

**NOTICE OF PROPOSED RULE ADOPTION**

**STATE OF MISSISSIPPI  
MS State Department of Health**

**MS State Department of Health**  
c/o Tim Darnell, Office of Env. Health

**P. O. Box 1700**  
**Jackson, MS 39215-1700**  
601-576-7690

**Telephone Number**  
tim.darnell@msdh.state.ms.us

**Email Address**

**Specific Legal Authority Authorizing the promulgation of Rule:** Section 41-3-15, Section 41-3-17 and Sections 41-67-1 through 41-67-39, MS Code of 1972, Annotated

**Reference to Rules repealed, amended or suspended by the Proposed Rule:**

MS State Department of Health  
Part III - Office of Health Protection  
Subpart 77 - On-site Wastewater, Chapters 1. 16 & 17.

**Explanation of the Purpose of the Proposed Rule and the reason(s) for proposing the rule:**

To revision the Regulation Governing Individual Onsite Wastewater Disposal in order to comply with changes to State Law. Revisions include: Requiring final approval for all on-site systems prior to permanent water connection, maintenance requirements for Alternative Systems, creation of certification requirements for Professional Evaluators and Maintenance Providers, and fees for new certification programs and for certain services.

This rule is proposed as a  Final Rule, and/or a  Temporary Rule (Check one or both boxers as applicable.)

**Persons may present their views on the proposed rule by addressing written comments to the agency at the above address. Persons making comments should include their name and address, as well as other contact information, and if you are an agent or attorney, the name, address and telephone number of the party or parties you represent.**

**Oral Proceeding** (Check one box below):

- An oral proceeding is scheduled on this rule on Date: July 1, 2009 at Time: 9:00am at Location: Osborne Auditorium, room 124

If you wish to be heard and present evidence at the oral proceeding you must make a written request to the agency at the above address at least five (5) days prior to the proceeding to be placed on the agenda. The request should include your name, address, telephone number as well as other contact information; and if you are an agent or attorney, the name, address and telephone number of the party or parties you represent.

- An oral proceeding is not scheduled on this rule. Where an oral proceeding is not scheduled, an oral proceeding will be held if a written request for an oral proceeding is submitted by a political subdivision, an agency or ten (10) persons. The written request should be submitted to the agency contact person at the above address within twenty (20) days after the filing of this notice of proposed rule adoption and should include the name, address and telephone number of the person(s) making the request; and if you are an agent or attorney, the name, address and telephone number of the party or parties you represent.

**Economic Impact Statement** (Check one box below):

- The agency has determined that an economic impact statement is not required for this rule, or
- The concise summary of the economic impact statement required is attached.

The entire text of the Proposed Rule including the text of any rule being amended or changed is attached.

**Date Rule Proposed:** 6/5/09

**Proposed Effective Date of Rule:** 8/7/09

Timothy R. Darnell/Director of Environmental Health  
**Printed Name/Title of Person Submitting Rule for Filing**

\_\_\_\_\_  
**Signature**

**CONCISE SUMMARY OF ECONOMIC IMPACT STATEMENT**  
**STATE OF MISSISSIPPI**  
**MISSISSIPPI STATE BOARD OF HEALTH**  
**MISSISSIPPI STATE DEPARTMENT OF HEALTH**

**MS State Department of Health**  
c/o Tim Darnell

**P. O. Box 1700**  
**Jackson, MS 39215-1700**  
601-576-7690

**Telephone Number**  
tim.darnell@msdh.state.ms.us  
**Email Address**

**Specific Legal Authority Authorizing the promulgation of Rule:** MS Code 14-3-15, 41-3-17 and 41-67-1 through 41-67-39.

**Reference to Rules repealed, amended or suspended by the Proposed Rule:**  
MS Department of Health  
Part III Office of Health Protection  
Subpart 77, On Site Waster water, Chapters 1, 16, & 17.

**An Economic Impact Statement is required for this proposed rule by Section 25-43-3.105 of the Administrative Procedures Law. This is a Concise Summary of the Economic Impact Statement which must be filed with the Notice of Proposed Rule Adoption in the Secretary of State's Office. The full text of the Economic Impact Statement may be obtained from the agency contact person at the above address.**

**Persons may present their views by submitting written comments on the proposed rule adoption to the agency contact person at the above address. Additional information on where, when and how persons may present their views or demand an oral proceeding on the proposed rule are included in the Notice of Proposed Rule Adoption to which this is attached.**

**a. Description of the need for and the benefits of the proposed rule:**

Major revisions to the Mississippi Individual On-site Wastewater Disposal System Law will go into effect on July 1, 2009, and will include creation of certification programs for Professional Evaluators and Maintenance Providers, requiring ongoing maintenance for certain types of on-site systems, and a Statewide requirement that all systems must be approved. These changes will significantly increase programmatic responsibilities, and administrative costs of the On-site Wastewater program. These proposed regulations are promulgated in order to enforce the new provisions of the law and includes new fees in order to defray increased administrative costs. The proposed rule changes implementing these fees will enable the Department to continue providing this service and it will be funded by users of the service without relying on State funds.

**b. Cost estimate to the agency and other state or local government entities:**

Estimated total costs of implementing additional program responsibilities are estimated to be approximately \$ 1,000,000.

**c. Estimate of the cost or economic benefit to all persons:**

The provisions of these regulations are not expected to add significantly to the cost of Individual On-site Wastewater Disposal Systems (IOWDS) for most individuals. People who have alternative systems will be required to either purchase maintenance contracts or perform the maintenance themselves, if qualified. The expected cost of a minimal maintenance contract is about \$200-\$400/yr. These regulations will also increase the cost of a privately designed system \$100-\$200. Fees associated with newly created certifications, would likely not affect installation costs of IOWDS. The benefit of these regulations are that they will allow the Department to focus more of the cost of providing IOWDS services to the individuals who receive the service rather than depending on State Appropriations.

**d. Analysis of the impact on small business:**

There will be very little, if any, affect on small business as a whole. However, small businesses engaged in the IOWDS industry will be affected. Business costs for these companies may increase anywhere from \$75 to \$1200/year.

**e. Comparison of the costs and benefits of the proposed rule to the probable costs and benefits of not adopting the rule:**

If the proposed rule is adopted, the Department will be able to implement the new provisions of the law, and provide IOWDS services which will, in turn, insure appropriate IOWDS are installed and reduce failure rates from improper installation. If this rule is not adopted, the Department will have to rely more on State Appropriations to provided approval services.

**f. Determination as to whether less costly or less intrusive methods exist to achieve the purpose of the rule:**

No less costly methods or less intrusive methods were identified for implementing the purpose of this rule.

**g. Description of reasonable alternative methods and reasons for rejection of the alternative methods:**

The proposed rules are necessary to fully implement all provisions of applicable State law.

**h.** Data and methodology in making the estimates in the economic impact statement:

The Department costs for establishing the fee proposed by this rule are as follows: Travel @ \$0.535 cents per mile, staff time, \$30/hr (professional) and \$16/hr (clerical), with an additional 10% for overhead. The cost of a maintenance contract was estimated from estimates from industry.

---

**Date Rule Proposed:** 06/05/2009

**Proposed Effective Date of Rule:** 08/07/2008

**Signature and Title of Person Submitting Rule for Filing**

SOS FORM APA 004  
Effective Date 07/29/2005