

**SUBSTITUTE FOR
SENATE BILL NO. 299**

A bill to amend 1978 PA 368, entitled
"Public health code,"
by amending sections 12751, 12752, 12757, and 12771 (MCL 333.12751,
333.12752, 333.12757, and 333.12771), section 12751 as amended and
section 12757 as added by 1980 PA 421, and by adding part 128.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

- 1 Sec. 12751. As used in sections 12752 to 12758:
- 2 (a) "Acceptable alternative greywater system" means a ~~system~~
3 **class of alternative systems** for the treatment and disposal of
4 ~~waste water which normally does wastewater that do~~ not receive
5 human body wastes or industrial waste and ~~is~~**are** approved for use
6 by a local health department.
- 7 (b) "Acceptable innovative ~~or alternative~~ waste treatment



1 system" means a ~~decentralized or individual~~ **class of alternative**
 2 waste **treatment** system ~~which systems that~~ has been ~~are~~ approved for
 3 use by a local health department and ~~which is~~ **are** properly operated
 4 and maintained so as not to cause a health hazard or nuisance. An
 5 acceptable innovative ~~or alternative~~ waste treatment system may
 6 include, but is not limited to, an organic waste treatment system
 7 or compost toilet ~~which that~~ operates on the principle of
 8 decomposition of ~~heterogeneous organic materials~~ **feces or other**
 9 **excreta from the human body** by aerobic and facultatively anaerobic
 10 organisms and utilizes an effectively aerobic composting process
 11 ~~which that~~ produces a stabilized humus. Acceptable innovative ~~or~~
 12 ~~alternative~~ waste treatment system does not include a septic
 13 ~~tank drain field~~ **tank and soil dispersal** system or any other system
 14 ~~which that~~ is determined by the department to pose a ~~similar~~ threat
 15 to the public health, safety, and welfare, and the quality of
 16 surface and subsurface waters of this state.

17 (c) "Available public sanitary sewer system" means a public
 18 sanitary sewer system located in a right of way, easement, highway,
 19 street, or public way ~~which that~~ crosses, adjoins, or abuts ~~upon on~~
 20 the property and passing not more than 200 feet at the nearest
 21 point from a structure in which sanitary sewage originates.

22 (d) "Department" means the department of environment, Great
 23 Lakes, and energy.

24 (e) "Holding tank" means a system that utilizes all of the
 25 following to collect sanitary sewage:

26 (i) A septic tank with no outlet and that does not allow
 27 clarified liquid effluent to discharge for additional treatment by
 28 a soil dispersal system.

29 (ii) The services of a person engaged in septage waste



1 servicing.

2 (iii) Offsite disposal treatment at approved locations in
3 accordance with part 117 of the natural resources and environmental
4 protection act, 1994 PA 451, MCL 324.11701 to 324.11721.

5 (f) ~~(d)~~—"Person" means a person as defined in section 1106 or
6 a governmental entity.

7 (g) "Premises" means a physical property or tract of land and
8 any component parts, such as buildings, dwellings, or fixtures
9 attached to it, grounds, or easements.

10 (h) ~~(e)~~—"Public sanitary sewer system" means a sanitary sewer
11 or a combined sanitary and storm sewer used or intended for use by
12 the public for the collection and transportation of sanitary sewage
13 for treatment or disposal.

14 (i) ~~(f)~~—"Structure in which sanitary sewage originates" or
15 "structure" means a building in which toilet, kitchen, laundry,
16 bathing, or other facilities ~~which~~ **that** generate water-carried
17 sanitary sewage are used or ~~are~~ available for use for household,
18 commercial, industrial, or other purposes.

19 (j) "Violation notice" means a written notice or formal
20 enforcement action by the department or local health department in
21 response to a violation of this part or part 128.

22 Sec. 12752. (1) Public sanitary sewer systems are essential to
23 the health, safety, and welfare of the people of ~~the~~ **this** state.
24 ~~Septic tank disposal~~ **Onsite wastewater treatment** systems are
25 ~~subject to failure due to soil conditions or other reasons. Failure~~
26 **recognized as a cost-effective, long-term option for meeting public**
27 **health and water quality goals when the onsite wastewater treatment**
28 **system is properly managed. When an onsite wastewater treatment**
29 **system is not properly managed, failure or potential failure of**



1 ~~septic tank disposal~~ **onsite wastewater treatment** systems poses a
 2 threat to the public health, safety, and welfare; presents a
 3 potential for ill health, transmission of disease, mortality, and
 4 economic blight; **may constitute a nuisance**; and constitutes a
 5 threat to the quality of surface and subsurface waters of this
 6 state. The connection to available public sanitary sewer systems at
 7 the earliest, reasonable date is a matter for the protection of the
 8 public health, safety, and welfare and necessary in the public
 9 interest ~~which~~ **that** is declared as a matter of legislative
 10 determination.

11 (2) **Onsite wastewater treatment systems and premises or**
 12 **structures that are not connected to a public sanitary sewer system**
 13 **are subject to regulation under part 128. Local health departments**
 14 **shall implement and enforce this part and any rules promulgated**
 15 **under this part, except sections 12753, 12754, and 12756, unless**
 16 **otherwise delegated, and part 128 and rules promulgated under that**
 17 **part under any applicable provisions of this act.**

18 (3) The department or a local health department may inspect,
 19 evaluate, investigate, or authorize an inspection, evaluation, or
 20 investigation to be made, to ensure compliance with this part and
 21 part 128. The right for a local health department to inspect or
 22 investigate, as provided under section 2446, applies to the
 23 department and a local health department when utilized in this part
 24 and part 128. The rights and responsibilities pertaining to the
 25 department of health and human services obtaining a warrant, as
 26 provided under sections 2241 to 2247, also apply to either the
 27 department or a local health department when utilized in accordance
 28 with this part and part 128. At any reasonable time, an authorized
 29 representative of the department or local health department may



1 enter on private or public property for the purpose of inspecting
2 and investigating conditions or practices that may be in violation
3 of this part or part 128. An investigation or inspection under this
4 subsection must comply with the United States Constitution and the
5 state constitution of 1963. Failure to comply with requests to
6 inspect or investigate is subject to a violation notice issued by
7 the department and further enforcement action, including when
8 necessary, referral to the department of attorney general. The
9 department or a local health department may collect reasonable fees
10 as authorized by section 2444 for services associated with
11 administering an onsite wastewater treatment program. The
12 department or an authorized local health department shall add a
13 \$5.00 public education and training fund fee to the application
14 fees collected under this subsection. A public education and
15 training fund fee collected under this subsection by a local health
16 department must be forwarded to the department quarterly.

17 (4) The public education and training fund is created as a
18 revolving fund in the department of treasury. The state treasurer
19 shall deposit the public education and training fund fees collected
20 under subsection (3) and money from any other source into the
21 public education and training fund. The state treasurer shall
22 direct the investment the public education and training fund and
23 credit to the fund interest and earnings from fund investments.
24 Money that remains in the public education and training fund at the
25 end of the fiscal year carries forward into the next fiscal year.
26 The department is the administrator of the public education and
27 training fund and shall expend money from the fund to provide both
28 of the following:

29 (a) Public education and outreach regarding onsite wastewater



1 treatment systems.

2 (b) Training to local health departments, evaluators, the
3 department, and agents of the department.

4 (5) All of the following are subject to, and any person is
5 responsible for, the requirements described under this part and
6 part 128:

7 (a) A premises or structure.

8 (b) An outhouse, as that term is defined in section 12771.

9 (c) An innovative waste treatment system described under
10 section 12757.

11 (d) An onsite wastewater treatment system.

12 (e) The owner of or a person that is responsible for any of
13 the items described under subdivisions (a) to (d).

14 (6) An owner of an onsite wastewater treatment system is
15 responsible to respond and remedy nuisances or conditions that meet
16 the definition of failure in compliance with this part and part
17 128, and the rules promulgated under section 12817.

18 (7) As used in this section, "failure" and "onsite wastewater
19 treatment system" means those terms as defined in section 12801.

20 Sec. 12757. (1) Notwithstanding sections 12752 to 12756 **and**
21 **part 128**, a person may install and use in a structure an acceptable
22 innovative ~~or alternative~~ waste treatment system or an acceptable
23 innovative ~~or alternative~~ waste treatment system in combination
24 with an acceptable alternative greywater system. The installation
25 and use of an acceptable innovative ~~or alternative~~ waste treatment
26 system or an acceptable innovative ~~or alternative~~ waste treatment
27 system in combination with an acceptable alternative greywater
28 system in a structure ~~shall be~~ **is** subject to regulation by the
29 local health department in accordance with **the statewide sewage**



1 **code promulgated under section 12817, and** the ordinances and
 2 regulations of the local units of government in which the structure
 3 ~~lies.~~ **is located.** A local health department may inspect each
 4 acceptable innovative ~~or alternative~~ waste treatment system within
 5 its jurisdiction at least once each year to determine if it is
 6 being properly operated and maintained. A local health department
 7 may charge the owner of an acceptable innovative ~~or alternative~~
 8 waste treatment system a reasonable fee for ~~such~~ an inspection and
 9 for the plan review and installation inspection. A copy of the
 10 approved application or permit to install and use an ~~alternative~~
 11 **acceptable innovative waste treatment** system and a copy of each
 12 maintenance inspection report ~~shall~~ **must** be forwarded to the
 13 department and ~~to~~ the local unit of government **and local health**
 14 **department** in which the structure ~~lies.~~ **is located.** The department
 15 shall maintain a record of ~~approved alternative systems~~ **an approved**
 16 **acceptable innovative waste treatment system** and ~~their~~ **its**
 17 maintenance and operation.

18 (2) The department ~~, after consultation with the state~~
 19 ~~plumbing board,~~ shall ~~adopt guidelines~~ **promulgate rules under**
 20 **section 12817** to assist local health departments in determining
 21 what are acceptable alternative greywater systems and what are
 22 acceptable innovative ~~or alternative~~ waste treatment systems. The
 23 department shall advise local health departments regarding the
 24 appropriate installation and use of acceptable innovative ~~or~~
 25 ~~alternative~~ waste treatment systems and acceptable innovative ~~or~~
 26 ~~alternative~~ waste treatment systems in combination with acceptable
 27 alternative greywater systems.

28 (3) A person ~~who~~ **that** installs and uses an acceptable
 29 innovative ~~or alternative~~ waste treatment system or an acceptable



1 innovative ~~or alternative~~ waste treatment system in combination
 2 with an acceptable alternative greywater system ~~shall is~~ not be
 3 exempt from ~~any a~~ special ~~assessments~~ **assessment** levied by a local
 4 unit of government for the purpose of financing the construction of
 5 an available public sanitary sewer system.

6 (4) Notwithstanding sections 12752 to 12756 **and part 128**, an
 7 owner of a structure ~~using that uses~~ an acceptable innovative ~~or~~
 8 ~~alternative~~ waste treatment system in combination with an
 9 acceptable alternative greywater system ~~shall is~~ not be required to
 10 connect to an available public sanitary sewer system.

11 (5) An owner ~~who of a structure that uses an acceptable~~
 12 **innovative wastewater treatment system that** does not connect to an
 13 available public sanitary sewer system ~~pursuant to under~~ subsection
 14 (4) ~~, shall is~~ not be required to pay **a** connection or user ~~fees fee~~
 15 to a local unit of government except ~~those a~~ connection or user
 16 ~~fees which are fee that is~~ allocated for financing ~~of the~~
 17 construction of an available public sanitary sewer system. ~~In lieu~~
 18 **Instead** of **a** connection or user ~~fees, fee~~, an owner may be required
 19 by the local unit of government to pay a sewer availability fee if
 20 that fee is ~~to be~~ used for the purpose of paying a proportionate
 21 share of financing the construction of an existing available public
 22 sanitary sewer system. The exemption from **the payment of a**
 23 connection or user ~~fees fee~~ under this subsection ~~shall does~~ not
 24 apply to an owner connected to an available public sanitary sewer
 25 system on ~~the effective date of this act. or before March 31, 1981.~~

26 (6) A local unit of government may exempt an owner **of a parcel**
 27 proposing to use an acceptable innovative ~~or alternative~~ waste
 28 treatment system in combination with an acceptable alternative
 29 greywater system from connection or user fees related to the



1 financing, construction, use, or maintenance of an available public
2 sanitary sewer system.

3 Sec. 12771. (1) A person shall not maintain, or ~~permit~~**allow**
4 to be maintained, on premises owned or controlled by the person an
5 outhouse unless the outhouse is kept in a sanitary condition, and
6 constructed and maintained in a manner ~~which~~**that** will not injure
7 or endanger the public health.

8 (2) ~~The~~**Except as otherwise provided in this subsection, the**
9 department shall promulgate rules governing the construction and
10 maintenance of outhouses to safeguard the public health and ~~to~~
11 prevent the spread of disease and the existence of sources of
12 contamination. **The statewide sewage code promulgated under section**
13 **12817 supersedes administrative rules promulgated under this**
14 **subsection, as applicable.**

15 (3) A person ~~who~~**that** violates this section is guilty of a
16 misdemeanor. An outhouse not constructed or maintained as required
17 by this section or the rules promulgated ~~pursuant to~~**in accordance**
18 **with** this section ~~shall be~~**is considered** a public nuisance.

19 (4) As used in this section, "outhouse" means a building or
20 other structure not connected ~~with~~**to** a sewer system or ~~with~~**a**
21 properly installed and operated ~~sewage disposal~~**soil dispersal**
22 system, and which is used for the reception, disposition, or
23 storage, either temporarily or permanently, of feces or other
24 excreta from the human body.

25 PART 128. ONSITE WASTEWATER TREATMENT SYSTEMS

26 Sec. 12801. (1) As used in this part:

27 (a) "Alternative system" means a category of onsite wastewater
28 treatment systems that are not conventional systems and that
29 provide for an equivalent or better degree of protection for public



1 health and the environment than a conventional system.

2 (b) "Approved onsite wastewater treatment system" means an
3 alternative system or conventional system for which a construction
4 permit and any required operating permits have been issued by the
5 department or a local health department having jurisdiction and an
6 inspection has found the system to be in compliance with all
7 required permits.

8 (c) "Authorized local health department" means a local health
9 department authorized by the department to administer this part and
10 part 127 under section 12803 for conventional systems and section
11 12805 for alternative systems.

12 (d) "Baffle" means a precast or preconstructed component of a
13 septic tank that serves to redirect, divert, or impede the flow of
14 wastewater through the septic tank in a beneficial manner.

15 (e) "Change in use or an increase in use" means a new or
16 increased use of the groundwater of this state for disposal of
17 sanitary sewage through an onsite wastewater treatment system,
18 including 1 or more of the following:

19 (i) Connection of a new structure to an existing onsite
20 wastewater treatment system.

21 (ii) Increase in use of the structure resulting in an increased
22 sanitary sewage flow rate that exceeds the system design capacity.

23 (iii) Change in purpose for which a structure or portion of a
24 structure is utilized or occupied between residential,
25 nonresidential, or another type of nonresidential use or occupancy.

26 (iv) Increase in the wastewater effluent strength.

27 (v) Any other change or increase in use that may affect the
28 ability of the onsite wastewater treatment system to function as
29 intended or perform as designed.



1 (f) "Construction permit" means a permit to install,
2 construct, alter, or repair an onsite wastewater treatment system.

3 (g) "Conventional system" means a category of onsite
4 wastewater treatment system that contains a watertight septic tank
5 and soil dispersal system that depends solely on subsurface soil
6 for treatment and dispersal and does not include any components of
7 an approved alternative technology.

8 (h) "Department" means the department of environment, Great
9 Lakes, and energy.

10 (i) "Effluent" means liquid flowing out of a component or
11 device.

12 (j) "Elements of a nonconforming system" means the presence of
13 1 or more of the following that may, as determined by an authorized
14 local health department, lead to a failure or improper functioning
15 of the onsite wastewater treatment system:

16 (i) Evidence of compaction or settling in the area of the
17 onsite wastewater treatment system that limits drainage in the area
18 of the system on the parcel, and rain and snow melt cannot
19 percolate through the system.

20 (ii) The soil dispersal system is hydraulically saturated.

21 (iii) Evidence of missing or damaged appurtenances of the onsite
22 wastewater treatment system.

23 (iv) Excessive biomatting is noted in 2 or more core samples
24 performed across the soil dispersal system indicating that the soil
25 is no longer accepting effluent at a sufficient rate of
26 infiltration.

27 (v) Evidence of sustained operating levels within the septic
28 tank above the invert of the septic tank outlet.

29 (vi) The system includes a proprietary product or



1 nonproprietary technology that meets the definition of an
2 alternative system but that was not included in the construction
3 permit.

4 (vii) The system is located too close to a drinking water
5 supply well or surface waters as determined by the rules
6 promulgated under section 12817.

7 (viii) The system has insufficient soil depth below the soil
8 dispersal system to provide adequate wastewater treatment before
9 dispersal to the groundwater.

10 (ix) Other conditions that may reasonably be expected to alter
11 the intended functionality of the onsite wastewater treatment
12 system.

13 (k) "Evaluator" means an individual registered under section
14 12823.

15 (l) "Experimental onsite wastewater treatment system" means a
16 class of alternative onsite wastewater treatment system that is in
17 experimental use and requires further testing in order to provide
18 sufficient information to determine its acceptability.

19 (m) "Failure" means a malfunction or condition of an onsite
20 wastewater treatment system consisting of 1 or more of the
21 following, as determined by an authorized local health department:

22 (i) A discharge of sanitary sewage to the surface of the
23 ground.

24 (ii) A discharge of sanitary sewage or effluent into surface
25 water, storm drains, or directly into groundwater.

26 (iii) The inability of the onsite wastewater treatment system to
27 accept sanitary sewage at the rate being discharged, resulting in
28 the backup of sanitary sewage into a structure.

29 (iv) A structural failure or leaking of a septic tank or tanks



1 or other associated components and appurtenances.

2 (v) A discharge of treated wastewater that does not comply
3 with applicable standards established in the statewide sewage code.

4 (vi) An illicit connection or illicit discharge.

5 (vii) An absence of all or a key part of an onsite wastewater
6 treatment system, as determined in accordance with the statewide
7 sewage code.

8 (viii) The discharge of sanitary sewage or effluent is
9 endangering a public or private water supply.

10 (ix) The inability to access key parts of the onsite wastewater
11 treatment system.

12 (x) The authorized local health department determines that the
13 elements of a nonconforming system contribute to the overall
14 failure of the onsite wastewater treatment system in accordance
15 with the statewide sewage code.

16 (n) "Fund" means the onsite wastewater treatment system
17 administration fund created in section 12829.

18 (o) "Groundwater" means water in the ground that is in the
19 zone of saturation.

20 (p) "Illicit connection" means a physical, constructed
21 connection that allows the bypassing of required treatment by an
22 onsite wastewater treatment system in violation of law.

23 (q) "Illicit discharge" means any direct or indirect discharge
24 of sanitary sewage in violation of law.

25 (r) "Imminent danger" means a condition or practice that could
26 reasonably be expected to cause death, disease, or serious physical
27 harm immediately or before the imminence of the danger can be
28 eliminated through enforcement procedures.

29 (s) "Maintenance" means routine or periodic action taken to



1 ensure proper system performance, extend system longevity, and
2 ensure a system meets performance requirements as designed,
3 including servicing the system through cleaning, septic tank
4 pumping, effluent filter cleaning or replacements, flushing
5 laterals, vegetation removal, effluent sampling if applicable,
6 adjustments to subcomponents, and other actions as recommended by a
7 product manufacturer and in accordance with the statewide sewage
8 code.

9 (t) "Management" means the siting, design, construction,
10 installation, inspection, operation, maintenance, alteration,
11 evaluation, rejuvenation, closure, and repair of onsite wastewater
12 treatment systems to ensure that onsite wastewater treatment
13 systems meet required performance standards established in the
14 statewide sewage code and are protective of public health and the
15 environment.

16 (u) "Minor repair" means the act of fixing or replacing
17 substandard or damaged subcomponents, such as septic tank access
18 lids, safety devices, risers, septic tank outlet baffle or outlet
19 devices, switches, solid piping located outside the soil dispersal
20 system, pumps, valves, and other subcomponents as determined in
21 accordance with the statewide sewage code.

22 (v) "Nonproprietary technology" means a wastewater treatment
23 or distribution technology, method, or product not subject to a
24 patent or trademark.

25 (w) "Onsite wastewater treatment system" or "system" means a
26 system of components and appurtenances used, or intended to be
27 used, to collect, hold, and treat less than 10,000 gallons per day
28 of sanitary sewage through 1 of the following methods:

29 (i) Subsurface discharge to a soil dispersal system.



1 (ii) Subsurface discharge to another system meeting the
2 requirements of the statewide sewage code.

3 (iii) A holding tank, outhouse, innovative system, or other
4 component that collects and stores sanitary sewage until being
5 transported to an approved location for the necessary final
6 dispersal or final treatment.

7 (x) "Onsite wastewater treatment system evaluation" or
8 "evaluation" means an assessment of the sanitary sewage handling
9 methods where a premises or structure is not connected to a public
10 sanitary sewer system or an evaluation of an onsite wastewater
11 treatment system conducted under section 12821.

12 (y) "Operating level" means the elevation of effluent in a
13 tank. For a septic tank, operating level is determined by the
14 invert of the outlet piping.

15 (z) "Operating permit" means a renewable and revocable permit,
16 if required, to operate and maintain an onsite wastewater treatment
17 system in compliance with specific operational or performance
18 requirements.

19 (aa) "Outlet device" means any fixture on or around the outlet
20 pipe of a septic tank that serves to slow down, divert, screen, or
21 otherwise control the flow of effluent out of the septic tank.

22 (bb) "Point of sale" means the time at which the sale or
23 transfer of a parcel of real estate is complete. Point of sale does
24 not include a transfer described under section 3 of the seller
25 disclosure act, 1993 PA 92, MCL 565.953.

26 (cc) "Proprietary product" means a treatment or distribution
27 product held under a patent or trademark that significantly
28 contributes to the treatment, performance, and attainment of
29 effluent quality or dispersal objectives.



1 (dd) "Public sanitary sewer system" means that term as defined
2 in section 12751 that is operated by a local unit of government.

3 (ee) "Sanitary sewage" means treated or untreated waste that
4 contains 1 or more of the following:

5 (i) Feces or other excreta from the human body.

6 (ii) Waste generated as a result of food service establishment
7 activities.

8 (iii) Waste generated from sanitary conveniences, including, but
9 not limited to, toilets, urinals, sinks, showers, bathtubs,
10 dishwashers, garbage grinders, and household laundry fixtures
11 available for use associated with office, industrial, commercial,
12 recreational, institutional, or other purposes.

13 (iv) Additional domestic flow generated as part of a household
14 activity.

15 (ff) Sanitary sewage does not include roof runoff, building
16 footing drain, wastes from industrial or commercial processes, and
17 stormwater.

18 (gg) "Septic tank" means a watertight, covered receptacle for
19 collection and treatment of sanitary sewage that does all of the
20 following:

21 (i) Receives the discharge of sanitary sewage.

22 (ii) Separates settleable and floating solids from the liquid.

23 (iii) Digests organic matter by anaerobic bacterial action.

24 (iv) Stores digested solids through a period of detention.

25 (v) Allows clarified liquid effluent to discharge for
26 additional treatment by components and appurtenances, such as a
27 soil dispersal system.

28 (vi) Attenuates flows.

29 (hh) "Soil dispersal system" means a method in which septic

1 tank effluent or treated effluent is distributed by a network of
2 piping or other approved material to an approved method of
3 subsurface dispersal.

4 (ii) "Statewide sewage code" means the rules promulgated under
5 section 12817 providing for the management of onsite wastewater
6 treatment systems.

7 (jj) "Structure in which sanitary sewage originates" or
8 "structure" means a building in which toilet, kitchen, laundry,
9 bathing, or other facilities that generate water-carried sanitary
10 sewage are used or are available for use for household, commercial,
11 industrial, or other purposes.

12 (kk) "Surface water" means that term as defined in section
13 3112a of the natural resources and environmental protection act,
14 1994 PA 451, MCL 324.3112a.

15 (ll) "Technical advisory committee" means the technical
16 advisory committee established by the department under section
17 12815.

18 (2) In addition, article 1 contains general definitions and
19 principles of construction applicable to all articles of this code.

20 Sec. 12803. (1) Not later than 180 days after the department
21 promulgates rules under section 12817, a local health department
22 shall create a plan to implement and administer this part and part
23 127 for the management of conventional systems and submit the plan
24 to the department for authorization. Not later than 120 days after
25 the local health department submits the plan to the department, the
26 department shall review the plan to ensure the plan conforms to the
27 requirements in the statewide sewage code and provide corrective
28 guidance as necessary, and authorize the local health department to
29 administer this part for conventional systems. Not later than 1



1 year after the department promulgates rules under section 12817,
2 the local health department shall implement the approved plan to
3 administer this part for conventional systems. The local health
4 department shall do all of the following:

5 (a) Follow the standards established under this part, in
6 accordance with section 2441, for the purposes of carrying out the
7 responsibilities of this part and the statewide sewage code,
8 including authority to do all of the following:

9 (i) Conduct preconstruction site evaluations, issue
10 construction permits, ensure installations are performed by
11 qualified individuals, as specified in the statewide sewage code,
12 and perform interim inspections during construction and final
13 inspections on completion of construction, if required.

14 (ii) Issue notices and penalties to persons that violate this
15 part, part 127, or the rules promulgated under this part or part
16 127, or endanger public health or the environment.

17 (iii) Respond to complaints of failure of an onsite wastewater
18 treatment system or improper discharge of sanitary sewage.

19 (iv) Ensure long-term maintenance of onsite wastewater
20 treatment systems through construction permit requirements or the
21 issuance of operating permits, if applicable, for the management of
22 an onsite wastewater treatment system as described in rules
23 promulgated under section 12817.

24 (v) Conduct evaluations under section 12821, as applicable.

25 (b) Maintain qualified staff to administer a conventional
26 onsite wastewater treatment system program. Except as otherwise
27 provided under subsection (2), a staff member shall meet the
28 following minimum educational and training requirements to work
29 independently in an onsite wastewater treatment system program:



1 (i) One of the following:

2 (A) Possess a minimum of a 4-year bachelor of science or arts
3 degree with a major in environmental health, chemistry, biology,
4 geology, engineering, or an equivalent degree.

5 (B) Meets the educational eligibility requirements for the
6 registered environmental health specialist or registered sanitarian
7 credential exam.

8 (ii) Obtain a minimum of 8 hours of training that includes a
9 minimum of 4 hours of field training on the United States
10 Department of Agriculture soil classification system from the
11 department or another entity approved by the department.

12 (iii) Demonstrate competency and understanding of the statewide
13 sewage code, criteria for onsite wastewater treatment systems
14 provided in state law and rules, or any successor state law and
15 rules, the land division act, 1967 PA 288, MCL 560.101 to 560.293,
16 and the condominium act, 1978 PA 59, MCL 559.101 to 559.276.

17 (iv) Conduct a minimum of 10 supervised preconstruction field
18 or site evaluations of conventional onsite wastewater system
19 designs and 10 supervised final inspections with senior staff or a
20 supervisor.

21 (v) Conduct a minimum of 5 solo preconstruction field
22 evaluations of onsite wastewater system designs and 5 solo final
23 inspections demonstrating understanding of the conventional onsite
24 wastewater treatment program as determined by senior staff or a
25 supervisor.

26 (vi) Attend and observe a minimum of 2 complete onsite
27 wastewater system installations.

28 (2) The following individuals are exempt from the requirements
29 of subsection (1) (b) :



1 (a) A staff member of an authorized local health department
2 that has worked independently in an onsite wastewater treatment
3 system program for at least 3 years before the effective date of
4 the rules promulgated by the department under section 12817 and has
5 demonstrated competency and knowledge of onsite wastewater
6 treatment systems.

7 (b) A staff member that has limited duties within the onsite
8 wastewater treatment system program, has demonstrated competency
9 and knowledge, and is overseen by a sanitarian in accordance with
10 the rules promulgated under section 12817. As used in this
11 subdivision, "sanitarian" means that term as defined in section
12 18401.

13 Sec. 12805. (1) Not later than 180 days after the department
14 promulgates rules under section 12817, a local health department
15 shall create a plan to implement and administer this part and part
16 127 for the management of alternative systems and submit the plan
17 to the department for authorization. Not later than 120 days after
18 the local health department submits the plan to the department, the
19 department shall review the plan to ensure the plan conforms to the
20 requirements in the statewide sewage code and provide corrective
21 guidance as necessary, and authorize the local health department to
22 administer this part for alternative systems. Not later than 2
23 years after the department promulgates rules under section 12817,
24 the local health department shall implement the approved plan to
25 administer this part for alternative systems. The local health
26 department shall do all of the following:

27 (a) Meet the requirements of section 12803.

28 (b) Follow the standards established under this part, in
29 accordance with section 2441, for the purpose of carrying out the



1 responsibilities of this part, including authority to do all of the
2 following:

3 (i) Review, evaluate, approve, or reject applications, plans,
4 and specifications to alter, install, repair, or replace
5 alternative systems.

6 (ii) Issue construction permits authorizing the installation of
7 alternative systems in accordance with section 12807.

8 (iii) Ensure long-term maintenance of alternative systems
9 through the issuance of operating permits after an operation and
10 maintenance evaluation determines compliance.

11 (2) Existing local health department regulations or guidance
12 for a particular type of alternative system remain in effect until
13 minimum standards and criteria for that type of system are
14 developed by the department in accordance with section 12813.

15 (3) An authorized local health department that administers an
16 alternative system construction and operating permitting program
17 within its jurisdiction shall issue a construction permit for the
18 installation of an alternative system if all of the following
19 conditions are met:

20 (a) The alternative system does either of the following:

21 (i) Utilizes a proprietary product that has been registered for
22 use by the department.

23 (ii) Utilizes nonproprietary technology in accordance with the
24 standards and guidance provided by the department in accordance
25 with the statewide sewage code.

26 (b) The soils, site conditions, and operating conditions at
27 the location are appropriate for the use of the alternative system
28 in compliance with the statewide sewage code.

29 (c) An acceptable management plan is developed and includes



1 operation and maintenance evaluations, in accordance with the
2 statewide sewage code.

3 Sec. 12807. (1) A person shall not install, construct, alter,
4 extend, repair, or replace an onsite wastewater treatment system
5 unless the person has received a construction permit from the
6 authorized local health department, and the department when
7 applicable, subject to any permit required under part 31 or 41 of
8 the natural resources and environmental protection act, 1994 PA
9 451, MCL 324.3101 to 324.3134 and 324.4101 to 324.4113. A person
10 does not need a construction permit under this section for a minor
11 repair to or to conduct maintenance on an onsite wastewater
12 treatment system that can be managed as described in the rules
13 promulgated under section 12817.

14 (2) A person shall obtain a construction permit for an onsite
15 wastewater treatment system from an authorized local health
16 department in compliance with this part and construct the system in
17 accordance with the statewide sewage code.

18 (3) A person that fails to obtain a construction permit or
19 comply with this part is subject to enforcement action by the local
20 health department under section 12827.

21 (4) A governmental entity with building code authority shall
22 not issue a building permit for a structure, residence, or facility
23 served by an onsite wastewater treatment system unless 1 of the
24 following is obtained from the authorized local health department:

25 (a) A construction permit for the onsite wastewater treatment
26 system.

27 (b) An authorization for the continued use of the onsite
28 wastewater treatment system.

29 (c) An authorization for a change in use or an increase in use



1 of the existing onsite wastewater treatment system.

2 (5) A governmental entity with building code authority shall
3 not issue a certificate of occupancy for a structure, residence, or
4 facility served by an onsite wastewater treatment system unless an
5 approved final inspection report has been issued by the authorized
6 local health department or an authorization was obtained under
7 subsection (4) (b) or (c).

8 (6) A governmental entity with building code authority that
9 issues a building permit or certificate of occupancy without
10 obtaining a permit or authorization required under subsection (4)
11 or an approved final inspection report under subsection (5), as
12 applicable, may be subject to an enforcement action by the
13 department of licensing and regulatory affairs. The actions of the
14 department of licensing and regulatory affairs under this
15 subsection may include, but are not limited to, enforcement actions
16 against a building official or inspector as provided under the
17 skilled trades regulation act, 2016 PA 407, MCL 339.5101 to
18 339.6133.

19 Sec. 12811. (1) Subject to subsection (4), beginning 45 days
20 after the department promulgates rules under section 12817, a
21 person shall not install, construct, alter, or repair a proprietary
22 product unless that product is registered for use in this state by
23 the department and a construction permit is obtained under section
24 12807.

25 (2) Beginning 45 days after the department promulgates rules
26 under section 12817, a person may apply for registration of a
27 proprietary product under subsection (1) by submitting an
28 application on a form and in a manner prescribed by the department.
29 The department may charge a fee of \$3,000.00 to cover its costs in



1 reviewing applications for registration under this section. Money
2 received by the department must be forwarded to the state treasurer
3 for deposit into the fund. Not later than 30 days after receipt of
4 an application and fee, the department shall review the application
5 and determine whether the application is administratively complete.
6 Not later than 60 days after receipt of an administratively
7 complete application, the department shall approve or deny the
8 registration and notify the applicant in writing. In approving and
9 registering for use a proprietary product in this state, the
10 department shall consider the recommended standards and guidance
11 provided by the technical advisory committee. A registration under
12 this section is specific to a product model within a brand or
13 manufacturer's line and is valid for 5 years. A registration must
14 be renewed in the same manner as an initial registration under this
15 subsection. Beginning 3 years after the effective date of the
16 amendatory act that added this section, and once every 3 years
17 thereafter, the department shall adjust the fee specified under
18 this subsection by an amount determined by the state treasurer at
19 the end of the preceding fiscal year to reflect the cumulative
20 percentage change in the Detroit Consumer Price Index, and rounded
21 to the nearest \$100.00. As used in this subsection, "Detroit
22 Consumer Price Index" means the most comprehensive index of
23 consumer prices available for the Detroit-Warren-Dearborn area from
24 the Bureau of Labor Statistics of the United States Department of
25 Labor.

26 (3) The department may deny, suspend, or revoke a registration
27 under this section following a contested case hearing conducted in
28 accordance with the administrative procedures act of 1969, 1969 PA
29 306, MCL 24.201 to 24.328, if the department finds any of the



1 following:

2 (a) The registration was obtained or was attempted to be
3 obtained through misrepresentation or fraud.

4 (b) The registrant transacted business under its registration
5 using fraudulent, coercive, or dishonest practices.

6 (c) The applicant or registrant failed to pay the required
7 registration application review fees.

8 (d) Field reviews, conducted in accordance with the statewide
9 sewage code, determine that the proprietary product does not
10 function or perform as designed.

11 (e) The proprietary product fails to meet the requirements of
12 the statewide code.

13 (4) An owner of an onsite wastewater treatment system does not
14 need to register a proprietary product under this section if both
15 of the following conditions are met:

16 (a) The proprietary product was installed as part of the
17 construction of an approved onsite wastewater treatment system
18 before the effective date of this part.

19 (b) The authorized local health department determines the
20 continued use of the proprietary product can be managed in
21 accordance with the statewide sewage code.

22 (5) The requirements of this section apply to a person that
23 represents a proprietary product manufacturer that is applying for
24 registration of a proprietary product under subsection (1) before
25 an installation that occurs after the effective date of this part.

26 Sec. 12813. The department shall develop minimum standards and
27 criteria to assist local health departments in permitting different
28 types of onsite wastewater treatment systems, including, but not
29 limited to, the following 3 categories:



1 (a) Nonproprietary technologies such as sand filters.

2 (b) Proprietary products such as aerobic treatment systems and
3 packed bed filters.

4 (c) Proprietary products such as subsurface dripline products
5 or gravelless distribution products.

6 Sec. 12818. A person that does either of the following is
7 guilty of a misdemeanor punishable by imprisonment for not more
8 than 1 year or a fine of not more than \$10,000.00 for each
9 violation, or both:

10 (a) Submits or provides to the department or authorized local
11 health department false, misleading, or fabricated information
12 related to an onsite wastewater treatment system.

13 (b) Knowingly completes an onsite wastewater treatment system
14 evaluation for purposes of compliance with section 12821(4) and is
15 not an evaluator.

16 Sec. 12821. (1) Beginning 45 days after the department
17 promulgates rules under section 12817 and subject to subsection
18 (12), an owner of a premises or structure in which sanitary sewage
19 originates, that is not connected to a public sanitary sewer system
20 operated by a local unit of government must obtain an onsite
21 wastewater treatment system evaluation in accordance with the
22 schedule established under subsections (2) and (3).

23 (2) An onsite wastewater treatment system evaluation conducted
24 under this part, including an evaluation conducted under a point of
25 sale ordinance or regulation subject to section 12831, must be
26 conducted by an authorized local health department or evaluator in
27 accordance with this part and in accordance with the following
28 timeline:

29 (a) Not later than 10 years after the department promulgates



1 rules under section 12817, if the onsite wastewater treatment
2 system is 20 years old or older on or before the effective date of
3 the amendatory act that added this section, and 1 or both of the
4 following conditions exist:

5 (i) The onsite wastewater treatment system is installed within
6 500 feet of any surface water or within a high risk erosion area,
7 critical dune, or 100-year floodplain, as these terms are
8 determined by the department.

9 (ii) The department or local health department does not have a
10 record of a construction permit being issued for the installation
11 of an onsite wastewater treatment system.

12 (b) Before a change in use or an increase in use of the
13 existing onsite wastewater treatment system.

14 (c) Any time in accordance with the statewide sewage code.

15 (d) Any time, if the evaluation is arranged or allowed by the
16 real property owner of a premises or structure.

17 (e) If the onsite wastewater treatment system is 30 years old
18 or older on or before the effective date of the amendatory act that
19 added this section.

20 (3) After the first evaluation is conducted under subsection
21 (2), an onsite wastewater treatment system must be evaluated in
22 accordance with this section once every 10 years. Subject to the
23 statewide sewage code, after the first evaluation is conducted
24 under subsection (2), a local health department may determine that
25 an onsite wastewater treatment system does not require a subsequent
26 evaluation under this section if a new onsite wastewater system is
27 installed or updates are made to the existing system that do not
28 require an evaluation. Beginning 10 years after the effective date
29 of rules promulgated by the department under section 12817, an



1 onsite wastewater treatment system must be evaluated if the system
2 is 20 years old or older and is installed within 500 feet of
3 surface water or within a high-risk erosion area, critical dune, or
4 100-year floodplain, as these terms are determined by the
5 department, and if an evaluation was not conducted under subsection
6 (2). An owner of a premises or structure not connected to a public
7 sanitary sewer that does not arrange for an evaluation under this
8 subsection or subsection (2) is not excluded from the requirement
9 to arrange for an evaluation.

10 (4) An authorized local health department or evaluator shall
11 conduct an onsite wastewater treatment system evaluation not later
12 than 90 days after the owner of the system arranges for the
13 evaluation. An authorized local health department or evaluator may
14 work with individuals who are involved in the management of onsite
15 wastewater treatment systems, in accordance with rules promulgated
16 under section 12817, to complete an evaluation under this
17 subsection. The owner of the system shall not have the septic tank
18 or tanks pumped out within 45 days before an onsite wastewater
19 treatment system evaluation is arranged under this section. At the
20 onsite wastewater treatment system evaluation, the authorized local
21 health department or evaluator shall do all of the following:

22 (a) Identify the size, age, and visible condition of the
23 septic tank or tanks.

24 (b) Before conducting any pumping, document the level of
25 effluent, in relation to the operating level in the septic tank or
26 tanks.

27 (c) Document the level of scum and sludge by measuring the
28 vertical column depth of each layer of stratified septic tank
29 contents for each tank or compartment and arrange for the services



1 of a septage waste servicing business licensed under part 117 of
2 the natural resources and environmental protection act, 1994 PA
3 451, MCL 324.11701 to 324.11721, to pump out the septic tank or
4 tanks, or recommend to the authorized local health department that
5 the septic tank or tanks be pumped out, if 1 of the following
6 applies:

7 (i) The authorized local health department or evaluator that
8 conducts the onsite wastewater treatment system evaluation
9 determines that it is necessary to complete the evaluation.

10 (ii) The sludge and scum accumulations within the septic tank
11 or tanks exceed 30% of each individual tank's volume or are
12 encroaching on the inlet or outlet.

13 (d) Verify that all sanitary sewage-related plumbing fixtures
14 are connected to the septic tank or tanks and are operational and
15 identify any sources of nonsanitary sewage-related connections to
16 the septic tank or tanks or the soil dispersal system that require
17 disconnection.

18 (e) Locate, expose, open, and assess the septic tank or tanks
19 and pumping chambers associated with the system. If the lid of any
20 septic tank or pumping chamber is greater than 12 inches below the
21 ground surface, the authorized local health department or evaluator
22 may require that the property owner uncover the lid or lids for
23 ease of access.

24 (f) If the system includes an alternative system or
25 proprietary product, identify that the required operation and
26 maintenance reporting is on file with the department or authorized
27 local health department. If the operation and maintenance reporting
28 are not up to date, notify the owner of the system of the need to
29 arrange for the required operation and maintenance by a qualified



1 service provider, subject to the statewide sewage code, and report
2 the findings to the authorized local health department. The
3 authorized local health department or evaluator shall assess and
4 report any unresolved issues identified in the required operation
5 and maintenance report.

6 (g) To the extent reasonable, locate, determine the size of,
7 and observe the subsurface dispersal system to determine its
8 condition.

9 (h) Document the location in relation to the site of any
10 attributes including, but not limited to, drinking water wells,
11 surface water, and other setbacks as required by the statewide
12 sewage code.

13 (i) Observe or find information regarding the location of a
14 well, as that term is defined in section 12701, and assess the
15 approximate distance between the nearest well and the onsite
16 wastewater treatment system, if applicable.

17 (j) Observe the general area that includes the treatment and
18 dispersal system for evidence of system failure or elements of a
19 nonconforming system.

20 (k) Examine the premises for an illicit discharge to,
21 including, but not limited to, the surface of the ground, surface
22 water, groundwater, or drain.

23 (l) Document conditions observed, evidence of failure, and
24 elements of a nonconforming system.

25 (m) Assess and report the ponding level found in inspection or
26 observation ports located in the soil dispersal system. If
27 inspection or observation ports are not found, or do not penetrate
28 to the bottom of the soil dispersal system, collect at least 2 core
29 samples across the soil dispersal system.



1 (n) Estimate the current daily sanitary sewage flow, identify
2 structure use type, and identity and collect information on the
3 proposed new or increase in use.

4 (o) Complete any other evaluation criteria set by the
5 department in the statewide sewage code.

6 (p) Prepare an evaluation report that contains the information
7 gathered under this subsection, including appropriate photographic
8 documentation taken at the evaluated premises.

9 (5) Not later than 14 days after the onsite wastewater
10 treatment system evaluation is completed, the authorized local
11 health department or evaluator that conducts the evaluation shall
12 do all of the following:

13 (a) Prepare an evaluation report that details the findings of
14 the onsite wastewater treatment system evaluation. An evaluation
15 report must be an objective and fact-based summary of conditions
16 observed on site at the time of the evaluation; must contain
17 information that follows standard report forms prescribed by the
18 department; and may contain recommendations to extend the life of
19 the onsite wastewater treatment system and prevent premature
20 failures of the system.

21 (b) Provide a printed or electronic copy of the evaluation
22 report to the owner of the onsite wastewater treatment system and
23 an electronic copy of the evaluation report to the authorized local
24 health department. An evaluation report must be provided under this
25 subsection even if the evaluation report is incomplete or the fee
26 provided for in subsection (12) or (13) was not paid.

27 (c) Provide a printed or electronic copy of the minimum
28 standards and criteria for conducting evaluations developed by the
29 department under section 12825(1) to the owner of the onsite



1 wastewater treatment system.

2 (6) An evaluation completed by an evaluator must be reviewed
3 by the authorized local health department. The authorized local
4 health department shall determine the need for pumping, elements of
5 a nonconforming system, determination of failure or imminent
6 danger, or resolution. Not later than 21 days after an evaluator
7 submits a report under subsection (5), the authorized local health
8 department must do all of the following:

9 (a) Based on the evaluation, determine the status of all of
10 the following:

11 (i) Whether the onsite wastewater treatment system is in
12 failure.

13 (ii) Whether elements of a nonconforming system are
14 contributing to an overall failure of the onsite wastewater
15 treatment system.

16 (iii) Whether elements of a nonconforming system are not
17 contributing to an overall failure and the onsite wastewater
18 treatment system meets a sufficient level of compliance and can be
19 managed in a manner to provide for the minimum level of protection
20 of public health and the environment to allow for continued use.

21 (iv) Whether the onsite wastewater treatment system meets a
22 sufficient level of compliance and can be managed to provide for
23 the minimum level of protection of public health and the
24 environment to allow for continued use.

25 (v) Whether the onsite wastewater treatment system is in
26 compliance with this part and the statewide sewage code.

27 (vi) Whether the evaluation report was unable to be completed
28 and the owner of premises or a structure not connected to public
29 sanitary sewer needs to take corrective actions to allow an



1 evaluator to complete an evaluation.

2 (b) Determine whether any corrective actions or management
3 steps must be taken by the owner of the onsite wastewater treatment
4 system to satisfy the requirements of the statewide sewage code and
5 this section.

6 (c) Determine whether the septic tank or tanks need to be
7 pumped and review the provided report for any pumping, to determine
8 if the relevant requirements of the statewide sewage code are
9 satisfied.

10 (d) Inform the owner of the onsite wastewater treatment system
11 of any determination made under subdivisions (a) to (c) and specify
12 an applicable time period for corrective actions to be completed.

13 (7) If the authorized local health department determines that
14 an evaluation report under subsection (5) identifies the need for
15 the septic tank or tanks to be pumped, the owner of the onsite
16 wastewater treatment system shall have the tank or tanks pumped by
17 a septage waste servicing business licensed under part 117 of the
18 natural resources and environmental protection act, 1994 PA 451,
19 MCL 324.11701 to 324.11721, not later than 60 days after the
20 evaluation report is received under subsection (5).

21 (8) Subject to subsection (10), if the owner of an onsite
22 wastewater treatment system or the owner of the premises or
23 structure not connected to a public sanitary sewer fails to arrange
24 for an onsite wastewater treatment system evaluation, fails to have
25 the system evaluated in accordance with the requirements of this
26 section, or fails to complete corrective actions identified under
27 subsection (6) (d), the owner is subject to the following:

28 (a) Beginning 60 days after the end of the applicable time
29 period under subsection (2), (3), or (6) and in the absence of good



1 cause shown by the owner under subsection (10), a civil fine of not
 2 more than \$250.00 per month that the system remains unevaluated or
 3 corrective actions remain incomplete.

4 (b) Beginning 1 year after the end of the applicable time
 5 period and in the absence of good cause shown, a civil fine of not
 6 more than \$500.00 per month that the system remains unevaluated or
 7 corrective action remains incomplete, up to \$15,000.00 in total
 8 civil fines under this subsection.

9 (9) Subject to subsection (10), if the authorized local health
 10 department determines that an evaluation report under subsection
 11 (5) identifies evidence of failure, the owner of the onsite
 12 wastewater treatment system or the owner of the premises or
 13 structure shall remedy the failure within 6 months after the
 14 evaluation report is received under subsection (5) or within a time
 15 period determined by the authorized local health department. An
 16 owner that violates this subsection is subject to a civil fine of
 17 not more than \$1,000.00 for each 30-day period that the failure
 18 continues. The prosecutor of the county in which the violation
 19 occurred or the attorney general may bring an action to collect the
 20 fine and require remedy of the failure.

21 (10) The department may waive any fine authorized under
 22 subsections (8) and (9) if the owner of the onsite wastewater
 23 treatment system or the owner of the premises or structure not
 24 connected to a public sanitary sewer demonstrates either of the
 25 following:

26 (a) That the owner's income is at or below 400% of the federal
 27 poverty level and that within 1 year after the owner had a
 28 completed evaluation under this section or remedied any failure
 29 identified in the onsite wastewater treatment evaluation under



1 subsection (6).

2 (b) That the payment of any fines under subsection (8) or (9),
3 or both, would pose significant financial stress on the owner of
4 the system and that within 1 year of the owner of the system
5 completed an evaluation under this section or remedied any failure
6 identified in the onsite wastewater treatment system evaluation
7 under subsection (6).

8 (11) In accordance with the statewide sewage code, if
9 determined necessary by the department and on request of an owner
10 of an onsite wastewater treatment system, the department may grant
11 a variance from the onsite wastewater treatment system evaluation
12 requirements under this section.

13 (12) An authorized local health department or evaluator may
14 charge a fee for conducting an onsite wastewater treatment system
15 evaluation. An authorized local health department may charge a
16 reasonable fee not to exceed the costs of conducting,
17 administering, and reviewing onsite wastewater treatment system
18 evaluations.

19 (13) In addition to the fee charged for conducting an onsite
20 treatment system evaluation under subsection (12), an authorized
21 local health department or evaluator, as applicable, shall charge
22 an additional \$50.00 state administrative fee. An evaluator shall
23 submit the administrative fee to the department at the same time an
24 evaluation report is submitted to the local health department under
25 subsection (5). State administrative fees collected by a local
26 health department must be forwarded to the department on a
27 quarterly basis.

28 (14) All state administrative fees and civil fines authorized
29 and collected under this section must be forwarded to the state



1 treasurer for deposit into the fund.

2 (15) Beginning 2 years after the first civil fine is imposed
3 under subsection (8) (a), the civil fine constitutes a recorded lien
4 at the register of deeds office on the real property owned by the
5 owner of the onsite wastewater treatment system or the premises or
6 structure. A recorded lien under this subsection is effective and
7 has priority over all other liens and encumbrances except those
8 filed or recorded before the date of the judgment only if notice of
9 the lien is filed or recorded as required by state or federal law.
10 A lien filed or recorded under this subsection is terminated in
11 accordance with the procedures required by state or federal law not
12 later than 14 days after the owner has the system evaluated and
13 pays the civil fine.

14 Sec. 12823. (1) To apply for a registration as an evaluator,
15 an individual shall meet the training requirements established in
16 the statewide sewage code and submit an application on a form and
17 in a manner prescribed by the department. The department may charge
18 a \$180.00 application fee to cover the department's costs under
19 this section. An application fee collected under this section must
20 be forwarded to the state treasurer for deposit into the fund.

21 (2) All evaluation reports received under section 12821(5) are
22 subject to an audit by the department. The department may
23 promulgate rules under section 12817 to implement an audit
24 authorized under this subsection. The department may suspend or
25 revoke a registration under subsection (4) following an audit
26 authorized under this subsection.

27 (3) A registration granted under this section is valid for 3
28 years. The department shall review individuals registered under
29 this section once every 3 years and renew a registration for any



1 individual who submits a renewal application and fee and who
2 continues to meet continuing education requirements. The department
3 may establish renewal fees or late fees. A registration described
4 under this section is nontransferable.

5 (4) A registration under this section may be denied,
6 suspended, or revoked following a contested case hearing conducted
7 in accordance with the administrative procedures act of 1969, 1969
8 PA 306, MCL 24.201 to 24.328, for any of the following reasons:

9 (a) The use of fraud or deceit in obtaining or renewing a
10 registration.

11 (b) An act of gross negligence, incompetence, or misconduct in
12 conducting or reporting on an onsite wastewater treatment system
13 evaluation.

14 (c) The failure to satisfactorily complete continuing
15 education requirements specified under the statewide sewage code.

16 (d) The submission of an evaluation report knowingly based on
17 false, incorrect, misleading, or fabricated information.

18 (e) The failure to submit an evaluation report.

19 (f) The failure to pay a required fee.

20 (g) The failure to meet the ethical standards established in
21 the statewide sewage code.

22 (h) Conviction in a civil or criminal proceeding or failure to
23 comply with a judgment or order that is issued by a court in
24 connection with a matter related to the conduct necessary to
25 provide the services of an evaluator.

26 (i) Any other violation of this part, part 127, or the rules
27 promulgated under this part or part 127.

28 (5) The department shall maintain a list of individuals
29 registered under this section and make the list available on the



1 department's website.

2 Sec. 12825. (1) The department shall develop and make
3 available minimum standards and criteria for conducting evaluations
4 and forms for use in documenting the management of onsite
5 wastewater treatment system, including evaluation report forms for
6 use in documenting the results of onsite wastewater treatment
7 system evaluations conducted under section 12821.

8 (2) Ten years after the effective date of the amendatory act
9 that added this section, the department shall prepare and submit a
10 report to the legislature and governor that outlines areas of
11 improvement and considers adjusting the evaluation timelines
12 specified under section 12821(2) and (3).

13 (3) The department shall make available and maintain an onsite
14 wastewater treatment system electronic database for recording and
15 tracking the locations of onsite wastewater treatment systems in
16 this state and the findings of onsite wastewater treatment system
17 evaluations. The department may require an authorized local health
18 department to input the data described under this subsection into
19 the onsite wastewater treatment system electronic database. The
20 onsite wastewater treatment system electronic database must contain
21 all of the following information:

22 (a) An evaluation report completed under section 12821. The
23 department may require an authorized local health department or
24 evaluator to electronically enter the report information into the
25 onsite wastewater treatment system electronic database instead of
26 the written report.

27 (b) Documentation and records from authorized local health
28 departments regarding the locations and previous evaluation or
29 inspection records of onsite wastewater treatment systems.



1 (c) Any other data, information, or record determined relevant
2 by the department.

3 (4) The onsite wastewater treatment system electronic database
4 created under subsection (3) must provide authenticated access to
5 users to maintain the protected status of the information contained
6 within the database and the database must not be accessible by
7 members of the general public who do not have authenticated access.

8 Sec. 12827. (1) Except as provided under section 12821(8) and
9 (9), an owner of an onsite wastewater treatment system or owner of
10 a premises or structure that is not connected to a public sanitary
11 sewer system that fails to comply with this part, part 127, or a
12 rule promulgated under this part or part 127 is subject to the
13 following:

14 (a) For a first violation, the person is guilty of a
15 misdemeanor punishable by imprisonment for not more than 90 days, a
16 fine of not less than \$500.00 or more than \$2,000.00, or both.

17 (b) For a second or subsequent violation, the person is guilty
18 of a misdemeanor punishable by imprisonment for not more than 180 days,
19 a fine of not less than \$1,000.00 or more than \$10,000.00, or both.

20 (2) Each day that a violation continues constitutes a separate
21 violation under subsection (1).

22 (3) When the department or an authorized local health
23 department determines that there are reasonable grounds to believe
24 there has been a violation of this part, part 127, or the rules
25 promulgated under this part or part 127, the authorized local
26 health department shall investigate the violation. If the
27 authorized local health department determines there has been a
28 violation, the authorized local health department shall issue a
29 notice and penalty, as applicable, under section 12803(1) (a) (ii) and



1 order the responsible party to make corrections to be in compliance
2 with this part, part 127, and the rules promulgated under this part
3 and part 127.

4 (4) The prosecutor of the county in which the violation
5 occurred or the attorney general may bring an action to collect a
6 fine authorized under this section and require compliance with this
7 part, part 127, and the rules promulgated under this part and part
8 127.

9 (5) A civil fine authorized and collected under this section
10 must be forwarded to the state treasurer for deposit into the fund.

11 (6) The department or an authorized local health department
12 may request that the attorney general or prosecutor of the county
13 in which the violation occurred commence a civil action for
14 appropriate relief, including a permanent or temporary injunction,
15 for a violation of this part, part 127, rules promulgated under
16 section 12817, or a provision of a permit or order issued under
17 this part or part 127. An action under this subsection may be
18 brought in the circuit court for Ingham County or for the county in
19 which the defendant is located, resides, or is doing business. If
20 requested by the defendant, within 21 days after service of
21 process, the court shall grant a change of venue to the circuit
22 court for Ingham County or for the county in which the alleged
23 violation occurred, is occurring, or, in the event of a threat of
24 violation, will occur. The court has jurisdiction to restrain the
25 violation and require compliance. In addition to any other relief
26 granted under this subsection, the court, except as otherwise
27 provided in this section, shall impose a civil fine of not less
28 than \$2,500.00, and the court may award reasonable attorney fees
29 and costs to the prevailing party.



1 (7) Final decision-making authority with respect to this part,
2 part 127, and the rules promulgated under this part and part 127
3 remains with the department. An authorized local health department
4 may perform delegated functions authorized by and with direction
5 from the department in accordance with the rules promulgated under
6 section 12817, but the department maintains ultimate enforcement
7 authority.

8 Sec. 12831. If a local unit of government, county, or local
9 health department has a point of sale ordinance or regulation to
10 require evaluations of onsite wastewater treatment systems, the
11 point of sale ordinance or regulation must be consistent with or as
12 stringent as the requirements under this part. Local ordinances and
13 regulations must meet the requirements of sections 1115 and 2441.
14 As used in this section, "local unit of government" means a
15 township, city, or village in this state.

16 Sec. 12833. The department, under part 41 of the natural
17 resources and environmental protection act, 1994 PA 451, MCL
18 324.4101 to 324.4113, and this act, and local health departments
19 under this act, have exclusive jurisdiction over the regulation,
20 permitting, and evaluation of onsite wastewater treatment systems.

21 Enacting section 1. This amendatory act takes effect 90 days
22 after the date it is enacted into law.

23 Enacting section 2. This amendatory act does not take effect
24 unless Senate Bill No. 300 of the 102nd Legislature is enacted into
25 law.

