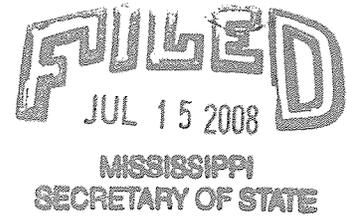


NOTICE OF RULE ADOPTION—FINAL RULE



STATE OF MISSISSIPPI
Department of Finance and Administration

Department of Finance and Administration
Kym Wiggins
501 North West Street
Suite 1301, Woolfolk Building
Jackson, Mississippi
Handmail
601-359-3566
wiggink@dfa.state.ms.us

Specific Legal Authority authorizing the promulgation of
Rule: SB 3007, Laws of 2008

Reference to Rules repealed, amended or suspended by the
Proposed Rule: none

Date Rule Proposed: June 6, 2008

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

Requirement of SB 3007, Laws of 2008, for the Department of Finance and Administration to adopt certain rules and regulations regarding energy performance of state-funded buildings throughout the state

The Agency Rule Making Record for this rule including any written comments received during the comment period and the record of any oral proceeding is available for public inspection by contacting the Agency at the above address.

[] An oral proceeding was held on this rule:

Date: {Insert Date}
Time: {Insert Time}
Place: {Insert Place}

[X] An oral proceeding was not held on this rule.

The Agency has considered the written comments and the presentations made in any oral proceedings, and

[] This rule as adopted is without variance from the proposed rule.

[] This rule as adopted differs from the proposed rule as there are minor editorial changes which affect the form rather than the substance of the rule.

[] The rule as adopted differs from the proposed rule. The differences however are:
Within the scope of the matters in the Notice of Proposed Rule Adoption, the logical outgrowth of the contents of the Notice of Proposed Rule Adoption and the comments submitted in response thereto, and
The Notice of Proposed Rule Adoption provided fair warning that the outcome of the proposed rule adoption could be the rule in question.

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

Effective Date of Rule: July 7, 2008

J. K. Stringer, Jr., Executive Director
Department of Finance and Administration

FILED
JUN 06 2008
MISSISSIPPI
SECRETARY OF STATE

NOTICE OF PROPOSED RULE ADOPTION

STATE OF MISSISSIPPI

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Specific Legal Authority authorizing the promulgation of
Rule: SB 3007, Laws of 2008;
Public Procurement Review Board

Reference to Rules repealed, amended or suspended by the
Proposed Rule: none

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Requirement of SB 3007, Laws of 2008, for the Department of Finance and Administration to adopt certain rules and regulations regarding energy performance of state-funded buildings throughout the state

This rule is proposed as a Final Rule, and/or a ___ Temporary Rule (Check one or both boxes 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: {Insert Date} Time: {Insert Time}
Place: {Insert Place}

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 ___ day(s) 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:

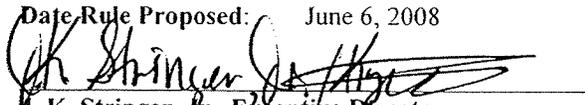
The agency has determined that an economic impact statement is not required for this rule, or

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: June 6, 2008

Proposed Effective Date of Rule: July 7, 2008


J. K. Stringer, Jr., Executive Director
Department of Finance and Administration

SOS FORM APA 001
Effective Date 07/29/2005

Economic Impact

1. Reduction target of 30% in energy consumption in the policy should theoretically translate into 30% reduction in energy cost over a "typical" building. For renovation projects this would represent a real savings over current energy use/costs of up to 30%. For new construction it is really just theoretical as you are still adding energy usage when you bring a new building online, just less than a "typical" building.

2. The water saving fixtures required should reduce water use and therefore cost. (again, real savings for renovation projects, theoretical for new construction as you are still increasing water use)

3. Preference for renovation over new construction would theoretically eventually reduce overall construction costs for the State, however; in the near future, due to years of neglect to existing facilities, no immediate reduced costs would be seen (ie: instead of one new building, we would just renovate two with the same money)

4. Other items in the policy conceptually mean less impact on the Earth's resources but would probably be unmeasurable in the real world.

SUSTAINABILITY POLICY

Sustainable design seeks to reduce negative impacts on the environment and optimize use of non-renewable resources. In order to optimize site potential, conserve water, minimize energy consumption, promote use of local and environmentally preferable products, the Bureau has set forth the following policy for sustainable design for state-funded buildings throughout the state, in accordance with the following 2008 Legislative mandate and in accordance with the Memorandum of Direction from the Department of Finance and Administration to the Bureau to comply.

Senate Bill 3007, Laws of 2008 (hereinafter referred to as SB3007, L'08). AN ACT TO REQUIRE THE DEPARTMENT OF FINANCE AND ADMINISTRATION TO ADOPT CERTAIN RULES AND REGULATIONS REGARDING ENERGY PERFORMANCE OF STATE-FUNDED BUILDINGS THROUGHOUT THE STATE; TO PROVIDE THAT EACH MAJOR FACILITY CONSTRUCTION PROJECT SHALL BE DESIGNED AND CONSTRUCTED TO EXCEED THE REQUIREMENTS OF THE ENERGY CONSERVATION GUIDES ADOPTED BY THE DEPARTMENT OF FINANCE AND ADMINISTRATION BY AT LEAST 30% UNDER CERTAIN CIRCUMSTANCES; AND FOR RELATED PURPOSES

A. SITE ISSUES

1. Development of inappropriate sites shall be avoided where possible.
2. Repair and renovation of existing facilities and/or expansion/redevelopment of currently developed sites shall be given preference to development of virgin sites.
3. Development of sites shall be executed with the goal of maximizing open and/or vegetative space and minimizing heat islands.
 - (a) Solar Reflectance Index for paving and roofing materials shall be a consideration for product selection.
 - (b) Inclusion of trees in parking lot designs which will provide shade within five (5) years of occupancy shall be a consideration.

B. WATER EFFICIENCY

1. Specification of indigenous and/or drought resistant plants shall be considered to reduce dependence on potable water irrigation systems.
2. High efficiency plumbing fixtures shall be specified where feasible. Waterless fixtures are not required or preferred.

C. ENERGY PERFORMANCE

1. Each major facility project shall be designed and constructed to exceed the baseline requirements of the Energy Conservation Code [See 400.1] adopted by the Department of Finance and Administration/Bureau of Building, Grounds and Real Property Management by at least thirty percent (30%). [SB3007, L'08] For the purposes of this requirement, a major facility project is defined as:
 - (a) From July 1 through December 31, 2009, any new construction project larger than twenty thousand (20,000) gross square feet
 - (b) From January 1, 2010, through December 31, 2010, any new construction project larger than fifteen thousand (15,000) gross square feet
 - (c) From January 1, 2011, through December 31, 2011, any new construction project larger than ten thousand (10,000) gross square feet
 - (d) From January 1, 2012, and thereafter, any new construction project larger than five thousand (5,000) gross square feet
 - (e) Any repair and renovation project which involves more than fifty percent (50%) of the replacement value of the facility.
2. Exempt from this requirement are any major facility projects which do not have conditioned space as defined by ASHRAE 90.1. [SB3007, L'08]
3. Exempt from this requirement are any major facility projects where compliance is not cost effective. For the purposes of this requirement, cost effectiveness shall mean payback within a seven (7) year time period. Documentation of such exemption, including justification and identification of reduced energy performance goal (if any), shall be recorded in the Minutes of the Governing Board having jurisdiction for the facility (for Bureau projects, documentation shall be via Standard Approval Form).

4. Baseline requirements shall be as defined by the prescriptive compliance path of ASHRAE 90.1
5. Where performance above baseline is required, Energy Cost Budget Method of ASHRAE 90.1 shall be used to document compliance.
6. All major facility projects shall be commissioned by a Commissioning Authority Professional independent of the Prime Professional for the project to assure that all energy related systems are installed, calibrated and perform according to project requirements and the Contract Documents. The Commissioning Authority Professional (individual and firm) shall be registered to practice engineering in the State of Mississippi and shall be either certified by the Building Commissioning Association as a certified commissioning professional and/or accredited by the University of Wisconsin-Madison as a commissioning process provider

D. PRODUCT SELECTION

1. Where materials, finishes, furnishings, and other products made in or incorporating materials produced in Mississippi meet project requirements, the Professional shall include such products in the specifications. [SB3007, L'08]
 - (a) Where both Mississippi manufactured products and non-Mississippi manufactured products are identified as equals, product origin shall not constitute a bid preference.
 - (b) Where only one Mississippi product meets project requirements, this shall not justify single source exception from bidding requirements. [Mississippi Code 1972, Annotated, Sec.31-7-13-m(viii)]
 - (c) A listing of Mississippi manufacturers is available from the Mississippi Development Authority www.mississippi.org
2. Where materials, finishes, furnishings, and other products with recycled content are available, are cost-effective and meet project requirements, Professional shall consider specifying these products over comparable products without recycled content.
 - (a) Where both recycled content products and products without recycled content are identified as equals, recycled content shall not constitute a bid preference.
 - (b) Where only one manufacturer meets recycled content goal, this shall not justify single source exception from bidding requirements. [Mississippi Code 1972, Annotated, Sec.31-7-13-m(viii)]
3. Where materials, finishes, furnishings, and other products with low volatile organic compound emissivity are available, are cost-effective and meet project requirements, Professional shall consider specifying these products over comparable products with higher volatile organic compound emissivity.
 - (a) Where both low VOC products and higher VOC products are identified as equals, VOC emissivity shall not constitute a bid preference.
 - (b) Where only one manufacturer meets low VOC goal, this shall not justify single source exception from bidding requirements. [Mississippi Code 1972, Annotated, Sec.31-7-13-m(viii)]
4. Where materials, finishes, furnishings, and other products containing rapidly renewable materials are available, are cost-effective and meet project requirements, Professional shall consider specifying these products over comparable products without rapidly renewable material content.
 - (a) Where both rapidly renewable content products and products without rapidly renewable content are identified as equals, rapidly renewable content shall not constitute a bid preference.
 - (b) Where only one manufacturer meets low rapidly renewable content goal, this shall not justify single source exception from bidding requirements. [Mississippi Code 1972, Annotated, Sec.31-7-13-m(viii)]