

## **Title 15 - Mississippi Department of Health**

### **Part III – Office of Health Protection**

#### **Subpart 77 – Onsite Wastewater**

#### **CHAPTER 01 REGULATIONS GOVERNING INDIVIDUAL ON-SITE WASTEWATER DISPOSAL: ADMINISTRATIVE**

##### **100 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.

##### **101 AUTHORITY**

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

##### **102 DEFINITIONS**

- 102.01 Administrative Fine - a fine imposed by the Department for violations of statutes, regulations and orders of the Department.
- 102.02 Advanced Treatment System - an Individual On-Site Wastewater treatment system that complies with Section 41-67-10. Section 41-67-2(a)
- 102.03 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.
- 102.04 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.
- 102.05 Alternative Systems - any on-site sewage treatment and disposal system used in lieu of a conventional system. Section 41-67-2(b)
- 102.06 Applicant - an owner, lessee, or developer.

- 102.07 Board - the Mississippi State Board of Health. Section 41-67-2(c)
- 102.08 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.
- 102.09 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).
- 102.10 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).
- 102.11 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. Section 41-67-2(d)
- 102.12 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
- 102.13 Construction - the act of installing, repairing or replacing of an Individual On-Site 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 Department - the Mississippi State Department of Health.
- 102.16 Department of Environmental Quality - the Mississippi Department of Environmental Quality, Office of Pollution Control.
- 102.17 Design Based System - an individual onsite wastewater disposal system designed and installed in accordance with design standards outlined in this regulation.
- 102.18 Developer - a person who develops real estate for residential or commercial use.

- 102.19 Discharge – to pour forth, emit or release treated effluent on the surface of the property of the generator.
- 102.20 Division – the Mississippi State Department of Health, Division of On-Site Wastewater.
- 102.21 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.
- 102.22 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.
- 102.23 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.
- 102.24 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.
- 102.25 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.
- 102.26 Generator – any person whose act or process produces sewage or other material suitable for disposal in an Individual On-Site Wastewater Disposal System.  
**Section 41-67-2(i)**
- 102.27 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.

- 102.28 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. Section **41-67-2(j)**
- 102.29 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.
- 102.30 Individual On-site Wastewater Disposal System (Temporary) – an option for wastewater disposal as outlined in Section **41-67-11**.
- 102.31 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.
- 102.32 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.
- 102.33 Notice of Intent – required information from an Applicant, which is used by the Department to design an Individual On-site Wastewater Disposal System.
- 102.34 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. Section **41-67-2(l)**
- 102.35 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.
- 102.36 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.
- 102.37 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.

- 102.38 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.
- 102.39 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.
- 102.40 Private Water Supply - a deep hole or shaft sunk into the earth to obtain potable water for an individual lot, tract or parcel.
- 102.41 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. Section 41-67-2(n)
- 102.42 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. There are 3 types: Community (towns), Non-transient non-community (schools or factories), or Transient non-community systems (rest stops or parks).
- 102.43 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.
- 102.44 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.
- 102.45 Revocation - permanent withdrawal of rights and privileges granted to certified entity/person.
- 102.46 Seeping - wastewater surfacing typically from an underground system as indicated by hydraulically overloaded soil conditions.
- 102.47 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.
- 102.48 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.

- 102.49 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.
- 102.50 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.
- 102.51 Suspension - temporary withdrawal of rights and privileges granted to a certified entity/person.
- 102.52 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.
- 102.53 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.
- 102.54 Variances - a contract between the Department and an Applicant that would be contrary to the regulations and rules of the Board.
- 102.55 Violation - the act of breaking or disregarding the statues, regulations, orders of the Board, permit condition or certification standards.

### 103 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 Section 41-67-35.

## 104 RESPONSIBILITIES

### 104.01 Mississippi State Board of Health, Section 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.

#### 104.02 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 *20 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.

#### 104.03 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.

#### 104.04 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.

#### 104.05 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.

#### 104.06 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.

#### 104.07 Clerk

1. Receive from the Applicant a completed Notice of Intent OR Existing Application along with all required documentation including, but not limited to, the following:
  - a. Plat;
  - b. Legal Description;
  - c. 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.

#### 104.08 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.

#### 104.09 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.

### 105 CERTIFICATION ADVISORY BOARD

#### 105.01 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.

#### 105.02 Role

- I. 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.

#### 105.03 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.

#### 105.04 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.

#### 105.05 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.

#### 105.06 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.

#### 105.07 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.

## 106 PROCEDURE FOR NOTICE OF INTENT

106.01 Section 41-67-15 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.

- 106.02 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.
- 106.03 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.
- 106.04 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.
- 106.05 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.

106.06 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.

106.07 The Permit/Recommendation is nontransferable and will be valid for 1 year.

## 107 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

## 108 ABANDONMENT (SEPTIC TANK AND PRIVATE WELL)

108.01 Septic tank: When the use of a sewage septic tank is discontinued the tank should 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.

108.02 Private well: When the use of a well is discontinued the well should 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.

## 109 APPROVAL OF DISPOSAL SYSTEMS

- 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 administrative requirements stated in this Regulation have been satisfied.

- 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)

- 109.03 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.

- 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 EXISTING SYSTEMS

110.01 Section 41-67-9 is reenacted and amended as follows:

1. Existing Individual On-site Wastewater Disposal Systems shall be considered Accepted, 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.

- 110.02 Existing systems that do not discharge off the property of the generator, may be inspected and shall be considered Accepted, 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.

110.03 For systems at residences that have not been occupied for the required length of time, in lieu of being Accepted, 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.

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

## 111 REPAIRED SYSTEMS

111.01 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.

111.02 Section 41-67-21 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.

111.03 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)

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

## 112 TEMPORARY SYSTEMS

Section 41-67-11 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.

- 112.01 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.
- 112.02 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.
- 112.03 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.

### 113 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
- Other waste, as determined by the Department.

### 114 HEARINGS AND APPEALS

114.01 Section 41-67-29 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.

114.02 Section 41-67-33 is enacted as follows:

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.

- 114.03 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.
- 114.04 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.
- 114.05 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.

## 115 VARIANCE

- 115.01 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 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.

## 116 FEES

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

**116.03 Final Approval**

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

**116.04** 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.

**Title 15 - Mississippi Department of Health**

**Part III – Office of Health Protection**

**Subpart 77 – On-Site Wastewater**

**CHAPTER 16      2.0 REGULATION GOVERNING RESIDENTIAL INDIVIDUAL  
ON-SITE WASTEWATER DISPOSAL SYSTEMS:  
CERTIFICATION**

**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(1)(b)(ii), (4)(a)(b)(c)(e)(h)(i), Section 41-3-17 and Section 41-67-1 through 41-67-39, **Mississippi 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. **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 41-67-37. Section **73-13-29, 41-67-2(f), 41-67-3(2)**
- 102.07 Certified Installer – any person who has met the requirements of Section 41-67-25. Section **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. Section **41-67-2(e)**.
- 102.09 Certified Professional Evaluator – any person who has met the requirements of Section **41-67-35**. Section **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. Section **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. Section **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. Section **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**.
- 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. Section **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). Section **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. 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. Section 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.

#### I. Treatment

##### a. Advanced Treatment

Registration and requirements for testing and listing of manufacturers of advanced treatment systems: 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 1*.

#### 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. Section 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. Section 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. Section 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). Section 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. Section 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 103.04. 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. Section 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. 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 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. Section 41-67-3(2).

### 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: Section 41-67-37
  - 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: Section 41-67-37(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 Section 41-67-1 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. Section **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. Section **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. Section **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.

II. 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. Section 41-67-37(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: **Section 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 Section 43-3-15(4)(e).
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 Section 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. Section 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. Section 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. Section 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. Section **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. Section **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 Section **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: **Section 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. Section 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. Section 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. Section 41-67-39.

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: Section 41-67-39.

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 Section 43-3-15(4)(e). 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 AND LIQUID WASTE 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 2 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 Section 43-3-15(4)(e) 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 as specified in Section 43-3-15(4)(e) 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.

- I. 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

- I. Whenever the Department intends to take action to suspend or revoke a Pumper certification, there must be an informal fact finding conference in accordance 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. Section **41-67-39(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. Section **41-67-6(6)**

#### 106.10 Reinstatement

Any person whose Certified Pumper's certification has been revoked 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: Section 41-67-35(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 Section 43-3-15(4)(e). 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 Section 43-3-15(4)(e) 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 Section 43-3-15(4)(e) 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 written exam.

#### 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. Section 41-67-6(8)
2. Providing the property owner with a continuing maintenance agreement on all alternative on-site wastewater disposal systems in perpetuity. Section 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. Section 41-67-35(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 Section 43-3-15(4)(e) 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 Section 43-3-15(4)(e) 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. Section 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 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. Section 41-67-35 (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. Section 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:

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 Section 43-3-15(4)(e) 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. Section 41-67-10(2)(d)
3. Provide 1 inspection 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 report every 2 years to the Division with certification renewal
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 Section 43-3-15(4)(e) 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 as specified in Section 43-3-15(4)(e) 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 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. Section 41-67-35(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. Section 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 Manufacturer

Certification of Registration.....	\$100.00
Product Review.....	\$250.00

### 110.02 Professional Evaluator

Initial Certification.....	\$600.00
Renewal Certification.....	\$500.00

### 110.03 Installer

Initial Certification.....	\$50.00
Renewal Certification.....	\$50.00

### 110.04 Pumper

Initial Certification.....	\$50.00
Inspection (by county).....	\$25.00/Vehicle
Renewal Certification.....	\$50.00

### 110.05 Maintenance Provider

Initial Certification .....	\$400.00
Renewal Certification .....	\$300.00
110.06 Examination .....	\$100.00
110.07 Registration(Certification and CEU/PDH) .....	\$25.00
110.08 Return Check Fee .....	\$50.00
110.09 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 Section 41-67-12(2)	
110.11 All fees due the Department shall be paid by check or money order.	

**Table 1** 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		

## **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(1)(b)(ii), (4)(a)(b)(c)(e)(h)(i), Section 41-3-17 and Section 41-67-1 through 41-67-39, **Mississippi 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. Section 41-67-2(c)

103.04 Department – the Mississippi State Department of Health. 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.)
- 103.08 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*.
- 103.09 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.
- 103.10 Generator – any person whose act or process produces sewage or other material suitable for disposal in an Individual On-site Wastewater Disposal System. Section 41-67-2(i).
- 103.11 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.

- 103.12 Hydric Soils - soils that formed under conditions of saturation, flooding or ponding long enough to develop anaerobic conditions in the upper part.
- 103.13 Impervious - resistant to penetration by air, water, and roots.
- 103.14 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.
- 103.15 Munsell Soil Color Chart - a color space standard that specifies colors based on 3 color dimensions: hue, value (lightness) and chroma (color purity).
- 103.16 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.
- 103.17 Permeability - a qualitative estimate of the relative ease with which soil transmits water.
- 103.18 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. Section 41-67-2(m).
- 103.19 Ponding - standing water in a depression that is removed only by percolation, evaporation, and/or transpiration that lasts greater than 7 days.
- 103.20 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 (magnanese) coupled with their removal, translocation, or accrual; or a soil matrix color controlled by the presence of Fe+2. *Field Book for Describing and Sampling Soils, NRCS, USDA.*
- 103.21 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.
- 103.22 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.

- 103.23 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.
- 103.24 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.
- 103.25 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)
- 103.26 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.
- 103.27 Soil Auger – a short cylinder with a cutting edge attached to a rod and handle.
- 103.28 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.
- 103.29 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.
- 103.30 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.
- 103.31 Soil Resource Map – a general representation. **Note:** Figure 1
- 103.32 Soil Texture – the numerical proportion (percent by weight) of sand, silt, and clay in a soil, *United States Department of Agriculture (USDA)*.
- 103.33 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
- 103.34 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.

- 103.35 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 - 0.05*mm* in size), silt (0.05*mm* - 0.002*mm* in size) and clay (less than 0.002*mm* in size) particles, *United States Department of Agriculture (USDA)*. **Note:** Figure II
- 103.36 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.).
- 103.37 Vertical Separation – the vertical separation between the bottom of the trench and a restrictive layer/horizon or Water Table.
- 103.38 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 1

## Soil Resource Areas of Mississippi

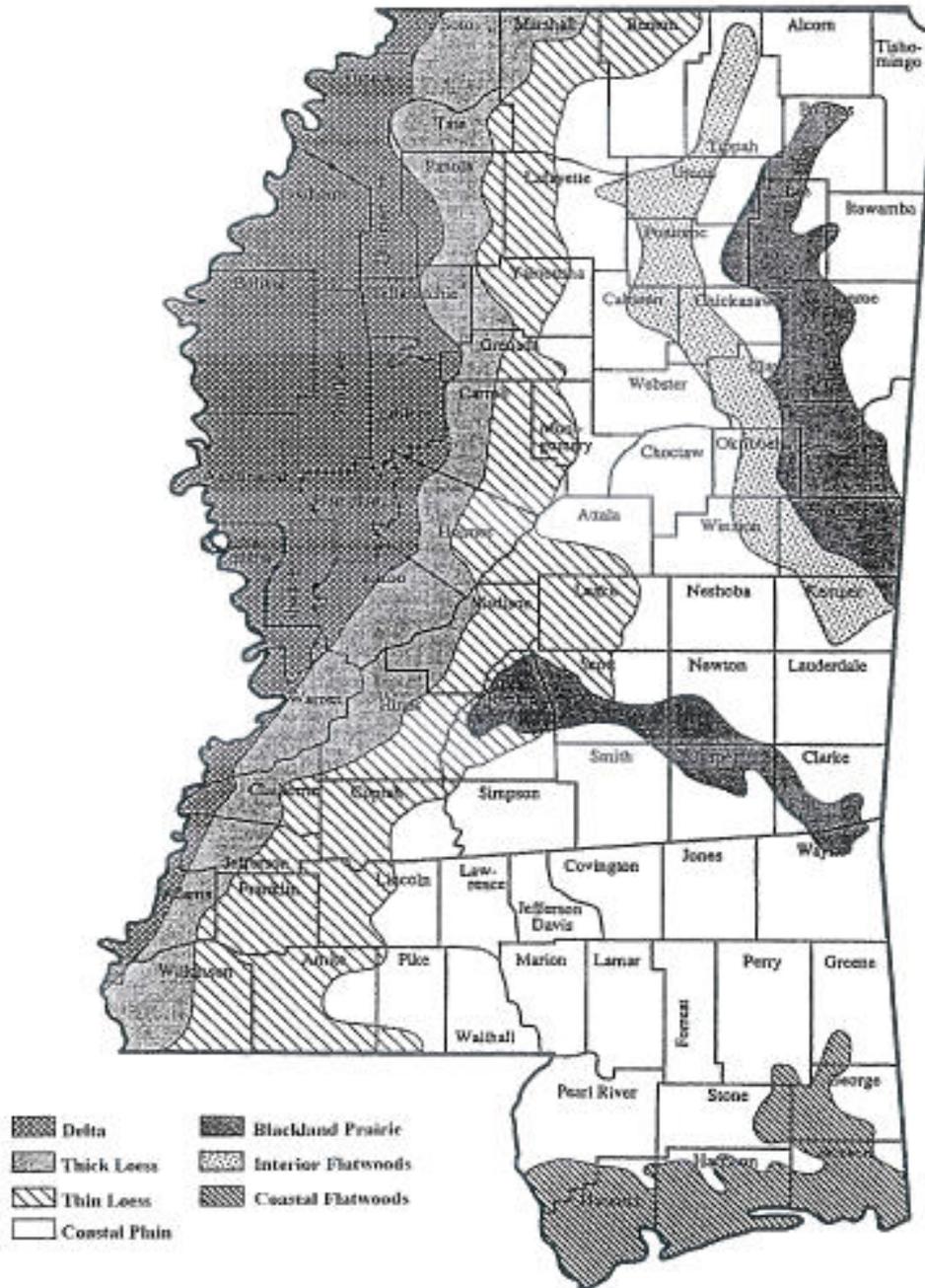


Figure 11

## Texture-by-Feel Analysis

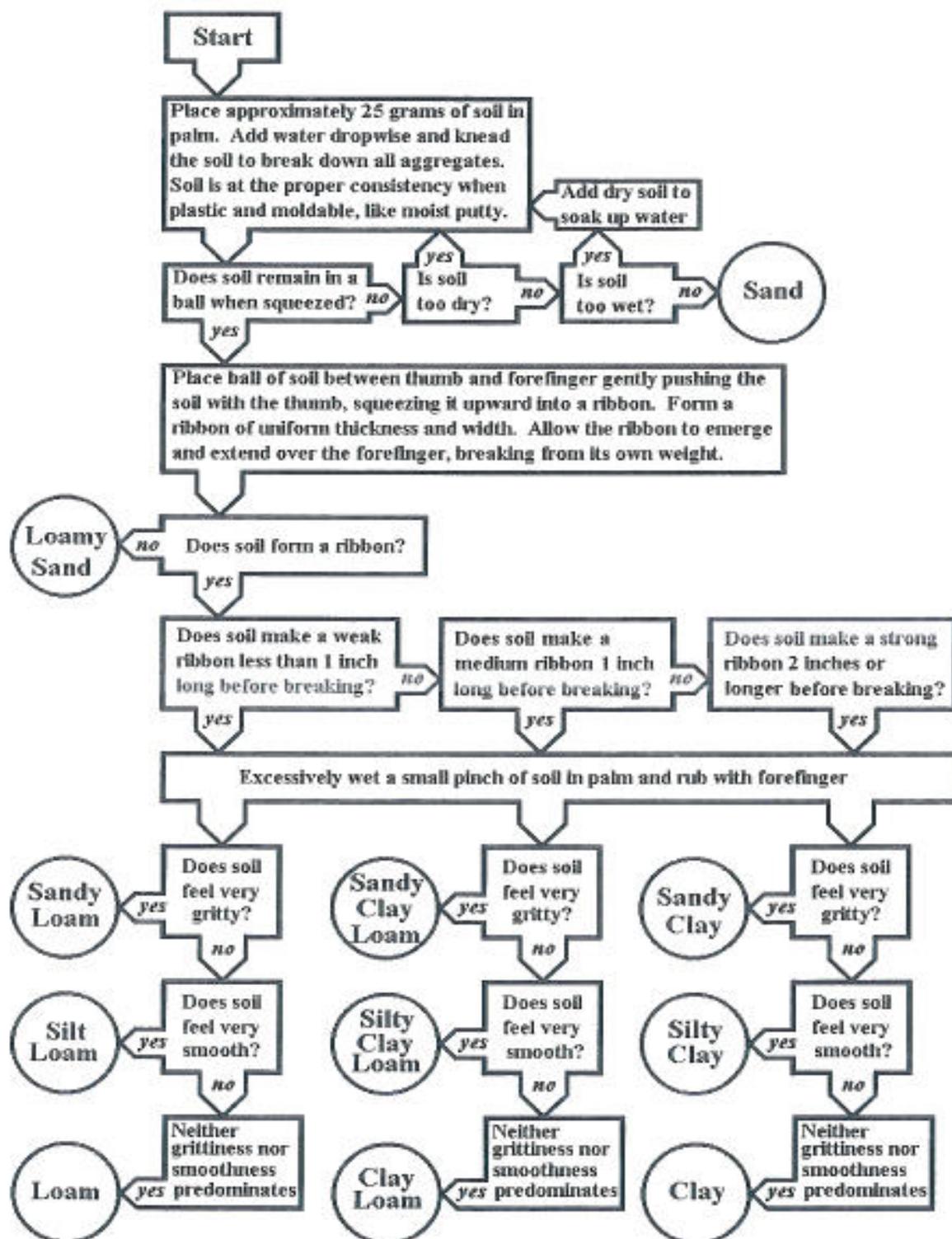


Figure III

## Texture Class triangle

