Title 15 - Mississippi State Department of Health

Part III – Office of Health Protection

Subpart 77 – On-Site Wastewater

CHAPTER 02 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(s) 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 or other liquid waste 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; and

e. Fee.

1. 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 *Appendix 01*.

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 *Appendix 01*.

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 *Appendix 01*.

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

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

2. Disposal

All Manufacturers must provide a copy of installation and/or homeowner manual(s) for each of their products. Hydraulic calculations on an alternative system installation on all products that may be required to be pressurized as part of the dispersal process this includes but not limited to, Subsurface Drip, Spray Irrigation, Elevated Sand Mound, and normally gravity fed dispersal systems that would have to be pressurized. List of all component parts authorized for use in the installation of the product including but not limited to, elbows, connectors, geo-textile fabric, and methods of equal distribution.

a. Aggregate Replacement System – The Division shall review, including an on-site inspection(s) if deemed necessary, the plans,

specifications and construction criteria and shall determine them to be in compliance with the regulation. The Division shall require a complete design from primary treatment to disposal for the minimum and maximum sized system, this shall also include, pump chamber, pump chamber alarm(s), pump(s), filter(s), valve(s), air release(s), aggregate replacement product and connector(s).

b. Subsurface Drip - The Division shall review, including an on-site inspection(s) if deemed necessary, the plans, specifications and construction criteria in order to determine compliance with the regulation. The Division shall require a complete design from primary treatment to disposal, this shall also include, pump chamber, pump chamber alarm(s), pump(s), filter(s), valve(s), air release(s), tubing and connector(s). This must be presented as a total package with hydraulics for the minimum and maximum sized system.

c. Spray Irrigation - The Division shall review equipment intended to be utilized in the construction of spray irrigation systems to verify compliance with the regulation. The Division shall require a complete design from primary treatment to disposal, to include, pump chamber, pump chamber alarm(s), pump(s), filter(s), valve(s), spray head(s) and connector(s). This must be presented as a total package with hydraulics for the minimum and maximum sized system.

d. Alternative Wastewater Technology - All alternative wastewater treatment and/or disposal systems/products must be documented and reviewed by the Division to verify compliance with the applicable standards.

3. Disinfection - The Division shall review, including an on-site inspection(s) if deemed necessary, the plans, specifications and construction criteria and shall determine them to be in compliance with the regulation. The Division shall require a complete design from primary treatment to disposal.

4. Effluent Filter – Design and construction must comply and conform to applicable rules and regulations of *Design Standard I.*

103.05 Responsibilities

1. Manufacturer

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

a. Provide documentation to the Division necessary for registration to include testing and listing of manufacturers of Advanced Treatment Systems.

b. Provide documentation on the maintenance agreement for any alternative on-site wastewater disposal system, with a copy of the maintenance agreement outlining the type of service, length of service and frequency of service to be provided.

c. Notify the Division of the results of monitoring visits to manufacturers and distributors within 60 calendar days of the conclusion of the monitoring. 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. Provide~~ing~~ documentation of all concrete purchases, concrete providers, types of reinforcement and date of fabrication.

b. Provide~~ing~~ documentation that the mold meets the Manufacturer's specifications and indicate location of Mississippi State Department of Health registration ID.

c. Provide~~ing~~ documentation from Manufacturer that annual inspection has been made on the product.

d. Provide~~ing~~ 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.

11. Submittal Reports

a. System Application

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

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

No Certified Professional Evaluator shall certify a site evaluation and/or design unless such evaluation and/or design comply with the minimum requirements of the Regulations and such certification and/or design is produced in accordance with this chapter. A Certified Professional Evaluator shall make a good faith effort to secure complete, accurate, and timely information regarding site and soil conditions, including relevant factors on adjacent parcels, including but not limited to utilities, water supplies, and other sewage systems. The Certified Professional Evaluator shall certify that all information submitted is true and correct to the best of his knowledge and shall be required to be aware of all information in agency files pertaining to the site he is certifying.

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

b. Soil and Site Evaluation

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

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

c. Design

A complete design packet must contain the following:

i. Legal description

ii. Plat showing location and/or dimensions of: Water supply, residence, property, sensitive waters (if applicable), and setbacks on contours with 2 foot intervals (if applicable);

iii. Soil Profile Sheet and location of each soil boring

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

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

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

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

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

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

d. Field Analysis

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

104.06 Expiration

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

104.07 Renewal

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

1. Any person applying for renewal shall file with the Division:

a. Completed application;

b. Proof of CEU(s) credit;

c. Proof of Errors and Omissions Policy or Surety;

d. Fee.

104.08 ~~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.~~

104.09 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.

104.10 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)**

104.11 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 105.02, 105.03, 105.05, 105.06 and 105.09.

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

A Certified Installer may apply for renewal not 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.

1. Any person applying for renewal shall file with the Division:

   a. Completed application;

   b. Proof of CEU(s) credit;

   c. Proof of General Business Liability Insurance Policy;

   d. Fee.

105.08 ~~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.~~

105.09 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.

105.10 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)**

105.11 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~~ Portable Toilet (Self-Contained) ~~toilet~~ and/or grease trap.

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. Submits passing inspection of each vehicle;

6. Pays the annual license fee~~; and~~,

7. ~~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**~~. Verify that all jobs are being recorded on the Data Log sheet.

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 address, type of treatment unit, amount pumped, and receipt of disposal at waste treatment facility permitted by the Mississippi Department of Environmental Quality (MDEQ). The proper cleaning of any septic tank or similar unit shall include the substantial removal of its contents.

   a. Discharge of septage or other liquid waste shall be allowed only at those specific locations designated by the owners/operators of approved disposal facilities.

   b. Discharge of septage or other liquid waste 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. Keep available 5 dry gallons of Lime, ensuring ~~Ensure~~ spillage, pumping and transporting of septage or other liquid waste 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. Label vehicle with Name of the Company , address and certification number. The required lettering shall be a minimum of 2 inches in height.

7. 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.

8. 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.

1. Any person applying for renewal shall file with the Division:

   a. Completed application;

   b. Copy of Inspection from County Health Department;

   c. Proof of CEU(s) credit;

   d. Proof of General Business Liability Insurance Policy;

   e. ~~Copy of pumping record;~~

   f. Copy of letter from disposal site(s); and

   g. ~~Payment~~Fee.

106.08 Informal Fact Finding and Hearing

1. Whenever the Department intends to take action to suspend or revoke a Pumper certification, there must be an informal fact finding conference in accordance 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 or other liquid waste from equipment, dumping or disposing of septage or other liquid waste 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. This certification is valid for 2 years.

107.06 Renewal

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

1. Any person applying for renewal shall file with the Division:

   a. Completed application;

   b. Proof of CEU(s) credit;

   c. Proof of General Business Liability Insurance Policy;

   d. Fee.

107.07 ~~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.~~

107.08 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.

107.09 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, 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)**

107.10 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. This certification is valid for 2 years.

108.06 Renewal

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

1. Any person applying for renewal shall file with the Division:

    a. Completed application;

    b. Proof of CEU(s) credit.

108.07 ~~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.~~

108.08 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).

108.09 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, 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)**

108.10 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 (2 years)...…….....$400.00

Renewal Certification (2 years)……..……..…….....$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.

111 **RESPONSE** (Table I)

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 State Department of Health

Part III – Office of Health Protection

Subpart 77 – On-Site Wastewater

CHAPTER 02 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(s) 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 or other liquid waste 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;

d. Electronic or detailed drawing(s), construction material(s), installation and/or homeowner manual(s) of each product; and

e. Fee.

1. 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 *Appendix 01*.

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 *Appendix 01*.

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 *Appendix 01*.

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

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

2. Disposal

All Manufacturers must provide a copy of installation and/or homeowner manual(s) for each of their products. Hydraulic calculations on an alternative system installation on all products that may be required to be pressurized as part of the dispersal process this includes but not limited to, Subsurface Drip, Spray Irrigation, Elevated Sand Mound, and normally gravity fed dispersal systems that would have to be pressurized. List of all component parts authorized for use in the installation of the product including but not limited to, elbows, connectors, geo-textile fabric, and methods of equal distribution.

a. Aggregate Replacement System – The Division shall review, including an on-site inspection(s) if deemed necessary, the plans,

specifications and construction criteria and shall determine them to be in compliance with the regulation. The Division shall require a complete design from primary treatment to disposal for the minimum and maximum sized system, this shall also include, pump chamber, pump chamber alarm(s), pump(s), filter(s), valve(s), air release(s), aggregate replacement product and connector(s).

b. Subsurface Drip - The Division shall review, including an on-site inspection(s) if deemed necessary, the plans, specifications and construction criteria in order to determine compliance with the regulation. The Division shall require a complete design from primary treatment to disposal, this shall also include, pump chamber, pump chamber alarm(s), pump(s), filter(s), valve(s), air release(s), tubing and connector(s). This must be presented as a total package with hydraulics for the minimum and maximum sized system.

c. Spray Irrigation - The Division shall review equipment intended to be utilized in the construction of spray irrigation systems to verify compliance with the regulation. The Division shall require a complete design from primary treatment to disposal, to include, pump chamber, pump chamber alarm(s), pump(s), filter(s), valve(s), spray head(s) and connector(s). This must be presented as a total package with hydraulics for the minimum and maximum sized system.

d. Alternative Wastewater Technology - All alternative wastewater treatment and/or disposal systems/products must be documented and reviewed by the Division to verify compliance with the applicable standards.

3. Disinfection - The Division shall review, including an on-site inspection(s) if deemed necessary, the plans, specifications and construction criteria and shall determine them to be in compliance with the regulation. The Division shall require a complete design from primary treatment to disposal.

4. Effluent Filter – Design and construction must comply and conform to applicable rules and regulations of *Design Standard I*.

103.05 Responsibilities

1. Manufacturer

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

a. Provide documentation to the Division necessary for registration to include testing and listing of manufacturers of Advanced Treatment Systems.

b. Provide documentation on the maintenance agreement for any alternative on-site wastewater disposal system, with a copy of the maintenance agreement outlining the type of service, length of service and frequency of service to be provided.

c. Notify the Division of the results of monitoring visits to manufacturers and distributors within 60 calendar days of the conclusion of the monitoring. 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. Provide documentation of all concrete purchases, concrete providers, types of reinforcement and date of fabrication.

b. Provide documentation that the mold meets the Manufacturer's specifications and indicate location of Mississippi State Department of Health registration ID.

c. Provide documentation from Manufacturer that annual inspection has been made on the product.

d. Provide a list of 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.

11. Submittal Reports

a. System Application

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

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

No Certified Professional Evaluator shall certify a site evaluation and/or design unless such evaluation and/or design comply with the minimum requirements of the Regulations and such certification and/or design is produced in accordance with this chapter. A Certified Professional Evaluator shall make a good faith effort to secure complete, accurate, and timely information regarding site and soil conditions, including relevant factors on adjacent parcels, including but not limited to utilities, water supplies, and other sewage systems. The Certified Professional Evaluator shall certify that all information submitted is true and correct to the best of his knowledge and shall be required to be aware of all information in agency files pertaining to the site he is certifying.

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

b. Soil and Site Evaluation

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

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

c. Design

A complete design packet must contain the following:

i. Legal description

ii. Plat showing location and/or dimensions of: Water supply, residence, property, sensitive waters (if applicable), and setbacks on contours with 2 foot intervals (if applicable);

iii. Soil Profile Sheet and location of each soil boring

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

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

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

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

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

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

d. Field Analysis

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

104.06 Expiration

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

104.07 Renewal

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

1. Any person applying for renewal shall file with the Division:

   a. Completed application;

   b. Proof of CEU(s) credit;

   c. Proof of Errors and Omissions Policy or Surety;

   d. Fee.

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 105.02, 105.03, 105.05, 105.06 and 105.09.

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

A Certified Installer may apply for renewal not 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.

1. Any person applying for renewal shall file with the Division:

    a. Completed application;

    b. Proof of CEU(s) credit;

    c. Proof of General Business Liability Insurance Policy;

    d. 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, Portable Toilet (Self-Contained) and/or grease trap.

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. Submits passing inspection of each vehicle;

6. Pays the annual license fee.

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. Verify that all jobs are being recorded on the Data Log sheet.

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 address, type of treatment unit, amount pumped, and receipt of disposal at waste treatment facility permitted by the Mississippi Department of Environmental Quality (MDEQ). The proper cleaning of any septic tank or similar unit shall include the substantial removal of its contents.

   a. Discharge of septage or other liquid waste shall be allowed only at those specific locations designated by the owners/operators of approved disposal facilities.

   b. Discharge of septage or other liquid waste 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. Keep available 5 dry gallons of Lime, ensuring spillage, pumping and transporting of septage or other liquid waste 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. Label vehicle with Name of the Company , address and certification number. The required lettering shall be a minimum of 2 inches in height.

7. 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.

8. 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.

1. Any person applying for renewal shall file with the Division:

    a. Completed application;

    b. Copy of Inspection from County Health Department;

    c. Proof of CEU(s) credit;

    d. Proof of General Business Liability Insurance Policy;

    e. Copy of letter from disposal site(s); and

    f. Fee.

106.08 Informal Fact Finding and Hearing

1. Whenever the Department intends to take action to suspend or revoke a Pumper certification, there must be an informal fact finding conference in accordance 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, septage or other liquid waste from equipment, dumping or disposing of septage or other liquid waste 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 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. This certification is valid for 2 years.

107.06 Renewal

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

1. Any person applying for renewal shall file with the Division:

   a. Completed application;

   b. Proof of CEU(s) credit;

   c. Proof of General Business Liability Insurance Policy;

   d. 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. This certification is valid for 2 years.

108.06 Renewal

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

1. Any person applying for renewal shall file with the Division:

    a. Completed application;

    b. Proof of CEU(s) credit.

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 (2 years).....$400.00

Renewal Certification (2 years).....$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.

111 **RESPONSE** (Table I)

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	