “Mississippi Individual On-Site Wastewater Disposal System Law” and MS Code of 1972, Annotated 41-67-2(f)**
- 102.10 Certification Training Program – a program developed by the Mississippi State Department of Health to confirm competency to design, construction, installation, repair, maintenance, operation, and removal and disposal of liquid waste of Individual On-Site Wastewater Disposal Systems.
- 102.11 Certified Pumper – a person engaged in the business or practice of removing and disposing of the sludge and liquid waste from Individual On-site Wastewater Disposal Systems.
- 102.12 Cleaning – the removal and transportation of septage from an onsite sewage treatment and disposal system or Portable Toilet (Self-contained) to an approved disposal location.
- 102.13 Components – all physical, mechanical, and electrical components of any wastewater disposal system.
- 102.14 Continuing Education Unit (CEU) – an educational course provided through the Department or other entities approved by the Department for the purpose of meeting continuing education and/or Professional Development Hours (PDH) required for the Certified Professional Evaluator/Environmentalist, Certified Installer, Certified Maintenance Provider, Qualified Homeowner Maintenance Provider, and Certified Pumper.
- 102.15 Conventional System – an Individual On-Site Wastewater Disposal System consisting of a septic tank and gravity-fed subsurface disposal field. **MS Code of 1972, Annotated 41-67-2(g)**
- 102.16 Errors and Omission – coverage protecting the insured against legal liability resulting from negligence, carelessness or a failure to act causing property

damage or personal injury to others. Coverage may include burglary and theft. MS Code of 1972, Annotated, SEC. 83-19-1, Class 1(c)

- 102.17 General Business Liability Insurance – coverage protecting the insured against legal liability resulting from negligence, carelessness or a failure to act causing property damage or personal injury to others. Coverage may include burglary and theft. MS Code of 1972, Annotated, SEC. 83-19-1, Class 1(c)
- 102.18 Holding Tank – a vessel used to hold effluent for a limited time as specified in Section 41-67-11 of MS Code of 1972, Annotated.
- 102.19 Lime – a dry white powder consisting essentially of calcium hydroxide that is made by treating quicklime with water.
- 102.20 Manufacturer – a person operating a business in or doing business in the State of Mississippi that develops, designs and fabricates residential wastewater treatment systems and their components.
- 102.21 Maintenance – the inspecting and evaluating of an Advanced Treatment System. The replacement of any component registered with a specific Advanced Treatment System (i.e. aerator, diffuser, control panel, etc.).
- 102.22 Monitoring Visit – an inspection performed by the third party certifier to ensure that the manufacturer, distributor and installer are complying with American National Standards Institute/National Sanitation Foundation (ANSI/NSF) International Standard Number 40 requirements.
- 102.23 Person - any individual, trust, firm, joint-stock company, public or private corporation (including a government corporation), partnership, association, state, or any agency or institution thereof, municipality, commission, political subdivision of a state or any interstate body, and includes any officer or governing or managing body of any municipality, political subdivision, or the United States or any officer or employee thereof.
- 102.24 Portable Toilet (Self-Contained) – a single or multi-unit toilet and holding tank system combination that is required to be collected, removed, transported and disposed by a Certified Pumper.
- 102.25 Qualified Homeowner Maintenance Provider – the current owner of a specific residence where they resides and has met the requirements of the Department of Health regulation. MS Code of 1972, Annotated 41-67-2(o)
- 102.26 Surety – a three-party agreement where the insurer agrees to pay a second party (the obligee) or make complete an obligation in response to the default, acts or omissions of a third party (the principal). MS Code of 1972, Annotated, SEC. 83-19-1, Class 1(e)

102.27 Third Party Certifier – a certifying program which complies with the following provisions for systems which it has certified to be installed in Mississippi:

1. Be accredited by the American National Standards Institute (ANSI).
2. Have established procedures which send representatives to distributors in Mississippi on a recurring basis to conduct evaluations to assure that distributors of certified advanced treatment systems are providing proper maintenance, have sufficient replacement parts available and are maintaining service records.
3. Notify the Department of the results of monitoring visits to manufacturers and distributors within 60 calendar days of the conclusion of the monitoring.
4. Submit completion reports on testing and any other information as the Department may require for its review. **MS Code of 1972, Annotated, Section 41-67-10**

### 103 REGISTERED MANUFACTURER

#### 103.01 Introduction

A person may operate as a Manufacturer in the State of Mississippi if they hold a valid certification of registration.

#### 103.02 Products

1. Treatment
  - a. Advanced Treatment Units
  - b. Septic Tanks
  - c. Holding Tanks
  - d. Non-water borne Systems
  - e. Alternative wastewater technology
2. Disposal
  - a. Aggregate Replacement
  - b. Subsurface Drip
  - c. Spray Irrigation
  - d. Alternative wastewater technology

3. Disinfection
4. Effluent Filter

### 103.03 Requirements

It is unlawful for a Manufacturer of an Individual On-site Wastewater Disposal System or alternative treatment or disposal components to operate a business in or to do business in the State of Mississippi without holding a valid manufacturer's registration issued by the Department. **MS Code of 1972, Annotated 41-67-27**

### 103.04 Application

All Manufacturers must annually complete and submit the following:

- a. Application;
  - b. Listing and identification of all Fabricators and Distributors of their products and a list of authorized Certified Installers and Certified Maintenance Providers;
  - c. Contact information of all technical staff providing training; and
  - d. Electronic or detailed drawing(s), construction material(s), installation and/or homeowner manual(s) of each product.
1. Treatment
    - a. Advanced Treatment

Registration and requirements for testing and listing of manufacturers of advanced treatment systems: **MS Code of 1972, Annotated Section 3 Section 41-67-3 (3)(c)**

Documentation, from a Third Party Certifier accredited by the American National Standards Institute that the manufacturer's product has successfully completed the testing and listing process as outlined in *American National Standards Institute/National Sanitation Foundation (ANSI/NSF) International Standard Number 40 and/or 245* or later edition.

On or before **October 1, 1996** each Manufacturer not currently tested and listed by a Third Party Certifier, accredited by the American National Standards Institute, shall submit to the Department evidence that such manufacturer has commenced the testing/listing process. Within 9 months after the submission of

such evidence, each Manufacturer must have completed the testing/listing process.

Each manufacturer must have established procedures which send representatives to a minimum of 10 percent of its distributors in Mississippi on an annual basis to conduct evaluations to assure the distributor of certified advanced treatment systems is providing proper maintenance, has sufficient replacement parts available and is maintaining service records. Annual monitoring reports, from the manufacturer and Third Party Certifier must be submitted to the Division prior to re-registration.

### Third Party Certifier

Advanced treatment systems and other treatment technologies may be installed only if they have been tested and listed by a third party certifying program. Such advanced treatment systems shall be in compliance with standards for Class I systems as defined by the most current revision of *American National Standards Institute/National Sanitation Foundation (ANSI/NSF) International Standard Number 40*, hereby incorporated by reference. An approved third party certifying program shall comply with the following provisions in order for systems which it has certified to be installed in Mississippi:

On and after **October 1, 1996** an approved Third Party certifying program shall be accredited by the *American National Standards Institute (ANSI)*.

Have established procedures, which send representatives to a minimum of 1 distributor of each Manufacturer in Mississippi on an annual basis to conduct evaluations to assure the distributor of certified advanced treatment systems is providing proper maintenance, has sufficient replacement parts available and is maintaining service records.

Notify the Division of the results of monitoring visits to manufacturers and distributors within 60 calendar days of the conclusion of the monitoring.

Submit completed reports on testing and evaluation of each advanced treatment system verifying compliance with *American National Standards Institute/National Sanitation Foundation (ANSI/NSF) International Standard Number 40*. Such reports shall include but not be limited to the following:

#### Materials

Design and construction

Performance requirement (BOD, TSS, pH)

Operation and maintenance

The Third Party certifying entity must be disassociated with, and have no vested interest in, the manufacturer to which certification services are provided.

Information including specifications of each system and/or component part of the system as deemed necessary by the Department for review.

Design, construction and reinforcement must comply and conform to applicable rules and regulations of *Design Standard I*.

- b. Septic tanks - The Division shall review, including an on-site inspection, the plans, specifications, and construction criteria and shall determine them to be in compliance with the regulation.

Design, construction and reinforcement must comply and conform to applicable rules and regulations of *Design Standard I*.

- c. Holding tanks - The Division shall review, including an on-site inspection, the plans, specifications, and construction criteria and shall determine them to be in compliance with the regulation.

Design, construction and reinforcement must comply and conform to applicable rules and regulations of *Design Standard I*.

- d. Non-waterborne System – Third Party certification that product has successfully completed testing and listing process as outlined in *American National Standards Institute/National Sanitation Foundation (ANSI/NSF) International Standard Number 41*.

- e. Alternative Wastewater Technology - Treatment and/or disposal systems/products must be documented, reviewed and by the Division to verify compliance with the applicable standards.

2. Disposal

All Manufacturers must provide a copy of installation and/or homeowner manual(s) for each of their products. Hydraulic calculations on an alternative system installation on all products that may be required to be pressurized as part of the dispersal process this includes but not limited to, Subsurface Drip, Spray Irrigation, Elevated Sand Mound, and normally gravity fed dispersal systems that would have to be pressurized. List of all

component parts authorized for use in the installation of the product including but not limited to, elbows, connectors, geo-textile fabric, and methods of equal distribution.

- a. Aggregate Replacement System – The Division shall review, including an on-site inspection(s) if deemed necessary, the plans, specifications and construction criteria and shall determine them to be in compliance with the regulation. The Division shall require a complete design from primary treatment to disposal for the minimum and maximum sized system, this shall also include, pump chamber, pump chamber alarm(s), pump(s), filter(s), valve(s), air release(s), aggregate replacement product and connector(s).
  - b. Subsurface Drip - The Division shall review, including an on-site inspection(s) if deemed necessary, the plans, specifications and construction criteria in order to determine compliance with the regulation. The Division shall require a complete design from primary treatment to disposal, this shall also include, pump chamber, pump chamber alarm(s), pump(s), filter(s), valve(s), air release(s), tubing and connector(s). This must be presented as a total package with hydraulics for the minimum and maximum sized system.
  - c. Spray Irrigation - The Division shall review equipment intended to be utilized in the construction of spray irrigation systems to verify compliance with the regulation. The Division shall require a complete design from primary treatment to disposal, to include, pump chamber, pump chamber alarm(s), pump(s), filter(s), valve(s), spray head(s) and connector(s). This must be presented as a total package with hydraulics for the minimum and maximum sized system.
  - d. Alternative Wastewater Technology - All alternative wastewater treatment and/or disposal systems/products must be documented and reviewed by the Division to verify compliance with the applicable standards.
3. Disinfection - The Division shall review, including an on-site inspection(s) if deemed necessary, the plans, specifications and construction criteria and shall determine them to be in compliance with the regulation. The Division shall require a complete design from primary treatment to disposal.
  4. Effluent Filter – Design and construction must comply and conform to applicable rules and regulations of *Design Standard I*.

### 103.05 Responsibilities

#### 1. Manufacturer

All Manufacturers must demonstrate that all processes necessary to comply and conform to Regulations and Manufacturer specifications by the following:

- a. Provide documentation to the Division necessary for registration to include testing and listing of manufacturers of Advanced Treatment Systems.
  - b. Provide documentation on the maintenance agreement for any alternative on-site wastewater disposal system, with a copy of the maintenance agreement outlining the type of service, length of service and frequency of service to be provided.
  - c. Notify the Division of the results of monitoring visits to manufacturers and distributors within 60 calendar days of the conclusion of the monitoring. **MS Code of 1972, Annotated 41-67-10(1)(a)**
  - d. Provide technical trained staff to the Division for utilization during the on-site maintenance training program for all alternate disposal systems certified in Mississippi. **MS Code of 1972, Annotated 41-67-10(2)(b)**
  - e. Provide documentation that an installer of Alternative Systems or products has been trained as a factory-trained and authorized representative and must furnish documentation to the Division certifying the satisfactory completion of factory training and the establishment of the installer as an authorized manufacturer's representative. **MS Code of 1972, Annotated 41-67-10(2)(d), 41-67-25(2)**
2. Fabricators

All Fabricators must demonstrate that all processes necessary to comply and conform to Regulations and Manufacturer specifications by the following:

- a. Providing documentation of all concrete purchases, concrete providers, types of reinforcement and date of fabrication.
- b. Providing documentation that the mold meets the Manufacturer's specifications.
- c. Providing documentation from Manufacturer that annual inspection has been made on the product.
- d. Providing a list of all Distributors and Certified Installers authorized by the Manufacturer to install the product.

### 103.06 Expiration

Manufacturer certifications shall expire on **December 31** unless suspended or revoked.

### 103.07 Renewal

1. A Manufacturer may apply for renewal not more than 60 calendar days prior to the expiration of his Manufacturer certification. If more than 31 calendar day have elapsed from **December 31**, the Department shall require an Applicant to comply with the provisions of initial certification. Suspended certifications are not renewable until reinstated by the Department; revoked certifications cannot be renewed.
2. A Manufacturer shall file a complete application in a form provided by the Division and pay the application fee.
3. Submittal Reports
  - a. Provide proof and certification that Manufacturer has factory trained installers or other factory representatives to educate the homeowner with the necessary knowledge to provide maintenance to the homeowner's system, thus allowing the homeowner to meet the requirements of **Section 41-67-6(8). MS Code of 1972, Annotated 41-67-3(3)(f)**
  - b. Provide documentation when a Certified Installer of alternative systems or products has been factory-trained and listed as an authorized representative. **MS Code of 1972, Annotated 41-67-25(2)**
  - c. Provide notification to the Division within 10 working days whenever the Manufacturer no longer authorizes any Certified Installer, Certified Maintenance Provider or Qualified Homeowner Maintenance Provider.
  - d. Provide notification of any changes made to a product by following Section 107.04. If a Third Party Certifier must approve the change, this documentation must be submitted to Division prior to the implementation of the changes approved by the Third Party.

### 103.08 Informal Fact Finding and Hearing

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

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

#### 103.09 Penalties

1. The Department may suspend or revoke a Manufacturer certification for failure to comply with any law administered by the Board, Department, any regulations of the Board, any order of the Board or Department after due notice.
2. Actions that may result in suspension or revocation include, but are not limited to, falsifying any document, and any act of misrepresentation.
3. If any person or contractor fails to comply with all requirements and regulations in the installation of the system, the Board, after due notice and hearing, may levy an administrative fine not to exceed Ten Thousand Dollars (\$10,000.00). Each wastewater system installed not in compliance with this chapter or applicable rules and regulations of the Board shall be considered a separate offense. **MS Code of 1972, Annotated 41-67-6(6)**

#### 103.10 Reinstatement

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

1. An application, fee and statement (if applicable) that no activities took place after certification was revoked.
2. Provide documentation that the Applicant has satisfactorily completed any remedial actions required as a result of the revocation. Remedial actions including, notification by Third Party Certifier that manufacturer has corrected all deficiencies, updating or modifying training procedures, and correction to components of any registered product as may be specified in the suspension notice

## 104 **CERTIFIED PROFESSIONAL EVALUATOR**

### 104.01 Introduction

Nothing in this chapter shall preclude a Certified Professional Evaluator from providing services relating to the design of an individual on-site wastewater disposal system to comply with this chapter, except for performance-based systems as specified in subsection (4). A Certified Engineer Evaluator shall notify the Department in writing of those services being provided before construction or installation. If a Certified Professional Evaluator designs a design-based individual on-site wastewater disposal system consistent with this chapter, the Certified Professional Evaluator shall stamp the appropriate documentation with that Certified Professional Evaluator licensure number, if applicable, and the Department's certification number and submit the stamped, appropriate documentation to the Department for review. Once the Department has concurred that the recommended system will adequately treat and dispose of all waste, will maintain the waste on the property of the generator, and will not discharge to waters of the state and be in compliance with this law and the corresponding regulations, the Department shall approve the design of the system. Construction or installation before Department approval is prohibited. **MS Code of 1972, Annotated 41-67-3(2) Note:** Subsection (4) is from MS Code of 1972, Annotated

### 104.02 Requirements

A person may not operate as a Certified Professional Evaluator in this state unless the Department currently certifies that person.

1. A person must meet 1 of the following requirements, in addition to the additional requirements set forth in other sections of this chapter and rules and regulations of the Board, in order to be eligible to become a Certified Professional Evaluator: **MS Code of 1972, Annotated 41-67-1 Section 23(2)**
  - a. Be a Professional Engineer registered in the State of Mississippi;
  - b. Be a professional Geologist registered in the State of Mississippi;

c. Be a Professional Soil Classifier licensed in the State of Mississippi;

**or**

d. Be a person who possesses a demonstrable, adequate and appropriate record of professional experience and/or training as determined by the Department.

2. The Division shall issue a certification to a Certified Professional Evaluator if the Certified Professional Evaluator: **MS Code of 1972, Annotated 41-67-1 Section 23(3)**

a. Completes an application form that complies with this chapter and rules adopted under this chapter;

b. Satisfactorily completes the Certified Professional Evaluator training program provided by the department;

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

d. Pays the annual certification fee.

3. Performance-based systems may only be designed by Professional Engineer who is also a Certified Professional Evaluator.

#### 104.03 Application

1. Any specified person may apply to the Division for certification if:

Complete application is filed;

Passes written and field examinations;

Submits 3 professional references; and

Pays fee

Those holding a current certificate as a Professional Engineer from the Mississippi Board of Licensure for Professional Engineers and Surveyors, Professional Geologists from the Mississippi State Board of Registered Professional Geologists or Mississippi Certified Soil Classifier listed with the Mississippi Department of Agriculture, Bureau of Plant Industry, Regulation of Professional Services shall be eligible to receive a certificate as a Professional Evaluator upon passing the Professional Evaluator written and field examinations. **Note:** These individuals will be exempt

from completing the training program provided by the Department unless examination score is below 80%.

**or**

Demonstrates and provides documentation to the satisfaction of the Division, that he/she has a minimum of 1 year of full-time experience evaluating soil and site conditions for Individual On-site Wastewater Disposal Systems in Mississippi in accordance with the Board of Health's regulations and a 4 year college degree in a related study in science or engineering, and shall be eligible to receive a certificate as an Professional Evaluator provided:

- a. The Applicant successfully completes a training program or programs designated and approved by the Division; and
- b. The Applicant successfully completes the written and field examinations approved by the Division.

**or**

Demonstrates to the satisfaction of the Division that he has a minimum of 2 years of full-time experience evaluating soil and site conditions for Individual On-site Wastewater Disposal Systems in Mississippi in accordance with the Board of Health's regulations and a 2 or 4 year college degree shall be eligible to receive a certificate as a Professional Evaluator provided:

- a. The Applicant successfully completes a training course or courses designated and approved by the Division;
- b. The Applicant passes the written and field examinations; and
- c. The Applicant provides a written statement signed by a current or former supervisor or a Certified Professional Evaluator with a current certification stating that the person is sufficiently experienced to become a Professional Evaluator.

**or**

Demonstrates to the satisfaction of the Division that he/she has a minimum of 3 years experience evaluating soil and site conditions for Individual On-site Wastewater Disposal Systems in Mississippi in accordance with the Board of Health's regulations shall be eligible to receive a certificate as a Professional Evaluator provided:

- a. The Applicant successfully completes a training program or programs designated and approved by the Division,

- b. The Applicant successfully completes the written and field examinations approved by the Division, and
  - c. The Applicant provides a written statement signed by a current or former supervisor or a Certified Professional Evaluator with a current certification stating that the person is sufficiently experienced to become a Professional Evaluator.
2. Qualification review
- a. The Certification Advisory Board may review applications and advise the Department if the Applicant is eligible for the examination.
  - b. Upon review of an Applicant's qualifications, the Certification Advisory Board shall make recommendation to the Department on issuance of a certification for a Certified Professional Evaluator.
  - c. Applicants who have been determined ineligible for any reason may request further consideration by submitting, in writing, evidence of additional qualifications, training, or experience to the Department for further review. No additional fee will be required provided the additional information is submitted and received within 1 year from the date the original application. After such period, a new application shall be required.
  - d. If the Department finds that the Applicant has not met the minimum requirements for certification as a Professional Evaluator, the Applicant shall be sent written notification, by certified mail or hand delivered, stating the reasons for denial of the certification. The notice to the Applicant of denial shall also state that the Applicant has the right to a hearing to challenge the certification denial. Any request for a hearing must be received by the Department within 30 calendar days of the affected party's receipt of written notice of the decision.
  - e. Before approving a Professional Evaluator application, the Department may make further inquiries and investigations with respect to the qualifications of the Applicant and all references, etc. to confirm the information supplied. A personal interview with the Applicant may also be requested.
3. Those persons taking written and field examinations specified in **MS Code of 1972, Annotated 41-67-1 Section 23 (2)(b)** shall pay a fee for such testing as determined by the Department based on the actual costs of preparing and administering the examinations.

#### 104.04 Training Program and Examination

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

#### 104.05 Responsibilities

1. Provide complete information, including all applicable requirements and regulations on all systems recommended to the owner, lessee or developer which shall have the right to choose among systems. **MS Code of 1972, Annotated 41-67-3(2), 41-67-6(1)**
2. Notify the Department at least 48 hours before beginning construction if acting as the Certified Installer of an Individual On-site Wastewater Disposal System and, at that time, schedule a time for inspection of the system with the appropriate county Department of Health. **MS Code of 1972, Annotated 41-67-6(4)(a)**
3. Provide a signed affidavit and any additional required documentation that the system was installed in compliance with all requirements, regulations

and permit conditions applicable to the system installed. This applies only if the Certified Professional Evaluator is acting as the Certified Installer. The Affidavit must be given to the Applicant of the Notice of Intent. MS Code of 1972, Annotated 41-67-6(7)(a)

4. Furnish proof of certification to a property owner or the owner's representative of the property before performing a site evaluation of the property on which an individual on-site wastewater disposal system is to be designed, constructed, repaired or installed by the Certified Professional Evaluator and to the Department or its authorized representative, if requested.
5. Notify the Department of any change in address, business partnership or affiliation, or any other status that affects his standing as a Professional Evaluator. Such notice must be in writing and must be delivered to the Department within 10 working days.
6. Shall not knowingly associate in a business venture with, or permit the use of the Professional Evaluator's name or firm name by, any person or firm where there is reason to believe that person or firm is engaging in activity of a fraudulent or dishonest nature or is violating any law or regulations of the Department.
7. Except as provided in paragraph 9 of this section, a Certified Professional Evaluator shall not utilize the evaluations, design, drawings or work of another Certified Professional Evaluator without the knowledge and written consent of the Certified Professional Evaluator or organization of ownership that originated the design, drawings or work. In the event that the Certified Professional Evaluator who generated the original document is no longer employed by the firm retaining ownership of the original documents or is deceased, another Certified Professional Evaluator who is a partner or officer in the firm retaining ownership of the original documents may authorize utilization of the original documents by another Certified Professional Evaluator or firm. This fact must be disclosed to the Department when submitting applications supported by Certified Professional Evaluator materials and certifications.
8. Utilizing information contained in the Department records, on which a decision to approve or refer a site has been made, shall be considered to be in the public domain and may be utilized by a Certified Professional Evaluator without permission.
9. Provide information, if utilizing information in the Department's files or has received permission to modify or otherwise utilize the evaluation, design, drawings or work of another Certified Professional Evaluator may certify that work only after a thorough review of the evaluation, design, drawings or work and after he determines that he is willing to assume full

responsibility for all design, drawings or work on which he relies for his opinion.

10. Public

a. False Statement(s)

A Certified Professional Evaluator shall not knowingly fail to disclose a material fact requested in connection with an application submitted to the Department by himself or any other individual or business entity for certification, renewal or reinstatement.

b. Conflicts of interest

The Certified Professional Evaluator shall promptly and fully inform an employer or client of any business association, interest, or circumstance or circumstances that may influence the Certified Professional Evaluator's judgment or the quality of service.

c. Good standing

A Certified Professional Evaluator certified to practice soil and site evaluations or to design Individual On-site Wastewater Disposal Systems in other jurisdictions shall be in good standing and shall not have had a certificate suspended, revoked or surrendered in connection with a disciplinary action or have been the subject of discipline in another jurisdiction.

11. Submittal Reports

a. System Application

The Certified Professional Evaluator must submit appropriate residential or commercial application to the Division with evaluation and design documentation.

Applications that are incomplete or substandard, in any manner, shall be returned to Applicant. The Applicant and Certified Professional Evaluator will be notified of any deficiencies. If an application has been returned, the Applicant or his agent may submit a new application to correct the deficiency or deficiencies contained in his first application. If the application is received within 45 days of the first, the Division will waive all fees associated with the new application. This waiver may be granted not more than once per site.

No Certified Professional Evaluator shall certify a site evaluation and/or design unless such evaluation and/or design comply with the minimum requirements of the Regulations and such certification

and/or design is produced in accordance with this chapter. A Certified Professional Evaluator shall make a good faith effort to secure complete, accurate, and timely information regarding site and soil conditions, including relevant factors on adjacent parcels, including but not limited to utilities, water supplies, and other sewage systems. The Certified Professional Evaluator shall certify that all information submitted is true and correct to the best of his knowledge and shall be required to be aware of all information in agency files pertaining to the site he is certifying.

Any system proposed for authorization in accordance with performance standards must be designed and certified by a Professional Engineer registered in the State of Mississippi who is a Certified Engineer Evaluator.

b. Soil and Site Evaluation

All soil and site evaluation reports submitted to the Department shall be in a form approved by the Division, shall contain the minimum information specified by the Division, and shall be certified as fully complying with the Regulations. A statement approved by the Department shall be used to certify that a site evaluation and/or design comply with the Board's regulations for on-site sewage systems. No approval shall be granted pursuant to this chapter for any site that has not been certified by a Certified Professional Evaluator.

Additional information may be included with a Certified Professional Evaluator submission in order to facilitate processing the application. However, for the purposes of a Certified Professional Evaluator certifying that an evaluation and/or design complies with the Regulations and "deemed approvable" only those requirements contained in the regulations are considered to apply unless a local government has requested the Department to implement a more restrictive local ordinance. Wastewater system sites proposed for use must be defined in a manner that allows them to be identified on the plat with the accuracy and precision of 3 feet or less.

c. Design

A complete design packet must contain the following:

- i. Legal description
- ii. Plat showing location and/or dimensions of: Water supply, residence, property, sensitive waters (if applicable), and setbacks on contours with 2 foot intervals (if applicable);
- iii. Soil Profile Sheet and location of each soil boring

iv. Individual On-Site Wastewater Disposal System chosen by the Applicant

v. Individual On-site Wastewater Disposal System option(s).

Design calculations used to establish the design parameters of the recommended system, including the minimum information deemed appropriate by the Division;

Provide 2 sets of construction drawings and specifications for the recommended system in accordance with statutes and regulations;

A statement stamped and certified by the Certified Professional Evaluator that the site and soil conditions and design conform to the Regulations.

Additional information based on standard procedures can be submitted when a Certified Professional Evaluator believes it may be in the interest of public health, the environment, or the client.

d. Field Analysis

The Department is not required to perform a field analysis of Certified Professional Evaluator evaluations and designs prior to issuing a Permit/Recommendation approval; however, the Department may conduct a field analysis, as deemed necessary to protect public health, and to insure licensure integrity. Whenever a field analysis is performed, the Department shall make a record of the results.

104.06 Expiration

Professional Evaluator certifications shall expire on **June 30**, unless revoked or suspended.

104.07 Renewal

1. Any person whose Professional Evaluator certification has not expired may apply to the Department for renewal of that certification not more than 60 days prior to the expiration of his Professional Evaluator certification. If more than 31 calendar day have elapsed from **June 30**, the Department shall require the Applicant to comply with the provisions of initial certification. Suspended certifications are not renewable until reinstated by the Certification Advisory Board; revoked certifications cannot be renewed.
2. A Certified Professional Evaluator certification shall file a complete application in a form approved by the Division and pay the application fee.

3. A Certified Professional Evaluator shall provide documentation that he/she has earned 4 continuing education units (CEUs) in topics related to the evaluation of soil and site conditions for on-site sewage treatment and disposal and/or the design of on-site sewage treatment and disposal systems during the calendar year. For the purposes of this chapter, a CEU shall be equivalent to contact hours of instruction in subject matter and from sources approved by the Division. Each Certified Professional Evaluator shall be responsible for maintaining appropriate records and providing proof of credit earned.

#### 104.08 Informal Fact Finding and Hearing

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

#### 104.09 Penalties

1. The Department may suspend or revoke a certification for failure to comply with any law administered by the Board, Department, any regulations of the Board, any order of the Board or Department after due notice from the Department.
2. Actions that may result in suspension or revocation include, but are not limited to; certifying as suitable a site that does not comply with the

minimum requirements of the Regulations, falsifying any document, and any act of misrepresentation made related to Professional Evaluator activities.

3. If any person operates in the state as a Certified Professional Evaluator without certification by the Board, the Board, after due notice and opportunity for a hearing, may impose a monetary penalty not to exceed Ten Thousand Dollars (\$10,000.00) for each violation. **MS Code of 1972, Annotated 41-67-1 Section 23 (7)**

#### 104.10 Reinstatement

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

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

## 105 **CERTIFIED INSTALLER**

#### 105.01 Introduction

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

A person may not operate as a Certified Installer of Individual On-Site Wastewater Disposal Systems unless the Division currently certifies that person.

A person who installs a Conventional (septic tank and aggregate disposal) Individual On-site Wastewater Disposal System on his own property for his primary residence must comply with all Sections except for 109.02, 109.03, 109.05, 109.06 and 109.09.

## 105.02 Requirements

1. The Board shall issue a certification to an installer if the installer: **MS Code of 1972, Annotated 41-67-25(3)**
  - a. Completes an application form that complies with this chapter and rules adopted under this chapter;
  - b. Satisfactorily completes the training program provided by the Division;
  - c. Provides proof of having a valid General Business Liability Insurance policy in effect with liability limits of at least Fifty Thousand Dollars (\$50,000.00) per occurrence and at least One Hundred Thousand Dollars (\$100,000.00) in total aggregate amount; and
  - d. Pays the annual certification fee.

## 105.03 Application

1. A person may apply for certification by filing a complete application provided by the Division, attending and satisfactorily completing training program, providing proof of General Business Liability Insurance and paying the application fee in accordance with **MS Code of 1972, Annotated 43-3-15(4)(f)**.
2. Prior to receipt of a certification the Applicant shall complete an examination, demonstrating his knowledge and comprehension of the Individual On-site Wastewater Disposal System Regulations. Within 30 days of passing the examination, the Certified Installer must submit Insurance and fee.
3. Certificates issued in accordance with this regulation shall not be transferable. Nothing within this regulation shall be construed to limit the power of any municipal, county, or governmental entity to enforce other license requirements or additional measures for the restrictions of persons in the business of constructing, installing, repairing and replacing any Individual On-Site Wastewater Disposal System(s).

## 105.04 Responsibilities

1. May not design, construct or install, or cause to be designed, constructed or installed an Individual On-site Wastewater Disposal System that does not comply with this chapter and rules and regulations of the Board. **MS Code of 1972, Annotated 41-67-6(5)**
2. Provide documentation and certification from the Manufacturer that a Certified Installer of alternative systems or products has been factory-

trained and listed authorized representative. MS Code of 1972, Annotated 41-67-25(2)

3. Furnish proof of certification to a property owner, lessee, the owner's representative or occupant of the property on which an Individual On-Site Wastewater Disposal System is to be designed, constructed, repaired or installed by that Certified Installer and to the Department or its authorized representative, if requested. MS Code of 1972, Annotated 41-67-25(4)
4. Notify the Department at least 48 hours before beginning construction of an Individual On-site Wastewater Disposal System and, at that time, schedule a time for inspection of the system with the appropriate county Department. MS Code of 1972, Annotated 41-67-6(4)(a)
5. Shall be present on the jobsite at the time of the scheduled inspection.
6. Covering his work with soil or other surface material unless the installer has received authorization to cover the system after an inspection by a county Department of health inspector. MS Code of 1972, Annotated 41-67-6(4)(b)
7. Provide a signed affidavit from the Certified Installer or Certified Professional Evaluator and any additional required documentation that the system was installed in compliance with all requirements, regulations and permit conditions applicable to the system installed. The Affidavit must be given to the Applicant of the Notice of Intent. MS Code of 1972, Annotated 41-67-6(7)(a)
8. Notify the Division within 10 working days of any change in address, business partnership or affiliation, or any other status that affects his/her standing as a Certified Installer. Such notice must be in writing or fax and must be delivered to the Division as soon as practicable after the effective date of the change.
9. Pay the require re-inspection fee.
10. Comply with *National Sanitation Foundation/American National Standard Institute Standard 40* specifically Sections 6.1, and Annex A as an authorized representative.

#### 105.05 Training Program and Examination

- a. Those persons taking written examination specified in MS Code of 1972, Annotated 41-67-25(3)(b) shall pay a fee for such testing as determined by the Department based on the actual costs of preparing and administering the examinations.

- b. Attendance of the Department's 2 day Certified Installers training course.
- c. Applicant must achieve a score of 80% or better on the closed book examination.
- d. The Division may initiate levels of certification for the installation of specific types of Individual On-Site Wastewater Disposal System(s). This certification may include training and testing above the basic level.

#### 105.06 Expiration

Certified Installers certifications shall expire **June 30** unless suspended or revoked.

#### 105.07 Renewal

1. A person whose Certified Installer certification has not expired may apply to the Division for renewal of that certification. A Certified Installer may apply for renewal not more than 60 days prior to the expiration of his Certified Installer certification. **Note:** If more than 31 calendar day have elapsed from the expiration of the most recent certification, the Department shall require an Applicant to comply with the provisions of initial certification.
2. A person making application for renewal of a Certified Installer certification shall file a complete application in a form approved by the Division and pay the application fee.
3. A person shall provide documentation that he has earned 4 continuing education units (CEUs) per calendar year. For the purposes of this chapter, a CEU shall be equivalent to contact hours of instruction in subject matter and from sources approved by the Division prior to attendance. Each Certified Installer shall be responsible for maintaining appropriate records and providing proof of credit earned.
4. The Division shall issue a certification to an Certified Installer if the installer: **MS Code of 1972, Annotated 41-67-25(3)**
  - i. Completes an application form that complies with this chapter and rules adopted under this chapter;
  - ii. Satisfactorily completes the training program provided by the Department;
  - iii. Provides proof of having a valid General Business Liability Insurance policy in effect with liability limits of at least Fifty

Thousand Dollars (\$50,000.00) per occurrence and at least One Hundred Thousand Dollars (\$100,000.00) in total aggregate amount; and

iv. Pays the annual certification fee.

#### 105.08 Informal Fact Finding and Hearing

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

#### 105.09 Penalties

1. The Department may suspend or revoke certification for failure to comply with any law administered by the Board, Department, or any regulation of the Board, any order of the Board or Department after due notice from the Department.
2. Actions that may result in suspension or revocation include, but are not limited to, constructing, installing, repairing, replacing or causing the construction, installation, repairing, replacing of an Individual On-Site Wastewater Disposal System on a site that does not comply with the minimum requirements of the Regulations, falsifying any document, and any act of misrepresentation.

3. If any person is operating in the state as an installer without certification by the Board, the Board, after due notice and opportunity for a hearing, may impose a monetary penalty not to exceed Ten Thousand Dollars (\$10,000.00) for each violation. **MS Code of 1972, Annotated 41-67-25(8)**
4. If any person or contractor fails to comply with all requirements and regulations in the installation of the system, the Board, after due notice and hearing, may levy an administrative fine not to exceed Ten Thousand Dollars (\$10,000.00). Each wastewater system installed not in compliance with this chapter or applicable rules and regulations of the Board shall be considered a separate offense. **MS Code of 1972, Annotated 41-67-6(6)**

#### 105.10 Reinstatement

1. Any person whose certification has been revoked may apply to the Division for reinstatement no sooner than 2 years after the effective date of the revocation. Reinstatement of a Certified Installer's certification shall include:
  - a. An application, fee and a written statement (if applicable) that no activities took place after certification was revoked.
  - b. Provide documentation that the Applicant has satisfactorily completed any remedial actions required as a result of the revocation. Remedial actions including, but not limited to, additional training courses, additional testing, and installation or repairing of the Individual On-Site Wastewater Disposal System may be specified as conditions for reinstatement.

## 106 **CERTIFIED PUMPER**

#### 106.01 Introduction

A person may not be engaged in the business of removing and disposing of the sludge and liquid waste (septage) from Individual On-site Wastewater Disposal Systems in this state unless that person has a valid license issued by the Department. **MS Code of 1972, Annotated 41-67-1 Section 22**

Licensing a person constitutes the issuance of a certification with all rights and privileges to clean, pump and dispose of any sludge and liquid waste (septage) from any Individual On-Site Wastewater Disposal Systems or self-contained toilet.

#### 106.02 Requirements

The Department shall issue a license to a pumper if the pumper: **MS Code of 1972, Annotated 41-67-1 Section 22**

1. Completes an application that complies with this chapter and rules adopted under this chapter;
2. Satisfactorily complies with the requirements of his/her pumping and hauling equipment;
3. Provides documentation of a disposal site approved by the Department of Environmental Quality, Office of Pollution Control;
4. Provides proof of having a valid General Business Liability Insurance policy in effect with liability limits of at least Fifty Thousand Dollars (\$50,000.00) per occurrence and at least One Hundred Thousand Dollars (\$100,000.00) in total aggregate amount;
5. Pays the annual license fee; and
6. The carrier tank shall have a minimum holding capacity of 1,250 gallons, effective, **September 30, 2010.**

#### 106.03 Application

1. A person may apply for certification by filing a complete application provided by the Division, attending and satisfactorily completing training program, providing proof of General Business Liability Insurance, submittal of vehicle inspection from the County Health Department and paying the inspection and application fees as specified in **MS Code of 1972, Annotated 43-3-15(4)(f).** In addition, all Applicants shall list each approved disposal facility they intend to use. Written verification of permission to use each disposal facility shall accompany the application.
2. Prior to receipt of a certification, the Applicant shall complete an examination demonstrating his knowledge and comprehension of the Individual On-site Wastewater Disposal System Regulations. Within 30 days of passing the examination, the Certified Installer must submit Insurance and fee.
3. Certificates issued in accordance with this regulation shall not be transferable. Nothing within this regulation shall be construed to limit the power of any municipal, county, or governmental entity to enforce other license requirements or additional measures for the restrictions of persons in the business of removing and disposing of sludge and liquid waste from Individual On-Site Wastewater Disposal System(s).

#### 106.04 Inspection (County Health Department)

1. Complete Inspection form and return to Division.

2. The carrier tank shall have a minimum holding capacity of 1,250 gallons, effective, **September 30, 2010.**

#### 106.05 Responsibilities

1. Notifying the Department within 10 working days of adding, replacing or deleting the inventory of vehicles for the purpose of updating application of any change in address, business partnership or affiliation, or any other status that affects his/her standing as a Certified Pumper.
2. Keep a record on all systems cleaned, pumped and disposed of by physical address, including city, size and type of primary treatment unit, amount pumped, and receipt of disposal at waste treatment facility permitted by the Mississippi Department of Environmental Quality. The proper cleaning of any septic tank or similar unit shall include the substantial removal of its contents.
  - a. Discharge of septage shall be allowed only at those specific locations designated by the owners/operators of approved disposal facilities.
  - b. Discharge of septage into a public sewage collection system, without the consent and permission of the owner/operator of such system, is prohibited.
  - c. Records shall be made available at time of the inspection by the Department. Records must be retained for a minimum of 2 years.
  - d. Provide authorization letter, from a Mississippi Department of Environmental Quality (MDEQ) permitted facility upon inspection and/or request.
3. Deliver vehicle(s) to the appropriate county health office for inspection purposes. This will require the Certified Pumper to contact the county health office.
4. Ensure pumping and transporting of septage shall be delivered in a manner that is safe and does not create a nuisance or public health hazard.
5. Label the carrier tank "SEPTAGE ONLY" at or near the inlet and outlet valve. The use of the carrier tank for other purposes is prohibited. The required lettering shall be a minimum of 4 inches in height.
6. Supervise employees and ensure that all systems for which the licensee is responsible shall be pumped and cleaned in accordance with Regulation and other applicable regulations, permits, and standards issued by the Department.
7. Training Program and Examination

- a. A person taking written examinations shall pay a fee as specified in MS Code of 1972, Annotated 43-3-15(4) (f) for such testing as determined by the Department based on the actual costs of preparing and administering the examinations.
- b. A person taking a Department-sponsored training course or courses as specified shall pay the fee MS Code of 1972, Annotated 43-3-15(4) (f) for such course as determined by the Department. Fees for such course or courses will be based on the Department's actual expenses in preparing course materials and conducting the training. This section is not intended to prevent or discourage training courses recognized by the Department and offered by entities other than the Department. In the case of training that is not directly sponsored by the Department, Applicants will pay appropriate fees to the sponsoring entity.
- c. Attendance of the Department's 1 day Certified Pumper Training Course.
- d. Applicant must achieve a score of 80% or better on the closed book examination.
- e. A person making application shall provide documentation that he has earned 4 continuing education units (CEUs) in a calendar year. For the purposes of this chapter, a CEU shall be equivalent to contact hours of instruction in subject matter and from sources prior approved by the Division. Each Certified Pumper shall be responsible for maintaining appropriate records and providing proof of credit earned.

#### 106.06 Expiration

Certified Pumper certifications shall expire **September 30** unless revoked or suspended.

#### 106.07 Renewal

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

1. Any person applying for renewal shall file with the Division:
  - a. Completed application;
  - b. Proof of CEU(s) credit;

- c. Proof of insurance;
- d. Copy of pumping record;
- e. Copy of letter from disposal site(s); and
- f. Payment

#### 106.08 Informal Fact Finding and Hearing

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

#### 106.09 Penalties

1. The Department may suspend or revoke certification for failure to comply with any law administered by the Board, Department, or any regulation of the Board, any order of the Board or Department after due notice from the Department.
2. Actions that may result in suspension or revocation include, constructing, installing, repairing, replacing or causing the construction, installation, repairing, replacing of an Individual On-Site Wastewater Disposal System on a site that does not comply with the minimum requirements of the Mississippi State Department of Health Regulations, spillage or septage from equipment, dumping or disposing of septage in a unpermitted or

unapproved site, falsifying any document, and any act of misrepresentation made related to Certified Pumper activities.

3. If any person operates in the state as a licensed pumper without a license by the Board, the Board, after due notice and opportunity for a hearing, may impose a monetary penalty not to exceed Ten Thousand Dollars (\$10,000.00) for each violation. **MS Code of 1972, Annotated 41-67-1 Section 22 (5)**
4. If any person or contractor fails to comply with all requirements and regulations in the installation of the system, the Board, after due notice and hearing, may levy an administrative fine not to exceed Ten Thousand Dollars (\$10,000.00). Each wastewater system installed not in compliance with this chapter or applicable rules and regulations of the Board shall be considered a separate offense. **MS Code of 1972, Annotated 41-67-6(6)**

#### 106.10 Reinstatement

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

- a. An application, fee and a written statement (if applicable) that no activities took place after certification was revoked.
- b. Provide documentation that the Applicant has satisfactorily completed any remedial actions required as a result of the revocation. Remedial actions including, but not limited to, additional training courses, additional testing, and certification by manufacturer of pumping equipment.

### 107 **CERTIFIED MAINTENANCE PROVIDER**

#### 107.01 Introduction

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

#### 107.02 Requirements

The Department shall issue a certification to a maintenance provider if the maintenance provider: **MS Code of 1972, Annotated 41-67-1 Section 21(2)**

1. Completes an application that complies with this chapter and rules adopted under this chapter;
2. Satisfactorily completes the Certified Maintenance Provider training program provided by the Department;
3. Provides proof of having a valid General Business Liability Insurance policy in effect with liability limits of at least Fifty Thousand Dollars (\$50,000.00) per occurrence and at least One Hundred Thousand Dollars (\$100,000.00) in total aggregate amount; and
4. Pays the annual certification fee.

#### 107.03 Application

1. A person may apply for certification by filing a complete application in a provided by the Division, attending and satisfactorily completing training program, providing proof of General Business Liability Insurance and paying the application fee in accordance with **MS Code of 1972, Annotated 43-3-15(4)(f)**. In addition, all Applicants for certification as a Certified Maintenance Provider shall pass the Certified Maintenance Provider written examinations.
2. A person making application for certification as a Certified Maintenance Provider or applying for renewal of a Certified Maintenance Provider certification shall pay an application fee.
3. A person taking a Department-sponsored training course or courses as specified in **MS Code of 1972, Annotated 43-3-15(4)(f)** shall pay the fee for such course as determined by the Department. Fees for such course or courses will be based on the Department's actual expenses in preparing course materials and conducting the training. This section is not intended to prevent or discourage training courses recognized by the Department and offered by entities other than the Department. In the case of training that is not directly sponsored by the Department, Applicants must pay appropriate fees to the sponsoring entity.
4. A persons taking written examination specified in **MS Code of 1972, Annotated 43-3-15(4)(f)** shall pay a fee for such testing as determined by the Department based on the actual costs of preparing and administering the examinations.
5. Certification will be issued to candidates obtaining a score of 80% or better on the MSDH Certified Maintenance Provider written exam. **MS Code of 1972, Annotated 41-67-1 Section 21 (2)(b)**

#### 107.04 Responsibilities

1. Provide on all alternative on-site wastewater disposal system, an affidavit from the property owner agreeing to a continuing maintenance agreement on the installed system at the end of the required manufacturer's maintenance agreement. **MS Code of 1972, Annotated 41-67-6(8)**
2. Providing the property owner with a continuing maintenance agreement on all alternative on-site wastewater disposal systems in perpetuity. **MS Code of 1972, Annotated 41-67-6(8)**
3. Furnish proof of certification to an individual before entering a contract with that individual for the continuing maintenance of an individual on-site wastewater disposal system. **MS Code of 1972, Annotated Section 21(3)**
4. Provide 2 inspections annually to the homeowner. Each must include the homeowner name/address, date, time and list of components repaired or replaced. This report must be submitted to the Division on a yearly basis.
5. Provide a sample contract and/or list of services to the Division, when requested.
6. Submittal Reports
  - a. Inspecting and evaluating Individual On-Site Wastewater Disposal Systems to determine if they are compliant with state law and being properly maintained.
  - b. Keeping accurate records of systems inspected and repaired.
  - c. Issuing inspection reports to property owners and the Division on a biannual basis from date of contract.
7. Training Program and Examination
  - a. A person taking written examinations shall pay a fee as specified in **MS Code of 1972, Annotated 43-3-15(4) (f)** for such testing as determined by the Department based on the actual costs of preparing and administering the examinations.
  - b. A person taking a Department-sponsored training course or courses as specified shall pay the fee **MS Code of 1972, Annotated 43-3-15(4) (f)** for such course as determined by the Department. Fees for such course or courses will be based on the Department's actual expenses in preparing course materials and conducting the training. This section is not intended to prevent or discourage training courses recognized by the Department and offered by entities other than the Department. In the case of training that is not directly sponsored by

the Department, Applicants will pay appropriate fees to the sponsoring entity.

- c. Attendance of the Department's 2 day Certified Maintenance Provider Training Course.
- d. Applicant must achieve a score of 80% or better on the closed book examination.
- e. Provides documentation that he/she has earned 8 continuing education units (CEUs) during the previous 2 years. For the purposes of this chapter, a CEU shall be equivalent to contact hours of instruction in subject matter and from sources approved by the Division. Each Certified Maintenance Provider shall be responsible for maintaining appropriate records and providing proof of credit earned.

#### 107.05 Expiration

Certified Maintenance Provider certifications shall expire on **December 31**, unless suspended or revoked.

#### 107.06 Renewal

- 1. A person whose certification has not expired may apply to the Division for renewal. A Certified Maintenance Provider may apply for renewal no more than 60 calendar days prior to the expiration of his Certified Installer certification. **Note:** If more than 31 calendar day have elapsed from the expiration of the most recent certification, the Department shall require an Applicant to comply with the provisions of initial certification.
  - a. The Board shall issue a certification to an Maintenance Provider if the Maintenance Provider :
  - b. Completes an application that complies with this chapter and rules adopted under this chapter;
  - c. Satisfactorily completes the training program provided by the Department;
  - d. Provides proof of having a valid General Business Liability Insurance policy in effect with liability limits of at least Fifty Thousand Dollars (\$50,000.00) per occurrence and at least One Hundred Thousand Dollars (\$100,000.00) in total aggregate amount. **MS Code of 1972, Annotated 41-67-25(3)**
  - e. Provides documentation that he has earned 8 continuing education units (CEUs) during the previous 2 years. For the purposes of this chapter, a CEU shall be equivalent to contact hours of instruction in

subject matter and from sources approved by the Division. Each Certified Maintenance Provider shall be responsible for maintaining appropriate records of CEUs and for providing proof of satisfactory completion of CEUs to the Department and proof of restitution for any outstanding administrative fines; and

- f. Pays the annual certification fee.

#### 107.07 Informal Fact Finding and Hearing

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

#### 107.08 Penalties

1. The Department may suspend or revoke certification for failure to comply with any law administered by the Board, Department, or any regulation of the Board, any order of the Board or Department after due notice from the Department.
2. Actions that may result in suspension or revocation include, but are not limited to, repairing, replacing or causing the repairing, replacing of an Individual On-Site Wastewater Disposal System that does not comply with the minimum requirements of the Mississippi State Department of Health Regulations, falsifying any document, and any act of misrepresentation made related to Certified Maintenance Provider activities.
3. If any person operates in the state as a Certified Maintenance Provider without certification by the Board, the Board, after due notice and opportunity for a hearing, may impose a monetary penalty not to exceed Ten Thousand Dollars (\$10,000.00) for each violation. **MS Code of 1972, Annotated Section 21(2)(d)**
4. If any person or contractor fails to comply with all requirements and regulations in the installation of the system, the Board, after due notice and hearing, may levy an administrative fine not to exceed Ten Thousand Dollars (\$10,000.00). Each wastewater system installed not in compliance with this chapter or applicable rules and regulations of the Board shall be considered a separate offense. **MS Code of 1972, Annotated 41-67-6(6)**

#### 107.09 Reinstatement

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

1. An application, fee and written statement (if applicable) that no activities took place after certification was revoked.
2. Provide documentation that the Applicant has satisfactorily completed any remedial actions required as a result of the revocation. Remedial actions including, but not limited to, additional training courses, examination, and repairing or replacing of the Individual On-Site Wastewater Disposal System(s).

## 108 QUALIFIED HOMEOWNER MAINTENANCE PROVIDER

### 108.01 Introduction

A Qualified Homeowner Maintenance Provider can repair or replace any component on an installed Individual On-Site Wastewater Disposal System at

his/her primary residence which utilizes an Advanced Treatment System. This will include the repair or replacement of any component used as primary treatment or disposal.

A person shall not operate as a Certified Maintenance Provider on any Individual On-Site Wastewater Disposal Systems unless that person is currently certified by the Department.

#### 108.02 Requirements

The Department shall issue a certification to a Qualified Homeowner Maintenance Provider if the maintenance provider: **MS Code of 1972, Annotated Section 21(2)**

1. Completes an application that complies with this chapter and rules adopted under this chapter.
2. Satisfactorily completes the Certified Maintenance Provider training program provided by the Division.
3. Provides proof of ownership.

#### 108.03 Application

1. A person may apply to the Division for certification as a Qualified Homeowner Maintenance Provider by:

Complete application;

Attend training course; and

Pass written examination

2. Those persons taking written examination specified in **MS Code of 1972, Annotated 43-3-15(4)(f)** shall pay a fee for such exam as determined by the Department based on the actual cost of preparation and administration.

#### 108.04 Responsibilities

1. Keep a continuing maintenance agreement on his/her alternative on-site wastewater disposal system in perpetuity with the Department.
2. Successfully complete manufacturer's training and certification whose alternate disposal systems are certified for sale in Mississippi shall be certified by the Department to perform on-site wastewater maintenance on that manufacturer's alternate disposal systems. **MS Code of 1972, Annotated 41-67-10(2)(d)**

3. Provide 2 inspections biannually based on date of installation. Each must include the homeowner name/address, date, time and list of any components repaired or replaced and present the reports yearly to the Division.
4. Submittal Reports
  - a. Inspect and evaluate his/her on-site systems.
  - b. Keeping accurate records of systems inspected and repaired.
  - c. Issuing inspection reports to the Division on an annual basis.
5. Training Program and Examination
  - a. A person taking written examinations shall pay a fee as specified in **MS Code of 1972, Annotated 43-3-15(4) (f)** for such testing as determined by the Department based on the actual costs of preparing and administering the examinations.
  - b. A person taking a Department-sponsored training course or courses as specified shall pay the fee **MS Code of 1972, Annotated 43-3-15(4) (f)** for such course as determined by the Department. Fees for such course or courses will be based on the Department's actual expenses in preparing course materials and conducting the training. This section is not intended to prevent or discourage training courses recognized by the Department and offered by entities other than the Department. In the case of training that is not directly sponsored by the Department, Applicants will pay appropriate fees to the sponsoring entity.
  - c. Attendance of the Department's 2 day Qualified Homeowner Maintenance Provider Training Course.
  - d. Applicant must achieve a score of 80% or better on the closed book examination.
  - e. Provides documentation that he has earned 8 continuing education units (CEUs) during the previous 2 years. For the purposes of this chapter, a CEU shall be equivalent to contact hours of instruction in subject matter and from sources approved by the Division. Each Qualified Homeowner Maintenance Provider shall be responsible for maintaining appropriate records and providing proof of credit earned.

#### 108.05 Expiration

Certifications shall expire on **December 31**, unless suspended or revoked or the Qualified Homeowner provides notification to the Division that a contract has been signed with a Certified Maintenance Provider.

#### 108.06 Renewal

1. A person whose certification has expired may apply to the Division for renewal. A Qualified Homeowner Maintenance Provider may apply for renewal not more than 60 calendar days prior to the expiration of his certification. **Note:** If more than 6 months have elapsed from the expiration of the most recent certification, the Division may require the Applicant to complete the initial application procedures. Suspended certifications are not renewable until reinstated by the Department; revoked certifications cannot be renewed.
2. Provides documentation that he/she has earned 8 continuing education units (CEUs) during the previous 2 years. For the purposes of this chapter, a CEU shall be equivalent to contact hours of instruction in subject matter and from sources approved by the Division. Each Qualified Homeowner Maintenance Provider shall be responsible for maintaining appropriate records of CEUs and for providing proof of satisfactory completion of CEUs to the Department and proof of restitution for any outstanding administrative fines.

#### 108.07 Informal Fact Finding and Hearing

- a. Whenever the Department intends to take action to suspend or revoke a Qualified Homeowner Maintenance Provider certification, there must be an informal fact finding conference in accordance with **MS Code** and proper notice must be given to the affected party.
  - i. The Qualified Homeowner Maintenance Provider shall be notified in writing. The notice must be hand delivered or sent by certified mail. The notice must provide the factual and legal basis for the contemplated action and must give the date, time, place, and location of the informal fact finding conference.
  - ii. The informal fact finding conference is to be conducted by an employee of the Department. The conference shall be conducted in accordance with, but is not limited to, the requirements of *Administrative Procedural Code of Mississippi* and may include the creation of a verbatim or summary record of the proceedings.
  - iii. The Department designee shall render a decision from the informal fact finding conference in a timely manner. Such decisions shall constitute the final administrative decision and may be appealed.

- iv. When action is taken to suspend a Qualified Homeowner Maintenance Provider certification, that suspension shall be for a specified period of time. Remedial actions including, but not limited to, additional training courses, examination, and installation or repairing of the Individual On-Site Wastewater Disposal System(s).

#### 108.08 Penalties

1. The Department may suspend or revoke certification for failure to comply with any law administered by the Board, Department, or any regulation of the Board, any order of the Board or Department after due notice from the Department.
2. Actions that may result in suspension or revocation include, but are not limited to, repairing, replacing or causing the repairing, replacing of an Individual On-Site Wastewater Disposal System that does not comply with the minimum requirements of the Mississippi State Department of Health Regulations, certifying any Individual On-Site Wastewater Disposal System that proof of ownership is not filed with the Division, transferring of ownership without notifying Division, falsifying any document, and any act of misrepresentation made related to Qualified Homeowner Maintenance Provider activities.
3. If any person operates in the state as a Qualified Homeowner Maintenance Provider without certification by the Board, the Board, after due notice and opportunity for a hearing, may impose a monetary penalty not to exceed Ten Thousand Dollars (\$10,000.00) for each violation. **MS Code of 1972, Annotated Section 21(2)(d)**
4. If any person or contractor fails to comply with all requirements and regulations in the installation of the system, the Board, after due notice and hearing, may levy an administrative fine not to exceed Ten Thousand Dollars (\$10,000.00). Each wastewater system installed not in compliance with this chapter or applicable rules and regulations of the Board shall be considered a separate offense. **MS Code of 1972, Annotated 41-67-6(6)**

#### 108.09 Reinstatement

A person whose certification has been revoked may apply to the Division for reinstatement no sooner than 2 years after the effective date of the revocation. Reinstatement of a Qualified Homeowner Maintenance Provider certification shall include:

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

2. Provide documentation that the Applicant has satisfactorily completed any remedial actions required as a result of the revocation. Remedial actions including, but not limited to, additional training courses, examination, and repairing or replacing of the Individual On-site Wastewater Disposal System may be specified as conditions for reinstatement.

## **109 HEARING PROCEDURE**

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

**110 FEES**110.01 ManufacturerCertification of Registration.....\$100.00Product Review.....\$250.00110.02 Professional EvaluatorInitial Certification.....\$600.00Renewal Certification.....\$500.00110.03 InstallerInitial Certification.....\$50.00Renewal Certification.....\$50.00110.04 PumperInitial Certification.....\$50.00Inspection (by county).....\$25.00/VehicleRenewal Certification.....\$50.00110.05 Maintenance ProviderInitial Certification.....\$400.00Renewal Certification.....\$300.00110.06 Examination.....\$100.00110.07 Continuing Education Unit (CEU)/Professional Development Hours (PDH) Registration.....\$25.00110.08 Return Check Fee.....\$50.00110.09 Late Fee.....1/2 certification fee

110.10 In the discretion of the Board, a person shall be liable for a penalty equal to one and one-half (1-1/2) times the amount of the fee due and payable for failure to pay the fee on or before the date due, plus any amount necessary to reimburse the cost of collection. MS Code of 1972, Annotated Section 11 41-67-12(2)

110.11 All fees due the Department shall be paid by check or money order.

Pending

**Table I** Response

| Activity                                | Certified Engineer Evaluator |            | Certified Professional Evaluator |            |
|-----------------------------------------|------------------------------|------------|----------------------------------|------------|
|                                         | Working days                 |            | Working days                     |            |
|                                         | Residential                  | Commercial | Residential                      | Commercial |
| Application                             | 2                            | 2          | 2                                | 2          |
| Design Review                           | 3                            | 5-10       | 3                                | 5-10       |
| Design Approved                         | 2                            | 2          | 2                                | 2          |
| Installation Approved                   | N/A                          | 2          | N/A                              | 2          |
| Application                             | 2                            | 2          | N/A                              |            |
| Performance Based Review                | 3                            | 10-15      |                                  |            |
| Performance Based Design Approved       | 3                            | 3          |                                  |            |
| Performance Based Installation Approved | 3                            | 4          |                                  |            |

**115 CERTIFICATION OF REGULATION**

This is to certify that the above **2.0 REGULATION GOVERNING INDIVIDUAL ON-SITE WASTEWATER DISPOSAL SYSTEMS: CERTIFICATION** was adopted by the Mississippi State Board of Health on **July 8, 2009** to become effective **August 8, 2009**.

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F. E. Thompson, MD, MPH  
Secretary and Executive Officer

Pending

# Title 15 - Mississippi Department of Health

## Part III – Office of Health Protection

### Subpart 77 – Onsite Wastewater

#### CHAPTER 17      REGULATION GOVERNING RESIDENTIAL INDIVIDUAL ON-SITE WASTEWATER DISPOSAL SYSTEMS: SOIL AND SITE EVALUATION

##### **100      PURPOSE**

The purpose of this regulation is to establish standards regarding the methods and techniques used in determining site characteristics and limitations. The soil information such as texture, structure, landscape position, color and seasonal water table depths, will determine the treatment and disposal system to be installed, constructed and approved by the Department.

##### **101      AUTHORITY**

The State Board of Health is authorized to promulgate these rules under and by virtue of **Section 41-3-15 (4) (a) (b) (k) (l)** and **Sections 41-67-1 through 41-67-29** and **Sections 20 through 23 MS Code of 1972, Annotated.**

##### **102      INTRODUCTION**

This Soil and Site Evaluation method will be used by Environmentalists/Certified Professional Evaluators for the design of all Individual On-site Wastewater Disposal Systems. The specific design criteria is outlined in the *Mississippi State Department of Health's (MSDH) – Design Standards I-XIII* and the *United States Environmental Protection Agency's (EPA) – On-site Wastewater Treatment Systems Manual EPA/625/R-00/008*. **Note:** The evaluation is understood to begin at the Natural Ground Surface.

##### **103      DEFINITIONS**

103.01 Applicant – an owner, lessee, or developer.

103.02 Available Space – the area necessary for the system and space allowance for future expansion, repair or replacement.

103.03 Board – the Mississippi State Board of Health. **MS Code of 1972, Annotated, Section 41-67-2(c).**

103.04 Department – the Mississippi State Department of Health. **MS Code of 1972, Annotated, Section 41-67-2(h).**

- 103.05 Drainage way – a course or channel along which water moves in draining an area, *United States Department of Agriculture, National Resource Conservation Service, Glossary of Landform and Geologic Terms.*
- 103.06 Department of Environmental Quality – the Mississippi Department of Environmental Quality (MDEQ), Office of Pollution Control.
- 103.07 Flooding – the temporary covering of the soil surface by flowing water from any source, such as streams overflowing their banks, runoff from adjacent or surrounding slopes, inflow from high tides, or any combination of sources. The frequency of the event determines the limitation assigned to each category.
1. Rare: Flooding unlikely but possible under unusual weather conditions; 1 to 5 percent chance of flooding in any year or 1 to 5 times in 100 years. (Slight limitations; includes: None or no chance of flooding).
  2. Occasional: Flooding occurs infrequently under usual weather conditions; 5 to 50 percent chance of flooding in any year or more than 5 to 50 times in 100 years. (Moderate limitations.)
  3. Frequent: Flooding is likely to occur often under usual weather conditions more than a 50 percent chance of flooding in any year or more than 50 times in 100 years, but less than a 50 percent chance of flooding in all months in any year. (Severe limitations.)
  4. Very Frequent: Flooding is likely to occur very often under usual weather conditions with a more than a 50 percent chance of flooding in all months of any year. (Extreme limitations.)
- 103.01 Flood-prone Area – an area that is generally subject to being flooded 50 times in 100 years or greater than a 50 percent chance in any year. This definition refers to an area that is subject to frequent flooding as observed, or as indicated by soil characteristics defined in the standards of the *National Soil Survey Handbook, United States Department of Agriculture.*
- 103.02 Fragipan – A dense, natural subsurface layer of hard soil with relatively slow permeability to water, mostly because of its extreme density or compactness rather than its high clay content or cementation.
- 103.03 Generator – any person whose act or process produces sewage or other material suitable for disposal in an Individual On-site Wastewater Disposal System. **MS Code of 1972, Annotated, 1972 Section 41-67-2(i).**
- 103.04 High Shrink Swell Soils (H3S) – soils that have relatively high clay content and a dominant mineral type that causes significant swelling when wet and shrinking when dry.

- 103.05 Hydric Soils – soils that formed under conditions of saturation, flooding or ponding long enough to develop anaerobic conditions in the upper part.
- 103.06 Impervious – resistant to penetration by air, water, and roots.
- 103.07 Maximum Flexibility – the latitude of judgment to be used by the Department to recommend all applicable wastewater disposal systems in compliance with statutes, regulations and rules of the State of Mississippi.
- 103.08 Munsell Soil Color Chart – a color space standard that specifies colors based on 3 color dimensions: hue, value (lightness) and chroma (color purity).
- 103.09 Natural Ground Surface – the more or less naturally occurring surface of the earth which has not been significantly altered or disturbed by artificial means such as cutting and/or filling (does not include plowing for agricultural purposes). Except where severely eroded, the ground surface normally begins with a dark, organic matter enriched layer (topsoil) of varying thickness followed usually with a brighter colored layer (subsoil) increasing with clay content with depth.
- 103.10 Permeability – a qualitative estimate of the relative ease with which soil transmits water.
- 103.11 Person – any individual, trust, firm, joint-stock company, public or private corporation (including a government corporation), partnership, association, state, or any agency or institution thereof, municipality, commission, political subdivision of a state or any interstate body, and includes any officer or governing or managing body of any municipality, political subdivision, or the United States or any officer or employee thereof. MS Code of 1972, Annotated, 1972 Section 41-67-2(m).
- 103.12 Ponding – standing water in a depression that is removed only by percolation, evaporation, and/or transpiration that lasts greater than 7 days.
- 103.13 Redoximorphic Features - a color pattern in a soil due to loss (depletion) or gain (concentration) of pigment compared to the matrix color, formed by oxidation/reduction of Fe (iron) and/or Mn (manganese) coupled with their removal, translocation, or accrual; or a soil matrix color controlled by the presence of Fe<sup>+2</sup>. *Field Book for Describing and Sampling Soils, NRCS, USDA.*
- 103.14 Restrictive Horizon/Layer (Water Movement) – a layer in the soil more than 3 inches thick that significantly retards the downward movement of water or hinders acceptable treatment and renovation of effluent. A restrictive horizon/layer generally has Redoximorphic Features associated with it, at least in the upper part of the restrictive layer, as well as in the horizon above it.

- 103.15 Saturation – wetness characterized by 0 positive pressure of the soil water. Under conditions of saturation, the water will flow from the soil matrix into an unlined auger hole.
- 103.16 Seasonal High Water Table – the water table that is part of a discontinuous saturated zone in a soil, as indicated in the Munsell Soil Color Chart, by a value of 4 or more and a chroma 2 or less (Munsell Soil Color Chart) Redoximorphic Feature.
- 103.17 Sensitive Water – public or private waters used for recreation (swimming, skiing, fishing), shellfish harvesting, potable water intake or other situations where people are likely to come into contact.
- 103.18 Slope – deviation of a plane surface from the horizontal; when given in percent, it is the rise or fall of the land surface in feet per 100 feet of horizontal distance (i.e. linear, concave and convex)
- 103.19 Soil – a medium used to filter effluent from an Individual On-site Wastewater Disposal System in order to remove bacterium, nutrients, and viruses. The ideal medium is 25 percent water, 25 percent air, 45 percent mineral and 5 percent organic matter.
- 103.20 Soil Auger – a short cylinder with a cutting edge attached to a rod and handle.
- 103.21 Soil and Site Evaluation – the evaluation to determine if a property can support an Individual On-Site Wastewater Disposal System by use of a soil auger to a depth up to 5 feet to determine the soil texture, color, mottling and seasonal water table.
- 103.22 Soil Horizon – a layer of soil approximately parallel to the land surface and differing from adjacent genetically related layers in physical, chemical, and biological properties or characteristics including but not limited to color, structure, texture, consistence and Ph.
- 103.23 Soil Profile – a description of a soil horizon based on depth, texture, color, and mottles resulting in the correlation of the seasonal water table and restrictive horizon. This refers to Soil Horizons O, A, E, B, C and R.
- 103.24 Soil Resource Map – a general representation. **Note:** Figure I
- 103.25 Soil Texture – the numerical proportion (percent by weight) of sand, silt, and clay in a soil, *United States Department of Agriculture (USDA)*.
- 103.26 Soil Mapping Unit – a soil series based on texture of the surface Soil Horizon. Examples include: SME – Smithdale sandy loam 12 to 17 percent, SbA – Savannah loam, 0 to 2 percent slopes

- 103.27 Soil Wetness – conditions caused by Seasonal High Water Table, tidal water, seasonally saturated soils or by lateral water movement determined by identifying colors of chroma 2 or less (Munsell Soil Color Chart) in Redoximorphic Features.
- 103.28 Texture Class – standardized terms used to convey textural makeup of the fine-earth fraction less than 2 millimeters in diameter. The fine earth fraction includes sand (2.0 - 0.05mm in size), silt (0.05mm - 0.002mm in size) and clay (less than 0.002mm in size) particles, United States Department of Agriculture (USDA). Note: Figure II
- 103.29 Topography – The relative position and elevations of the natural or manmade features of an area that describe the configuration of its surface (i.e., hilly, rolling, level, steep, severe, moderate, etc.).
- 103.30 Vertical Separation – the vertical separation between the bottom of the trench and a restrictive layer/horizon or Water Table.
- 103.31 Water Table – the highest part of the soil or underlying rock that is wholly saturated with water. In some places an upper or Seasonal High Water Table may be separated from a lower one by a dry zone.

#### **104 SOIL AND SITE EVALUATION METHOD**

Prior to construction of any dwelling or placement of any mobile, modular, or permanently constructed residence which may require the installation of an Individual On-site Wastewater Disposal System, the Applicant shall submit a signed Notice of Intent to the Department.

##### 104.01 Criteria

1. Absence of Frequent Flooding;
2. Landscape position;
3. Drainage way;
4. Slope (topography);
5. Depth to seasonal water table (chroma 2 or less) in inches;
6. Depth (inches) to restrictive Soil Horizon (i.e., bedrock, fragipan, plinthite, etc.);
7. Soil texture, Munsell Soil Color Chart, and depth (inches) of Soil Horizons;
8. Setbacks

- a. Residence, property line, or other external structures
- b. Water supply
- c. Sensitive Waters

9. Available Space.

104.02 Texture-by-Feel Analysis, United States Department of Agriculture, Natural Resource Conservation Service

The soil determination will be made based on soil borings to a depth up to 5 feet or to a depth sufficient to reach a restrictive Soil Horizon. Restrictive soil or site conditions may preclude the use of any Individual On-site Wastewater Disposal System.

The Soil Profile is recorded in inches on the Soil Profile Sheet by indicating the following:

1. Natural Ground Surface (0 inches)
2. Depth of each Soil Horizon with:
  - a. The Soil Texture. Note: Figure II
  - b. The Munsell Soil Color Chart (moist soil conditions.)
  - c. Seasonal High Water Table indicator, if applicable:
    - i. Seasonal High Water Table indicators may be determined by the presence of colors of chroma 2 or less (Munsell Soil Color Chart) at  $\geq$  2 percent of soil volume in mottles or matrix of a Soil Horizon.
    - ii. Seasonal High Water Table indicator may be determined by the indication of redoximorphic features at  $\geq$  2 percent of soil volume of a Soil Horizon in accordance with methods in the *Field Book for Describing and Sampling Soils, NRCS, USDA*. This procedure shall take precedence over the Sub item (a) of this Section. The Field Book is hereby incorporated by reference, including any subsequent amendments and editions.
    - iii. Another method to determine Seasonal Water Table indicators is outlined in Section 104.03.
  - d. Restrictive Horizon depth, if applicable.

104.03 Soil Wetness

1. Monitoring Well Procedure

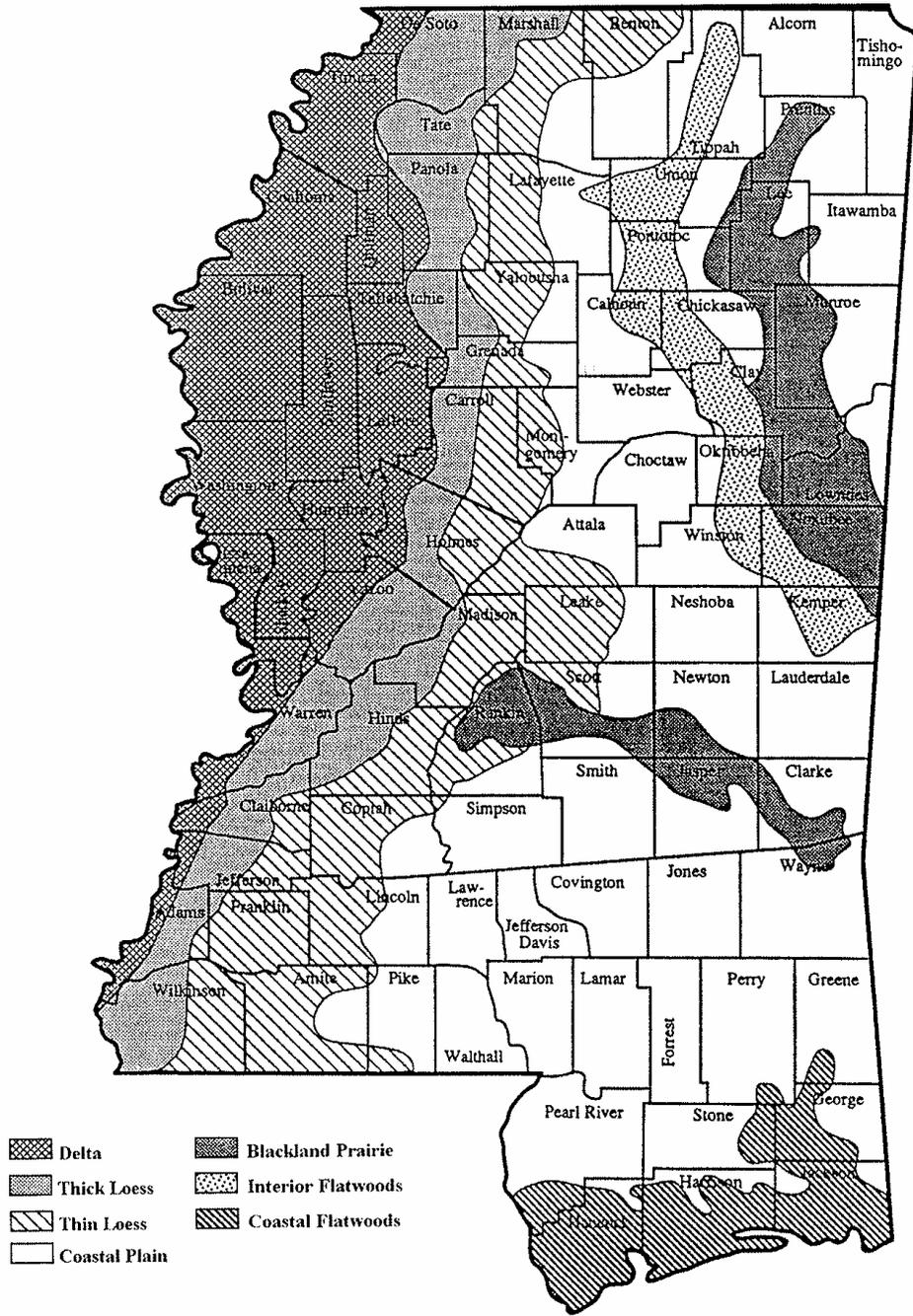
- a. The Applicant shall request the opportunity to monitor the site where the Individual On-site Wastewater Disposal System is to be located. The monitoring location shall be no greater than 50 feet from the proposed Individual On-site Wastewater Disposal System.
- b. This determination shall take precedence over the determination made pursuant to the Field Evaluation Procedures Section 104.02 (2) (c) of this Regulation, when the conditions of this Regulation are met.
- c. Soil wetness conditions may be determined by direct observation of the water surface in wells during periods of typically high water elevations utilizing the following monitoring procedures and interpretation method.
- d. The Applicant shall request the Division of the intent to monitor water surface elevations by submitting a method of testing that includes a site plan, well and soil profile at each monitoring location, and a monitoring plan no later than 30 days prior to the monitoring period. This consideration for monitoring shall be requested prior to monitoring and within the traditionally wet season. An Applicant other than the property owner shall have written authorization from the owner to be the owner's legal representative. Soil wetness and rainfall monitoring shall be conducted under the responsible charge of a Certified Professional Evaluator, an Engineer licensed in the State of Mississippi. The Applicant shall submit the name(s) of the consultant(s) performing any monitoring on their behalf to the Division.
- e. The Applicant shall submit a plat showing proposed sites for wastewater system, shall provide the longitude and latitude of the site, location of monitoring wells, and all drainage features that may influence the Soil Wetness conditions, and specify any proposed fill and drainage modifications.
- f. The Applicant shall submit a monitoring plan indicating the proposed number, installation depth, screening depth, soil and well profile, materials and installation procedures for each monitoring well, and proposed method of analysis. A minimum of 3 water level monitoring wells shall be installed for water surface observation at each site. For each additional 600 gallons per day, an additional well shall be required.
- g. The Division shall be given the opportunity to conduct a site visit and verify the appropriateness of the proposed plan. Well locations shall include portions of the initial and replacement area disposal site(s)

containing the most limiting soil and site conditions. Prior to installation of the wells the Division shall approve the plan. If the plan is disapproved, the Division shall include specific changes necessary for approval of the monitoring plan.

- h. Wells shall extend at least 5 feet below the natural soil surface. However, wells which extend down 40 inches may be used, if they provide a continuous record of the water table for at least half of the monitoring period. One or more shallower wells may be required on sites where shallow lateral water movement or Soil Wetness conditions are anticipated.
- i. Water surface in the monitoring wells shall be recorded at least daily from **December 1 to March 31**, taken at the same time during the day (plus or minus 3 hours). A rain (precipitation) gauge is required on the site. At least daily rainfall shall be recorded beginning no later than **November 1 through December 1**.
- j. A report of the investigations made for the Monitoring Procedure shall be prepared and submitted prior to approval of the Soil Wetness condition determination by the Department. Reports prepared by a Certified Professional Evaluator bearing his/her seal must include who conducted the investigation. A request for technical review of the report by the Department shall include digital copies of monitoring data and digital copies of model inputs, output data, and graphic results, as applicable. The Department has the right to deny (void) or not accept the report based on erroneous, incomplete or false claims made by the evaluator.

Figure I

# Soil Resource Areas of Mississippi



United States Department of Agriculture, Generalized Soil Map

Figure II

## Texture-by-Feel Analysis

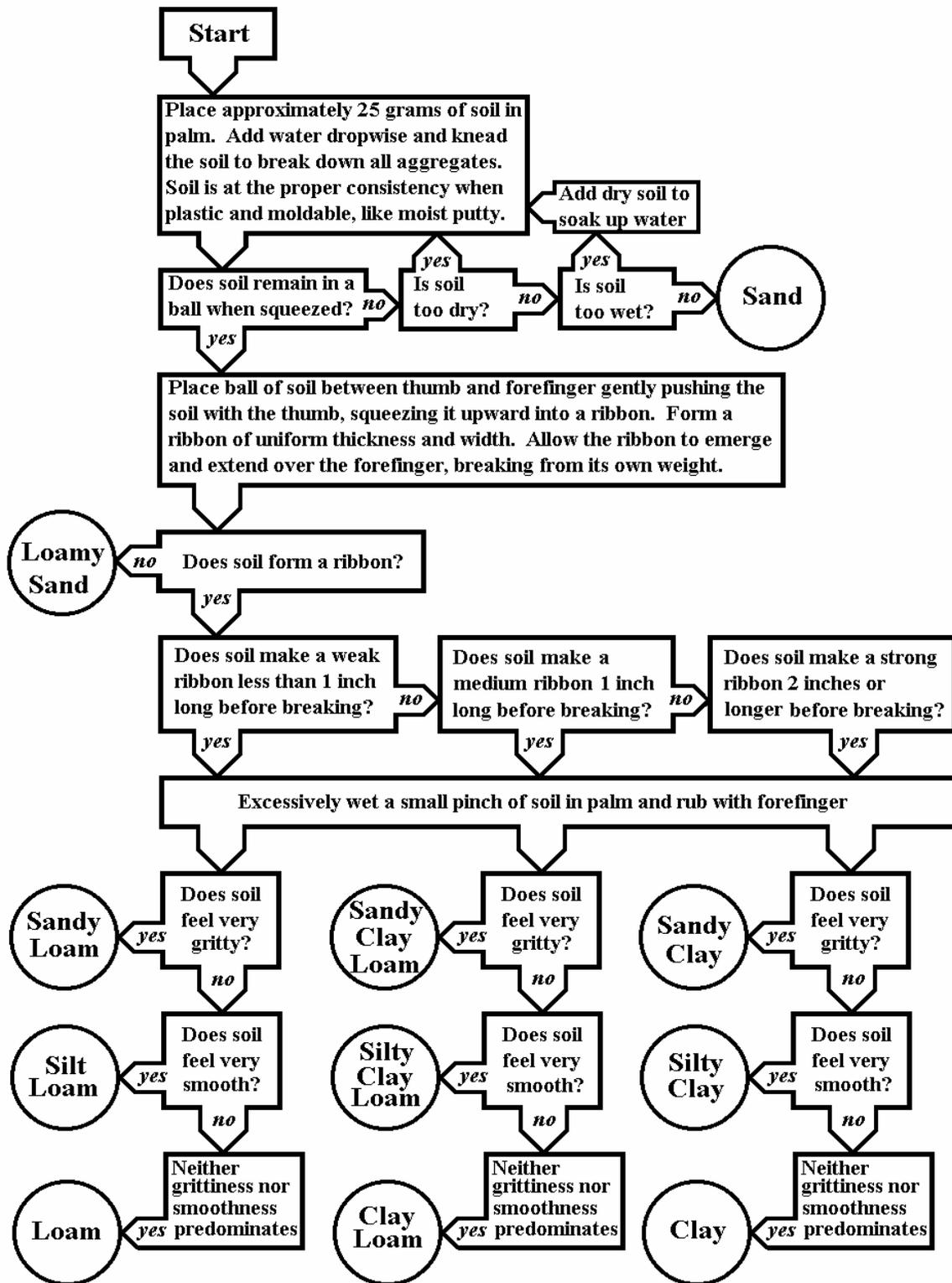
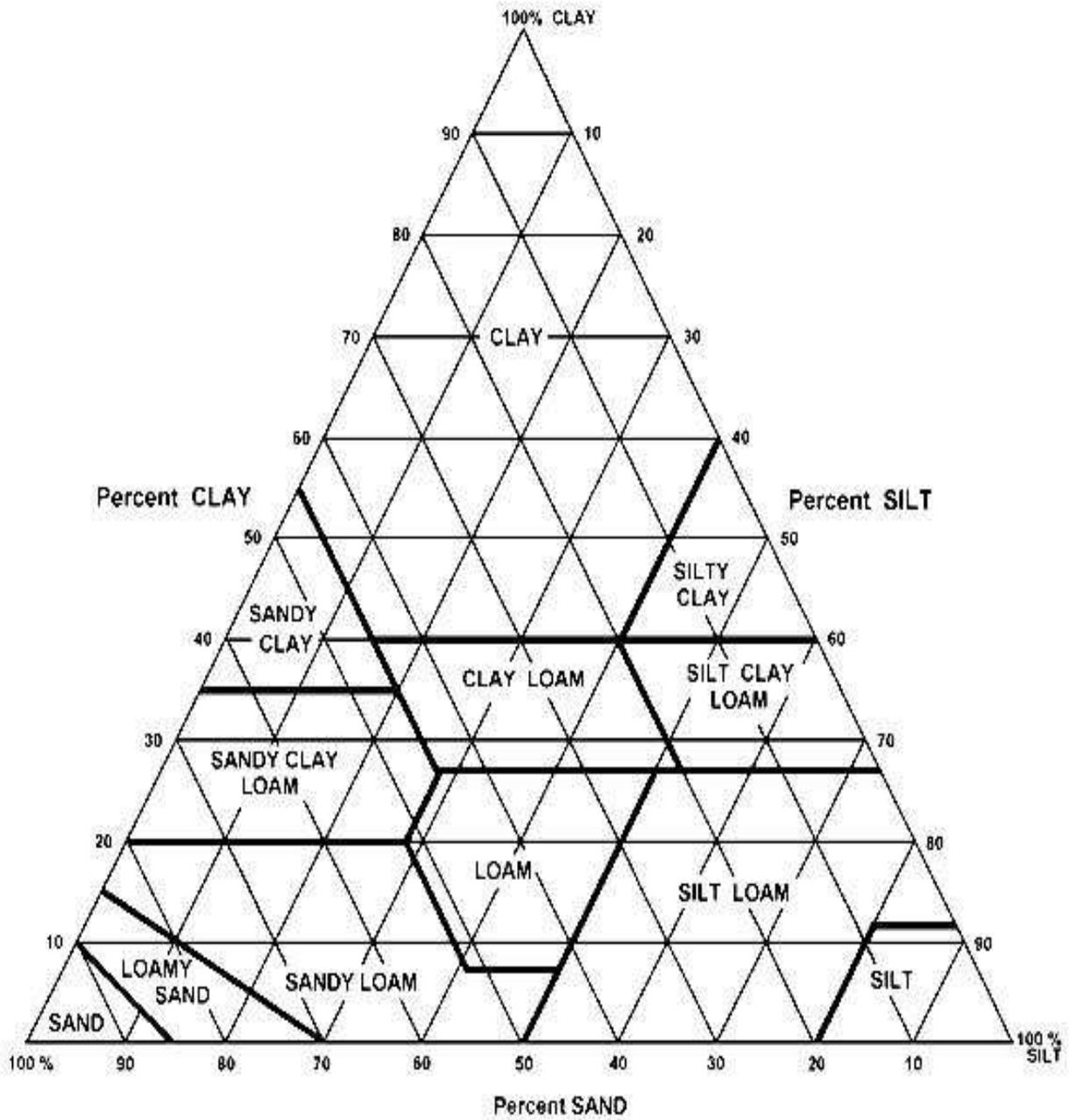


Figure III

# Texture Class triangle



**105 CERTIFICATION OF REGULATION**

This is to certify that the above **REGULATION GOVERNING RESIDENTIAL INDIVIDUAL ON-SITE WASTEWATER DISPOSAL SYSTEMS: SOIL AND SITE EVALUATION** was adopted by the Mississippi State Board of Health on **July 8, 2009** to become effective **August 8, 2009**.

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F. E. Thompson, MD  
Secretary and Executive Officer

Pending