

**Mississippi Secretary of State**  
700 North Street P. O. Box 136, Jackson, MS 39205-0136

**ADMINISTRATIVE PROCEDURES NOTICE FILING**

AGENCY NAME Mississippi Department of Revenue		CONTACT PERSON Stephanie Rogers	TELEPHONE NUMBER 601-923-7441	
ADDRESS PO Box 22828		CITY Jackson	STATE MS	ZIP 39225
EMAIL stephanie.rogers@dor.ms.gov	SUBMIT DATE 7/7/17	Name or number of rule(s): Title 35, Part IV, Subpart 9, Chapter 02 Beverage and Food Businesses. Concise summary of economic impact statement regarding system number 22587 proposed on 3/24/17.		

Short explanation of rule/amendment/repeal and reason(s) for proposing rule/amendment/repeal: This amended rule is intended to provide guidance concerning issues related to the term Prepared Food. **The rule was filed on March 24, 2017. Accompanying this notice is the Concise Summary of Economic Impact Statement for said rule.**

Specific legal authority authorizing the promulgation of rule: Miss. Code Ann. Section 27-65-93, "(1) The commissioner shall, from time to time, promulgate rules and regulations, not inconsistent with the provisions of the sales tax law, for making returns and for the ascertainment, assessment and collection of the tax imposed by the sales tax law as he may deem necessary to enforce its provisions."

List all rules repealed, amended, or suspended by the proposed rule: Miss. Admin Rule 35.IV.9.02 Beverage and Food Businesses

**ORAL PROCEEDING:**

- An oral proceeding is scheduled for this rule on Date: \_\_\_\_\_ Time: \_\_\_\_\_ Place: \_\_\_\_\_
- Presently, an oral proceeding is not scheduled on this rule.

If an oral proceeding is not scheduled, an oral proceeding must be held if a written request for an oral proceeding is submitted by a political subdivision, an agency or ten (10) or more 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, email address, and telephone number of the person(s) making the request; and, if you are an agent or attorney, the name, address, email address, and telephone number of the party or parties you represent. At any time within the twenty-five (25) day public comment period, written submissions including arguments, data, and views on the proposed rule/amendment/repeal may be submitted to the filing agency.

**ECONOMIC IMPACT STATEMENT:**

- Economic impact statement not required for this rule.  Concise summary of economic impact statement attached.

TEMPORARY RULES	PROPOSED ACTION ON RULES	FINAL ACTION ON RULES
_____ Original filing _____ Renewal of effectiveness To be in effect in _____ days Effective date: _____ Immediately upon filing _____ Other (specify): _____	<b>Action proposed:</b> _____ New rule(s) _____ Amendment to existing rule(s) _____ Repeal of existing rule(s) _____ Adoption by reference <b>Proposed final effective date:</b> _____ 30 days after filing _____ Other (specify): _____	<b>Date Proposed Rule Filed:</b> _____ <b>Action taken:</b> _____ Adopted with no changes in text _____ Adopted with changes _____ Adopted by reference _____ Withdrawn _____ Repeal adopted as proposed <b>Effective date:</b> _____ 30 days after filing _____ Other (specify): _____

Printed name and Title of person authorized to file rules: Stephanie Rogers, Office Director, Tax Policy

Signature of person authorized to file rules: *Stephanie Rogers*

OFFICIAL FILING STAMP 	DO NOT WRITE BELOW THIS LINE OFFICIAL FILING STAMP 	OFFICIAL FILING STAMP 
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Accepted for filing by

Accepted for filing by #22848

Accepted for filing by

*[Handwritten signature]*

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



DELBERT HOSEMANN  
Secretary of State

**CONCISE SUMMARY OF ECONOMIC IMPACT STATEMENT**

An Economic Impact Statement is required for this proposed rule by Section 25-43-3.105 of the Administrative Procedures Act. This is a Concise Summary of the Economic Impact Statement which must be filed with the Secretary of State's Office.

AGENCY NAME Mississippi Department of Revenue	CONTACT PERSON Stephanie Rogers	TELEPHONE NUMBER 601-923-7441
ADDRESS P.O. Box 22828	CITY Jackson	STATE MS
EMAIL stephanie.rogers@dor.ms.gov	DESCRIPTIVE TITLE OF PROPOSED RULE Beverage and Food Businesses	
Specific Legal Authority Authorizing the promulgation of Rule: Miss. Code Ann. Sections 27-3-31, 27-65-93	Reference to Rules repealed, amended or suspended by the Proposed Rule: 35 Miss. Admin. Code Pt. IV, R. 9.02 - Beverage and Food Businesses	

**A. Estimated Costs and Benefits**

1. Briefly summarize the benefits that may result from this regulation and who will benefit:

The benefits that may result from the proposed amendment to this regulation include providing greater clarity and guidance regarding the definition of "prepared food".

2. Briefly describe the need for the proposed rule:

Many municipalities in this state have instituted local and private laws taxing prepared food. These taxes are reported to the DOR on the taxpayers' sales tax returns. However, there is no definition of "prepared food" in the law. The DOR has provided a definition to clarify what is and is not considered to be prepared food.

3. Briefly describe the effect the proposed action will have on the public health, safety, and welfare:  
None

4. Estimated Cost of implementing proposed action:

- a. To the agency  
 Nothing  Minimal  Moderate  Substantial  Excessive
- b. To other state or local government entities  
 Nothing  Minimal  Moderate  Substantial  Excessive

5. Estimated Cost and/or economic benefit to all persons directly affected by the proposed rule:

- c. Cost:  
 Nothing  Minimal  Moderate  Substantial  Excessive
- d. Economic Benefit:  
 Nothing  Minimal  Moderate  Substantial  Excessive

6. Estimated impact on small businesses:

- Nothing  Minimal  Moderate  Substantial  Excessive

- a. Estimate of the number of small businesses subject to the proposed regulation:
  - b. Projected costs for small businesses to comply: None
  - c. Statement of probable effect on impacted small businesses: None
7. The cost of adopting the rule compared to not adopting the rule or significantly amending the existing rule (check option):
- substantially less than  moderately less than  minimally less than
  - the same as  minimally more than  moderately more than
  - substantially more than  excessively more than
8. The benefit of adopting the rule compared to not adopting the rule or significantly amending the existing rule (check option):
- substantially less than  moderately less than  minimally less than
  - the same as  minimally more than  moderately more than
  - substantially more than  excessively more than

**B. Reasonable Alternative Methods**

1. Other than adopting this rule, are there less costly or less intrusive methods for achieving the purpose of the proposed rule?
- yes  no
2. If yes, please briefly describe available, reasonable alternative(s) and the reasons for rejecting those alternatives in favor of the proposed rule. (Please see §25-43-4.104 for factors you must consider.)

**C. Data and Methodology**

1. Please briefly describe the data and methodology you used in making the estimates required by this form.

The DOR determined the number of businesses subject to the proposed amendment by totaling the number of sales tax payers filing using a NAICS code relevant to the food and beverage business and located in areas that have enacted local and private laws taxing food. Because the proposed amendment to the rule is simply intended to provide a definition of prepared food, and does not impose any requirements, responsibilities or duties on anyone outside of those imposed contained in the Sales Tax Code, the Department determined that the rule does not impose added costs on the Department or other agencies, or on businesses subject to the rule or other small businesses.

**D. Public Notice**

1. Where, when, and how may someone present their views on the proposed rule and request an oral proceeding on the proposed rule if one is not already scheduled?

The proposed rule was filed on March 24, 2017, and a public hearing on the proposed rule was held on April 26, 2017, at 3:30 p.m. at the Department of Revenue, 500 Clinton Center Dr., Clinton, MS 39056. Anyone wishing to do so may present their views on the proposed rule in writing by emailing their views to [stephanie.rogers@dor.ms.gov](mailto:stephanie.rogers@dor.ms.gov), or by mail to P.O. Box 22828, Jackson, MS 39225, or by mail or hand delivery to 500 Clinton Center Dr., Clinton, MS 39056, ATTN: Stephanie Rogers. Said written presentations must be submitted no later than 5:00 p.m. on July 27, 2017.

SIGNATURE

*Steph King*

DATE

7/7/17

TITLE

Office Director – Tax Policy

PROPOSED EFFECTIVE DATE OF  
RULE

August 28, 2017