Rules of the Mississippi Board of Tax Appeals

Title 35: Tax

Part 101: Rules of the Mississippi Board of Tax Appeals

Part 101 Chapter 1: Creation, Purpose and Transition from the State Tax Commission

Rule 1.1 Creation and Purpose of the Board. The Board of Tax Appeals is a quasi-judicial state agency independent of the Department of Revenue that was created by the Mississippi Legislature to hear administrative appeals from orders of the Board of Review of the Department of Revenue and from other specific acts of the Department of Revenue.

Source: *Miss. Code Ann.* § 27-4-3(1)(a) (Rev. 2010)

Rule 1.2 Transition from the State Tax Commission. The rules set out in Part 101 of this Title shall apply to those administrative appeals filed with the Board of Tax Appeals where the assessment, refund claim, request for waiver of a tag penalty, the suspension, revocation, surrender, seizure or denial of permit, tag or title, the suspension, revocation or denial of an ABC permit, ABC manager status, qualified resort area or forfeiture of property under the ABC law involved in the appeal occurred on or after July 1, 2010. If an assessment, refund claim, request for waiver of a tag penalty, the suspension, revocation, surrender, seizure or denial of permit, tag or title, the suspension, revocation or denial of an ABC permit, ABC manager status, qualified resort area or forfeiture of property under the ABC law occurred prior to July 1, 2010, the regulations of the State Tax Commission and the statutes which were in effect prior to July 1, 2010 shall apply to such actions. The only exception to application of the regulations of the State Tax Commission and the statutes which were in effect prior to July 1, 2010 to such actions is that the Board of Tax Appeals shall hear and consider the final administrative appeal of such action instead of the three (3) member State Tax Commission.

Source: *Miss. Code Ann.* § 27-4-3(1)(a) (Rev. 2010)

Part 101 Chapter 2: Definitions

Rule 2.1 Definitions. The words, terms and phrases defined in Miss. Code Ann. § 27-77-1 shall have the same meaning as that set out in Miss. Code Ann. § 27-77-1 when used in Part 101 of Title 35 unless the context requires otherwise. In addition, the following words, terms and phrases when used in Part 101 of Title 35 shall have the following meaning unless the context requires otherwise:

A. ABC Division means the division within the Department of Revenue responsible for the administration and enforcement of the ABC law.
B. ABC law means the Local Option Alcoholic Beverage Control Law and the Mississippi Native Wine Act of 1976.
C. ABC manager status means the approval from the ABC Division that a person is required to receive to become a manager of a business holding an ABC permit.

D. ABC permit means a permit issued by the ABC Division under the ABC law.

E. ABC permittee means a person holding an ABC permit, applying for the issuance or transfer of an ABC permit or renewing an ABC permit.

F. Administrative appeal means any appeal or other proceeding which the Board of Tax Appeals is authorized to hear and decide, including, but not limited to, an appeal to the Board under Miss. Code Ann. § 27-33-41(i), § 27-35-113(7), § 27-77-5, § 27-77-11 and § 27-77-12, an objection to an assessment under Miss. Code Ann. § 27-35-309, § 27-35-311, § 27-35-325, § 27-35-517 and § 27-35-703, an appeal to the Board under Miss. Code Ann. § 67-1-72(1), (2), (3) and (4), a written objection and request for a hearing under Miss. Code Ann. § 67-1-72(5) and (6) and a request for a hearing under Miss. Code Ann. § 67-1-72(7).

G. Administrative hearing officer means a person appointed by the commissioner of the Department of Revenue to hear an appeal on the intended suspension, surrender, seizure or revocation of a permit, IFTA license, IRP credential, IRP registration, tag and/or title.

H. Ad valorem assessment means an assessment for ad valorem purposes issued by the Department of Revenue for the assessment of railroads and other public service companies under Miss. Code Ann. § 27-35-309, the assessment of property escaping taxation under Miss. Code Ann. § 27-35-325, the assessment of railcar companies under Miss. Code Ann. § 27-35-501, or the assessment of aircraft of airline companies under Miss. Code Ann. § 27-35-703.

I. Appellant means the party in the administrative appeal that filed the written appeal or written objection with the Executive Director that initiated the administrative appeal before the Board. Appellant shall also mean a person who filed with the ABC Division a written objection and request for hearing in regard to the issuance or transfer of an ABC permit and/or the declaration of an area or locality as a qualified resort area of which the Executive Director was advised by the ABC Division under Miss. Code Ann. § 67-1-72(5) & (6) for the purpose of setting a hearing.

J. Associate member means an associate member of the Board of Tax Appeals.

K. Board, except when included in the phrases "Review Board" or "Board of Supervisors", means the Board of Tax Appeals as created under Miss. Code Ann. § 27-4-1.

L. Business day or working day means any day on which the Board of Tax Appeals is open.

M. Day means calendar day except when appearing in the phrases "business day" or "working day".

N. Department or Department of Revenue means the Commissioner of Revenue acting directly or through his duly authorized officers, agents, representatives and employees, to perform duties and powers prescribed by the laws of this state to be performed by the Commissioner or the Department of Revenue.

O. Document means any book, paper, account, letter, map, photograph, film, card, tape recording or reproduction thereof, and any other documentary material, regardless of physical form or characteristics, including, but not limited to, such materials maintained electronically on a computer, server or other electronic storage media.

P. Electronic transmission means information or a document being communicated or transmitted by fax or e-mail.

Q. He means he, she, it or they and may refer to any type of person that by statute can file an administrative appeal to be heard by the Board. The masculine gender shall be deemed to include the feminine. The plural shall be deemed to include the singular and vice versa.

R. Party means any person or entity who is a party to an administrative appeal filed with the Board of Tax Appeals, including, but not limited to, the Department and the ABC Division.

S. Public record shall have the same meaning as set out in Miss. Code Ann. § 25-61-3 for that term unless the context requires otherwise.

T. Record means any book, paper, account, letter, map, photograph, film, card, tape recording or reproduction thereof, and any other documentary material, regardless of physical form or characteristics, including, but not limited to, such materials maintained electronically on a computer, server or other electronic storage media.

U. Review Board means the Review Board of the Department of Revenue as appointed by the commissioner pursuant to Miss. Code Ann. § 27-77-3.

V. Qualified resort area shall have the same meaning of that term as set out in Miss. Code Ann. § 67-1-5 but excluding those areas or localities included in the definition of that term in Miss. Code Ann. § 67-1-5 that do not require the declaration of same by the Department as a qualified resort area.

Source: *Miss. Code Ann.* § 27-4-3(1)(a) (Rev. 2010)

Part 101 Chapter 3: General Information

Rule 3.1 Addresses and Contact Information for the Board and Executive Director.

A. The offices of the Board are located at:
2679 Crane Ridge Drive, Suite A
Jackson, MS 39216-4997

B. The contact information for the Board and the Executive Director is:
Mailing Address: 2679 Crane Ridge Drive, Suite A
Jackson, MS 39216-4997
Telephone No.: (601) 981-3025
Fax No.: (601) 981-6810
E-mail Address: ExecutiveDirector@bta.ms.gov.

Source: *Miss. Code Ann.* § 27-4-3(1)(a) (Rev. 2010)

Rule 3.2 Membership of the Board, Presiding Member and Quorum.

A. The Board consists of three (3) members: one (1) chairman and two (2) associate members. Members are appointed by the Governor and confirmed by the Mississippi Senate for staggered six (6) year terms.

B. The member appointed and confirmed as Chairman of the Board shall, when present, preside over the meetings and hearings of the Board. In the Chairman's absence, the associate board member having the longest continuous tenure on the Board shall preside.
C. Any two (2) members of the Board shall constitute a quorum for the transaction of business. Formal adoption of the decision of the Board in regard to any administrative appeal requires the presence of a quorum.

Source: *Miss. Code Ann.* § 27-4-3(1)(a) (Rev. 2010)

Rule 3.3 Jurisdiction. When filed by the appropriate person, as provided by statute, the Board has jurisdiction to hear timely administrative appeals in regard to the following matters:

A. Decisions of the Review Board regarding the assessment of taxes, the denial of tax refunds or the denial of a request for waiver of tag penalty;
B. Decisions of the Review Board and administrative hearing officers of the Department regarding the suspension, surrender, seizure and/or revocation of a permit, IFTA license, IRP credential, IRP registration, tag, motor vehicle title or manufactured housing title;
C. Decisions of the Review Board regarding the denial of a permit, IFTA license, IRP credential, IRP registration, tag, motor vehicle title or manufactured housing title;
D. Decisions of the ABC Division to revoke or suspend an ABC permit, qualified resort area or ABC manager status;
E. Decisions of the ABC Division to deny an application for the issuance or transfer of an ABC permit;
F. Written objections and requests for a hearing regarding an application for issuance or transfer of an ABC permit;
G. Decisions of the ABC Division to deny the renewal of an ABC permit;
H. Decisions of the ABC Division to deny the application for a qualified resort area;
I. Written objections and requests for a hearing regarding an application for a qualified resort area;
J. Decisions of the ABC Division to deny the application of a person for ABC manager status;
K. Written requests for a hearing on the proposed disposal of alcoholic beverages or raw materials under Miss. Code Ann. § 67-1-18;
L. Decisions of the Department under Miss. Code Ann. § 27-33-41(i) to deny the objection of a Board of Supervisors to the Department's rejection of an application for homestead exemption;
M. Decisions of the Department regarding examination of the recapitulation of the assessment rolls of a county under Miss. Code Ann. § 27-35-113;
N. Written objections to ad valorem assessments by the Department of railroads and other public service companies under Miss. Code Ann. § 27-35-309;
O. Written objections to ad valorem assessments by the Department of property escaping taxation under Miss. Code Ann. § 27-35-325;
P. Written objections to railcar assessments by the Department under Miss. Code Ann. § 27-35-501;

Q. Written objections to ad valorem assessments by the Department of aircraft under Miss. Code Ann. § 27-35-703; and
R. In other matters as provided by law.

Source: *Miss. Code Ann.* § 27-4-3(1)(a) (Rev. 2010)

Rule 3.4 Meetings and Hearings; Frequency, Location and Exemption from the Mississippi Open Meetings Act

A. The Board shall meet at least one (1) day a month. The date, time and location of the meetings of the Board shall be set by the Board.
B. Once a meeting of the Board is called to order, the Board shall be considered to be in continuous session from day to day until the meeting is formally adjourned on motion and majority vote of the members present.
C. That portion of any meeting or hearing of the Board held in regard to an administrative appeal filed under Miss. Code Ann. § 27-77-5, § 27-77-9, § 27-77-11 or § 27-77-12, which are appeals from orders of the Review Board and from orders of administrative hearing officers, shall be closed to the public and is exempt from the requirements of the Mississippi Open Meetings Law, Miss. Code Ann. § 25-41-1 et seq. That portion of any meeting or hearing of the Board regarding all other administrative appeals, including, but not limited to, appeals under Miss. Code Ann. § 67-1-72 regarding ABC matters, appeals regarding the denial of an objection by a Board of Supervisors to the Department's rejection of an homestead exemption application under Miss. Code Ann. § 27-33-41, appeals regarding ad valorem assessments under Miss. Code Ann. § 27-35-309, § 27-35-311, § 27-35-325, § 27-35-517 or § 27-35-703 and appeals by a county from the decision of the Department in regard to its examination of recapitulations of the ad valorem rolls of that county under Miss. Code Ann. § 27-35-113, shall be open to the public and subject to the requirements of the Mississippi Open Meetings Law, Miss. Code Ann. § 25-41-1 et seq. If necessary, when an administrative appeal filed under Miss. Code Ann. § 27-77-5, § 27-77-9, § 27-77-11 or § 27-77-12 is to be heard or discussed, the presiding board member may order the removal of any person not involved in the administrative appeal being heard or who is not necessary for the Board's deliberation on such an appeal.

Source: *Miss. Code Ann.* § 27-4-3(1)(a) (Rev. 2010)

Rule 3.5 Requests for Information and Documents of the Board of Tax Appeals.

A. Information concerning the Board can be obtained by calling or writing the Board or the Executive Director and/or from the Board's website (www.bta.ms.gov).
B. Any request for inspection, copying and/or other reproduction of any public record of the Board shall be made in writing to the Executive Director, the custodian of the records of the Board. Within seven (7) working days from the date of the receipt of the request, the Executive Director shall provide the public record requested or provide the person making the request with an explanation as to why the public

record cannot be produced within this seven (7) working day period. If the reason the public record requested was not produced is because the record is exempt from such disclosure or production, this explanation shall also state the specific exemption upon which the Executive Director relies in determining that the record requested is exempt.

C. Where it is determined that the public record requested should be disclosed or produced and the person requesting the record has pre-paid the cost of this production in sufficient time to allow for the location and copying of the record to be produced, the Executive Director shall, if possible, produce the public record requested within seven (7) working days from receipt of the request, and if not, within fourteen (14) working days from receipt of the request unless additional time is agreed to by the person requesting the public record. If the person requesting the public record has not pre-paid the cost of production within sufficient time to locate and copy the public record within this fourteen (14) working day period, the public record will be produced within a reasonable time after receiving the pre-payment of the cost of the production.

D. Information and records of the Board concerning administrative appeals from orders of the Review Board and from orders of administrative hearing officers are prohibited from being divulged and are exempt from the Mississippi Public Records Act of 1983, Miss. Code Ann. § 25-61-1 et seq., except as provided in Miss. Code Ann. § 27-77-15.

E. Information and public records of the Board concerning administrative appeals other than those from orders of the Review Board and from orders of administrative hearing officers, including, but not limited to, appeals regarding ABC matters under Miss. Code Ann. § 67-1-72, denials of objections to the Department's rejections of homestead exemption applications under Miss. Code Ann. § 27-33-41, objections to ad valorem assessments under Miss. Code Ann. § 27-35-309, § 27-35-311, § 27-35-325, § 27-35-517 or § 27-35-703 and appeals by counties from the decision of the Department in regard to its examination of recapitulations of the ad valorem rolls of counties under Miss. Code Ann. § 27-35-113, are subject to the Mississippi Public Records Act of 1983, Miss. Code Ann. § 27-61-1 et seq. and thereby subject to being disclosed, inspected, copied and/or mechanically reproduced as provided by that act and in accordance to the procedures set out in subsections B and C above.

F. The records of the Board shall be retained in accordance with the record retention schedules approved by the state records committee for such documents. Upon expiration of the applicable time period set out in the approved record retention schedules, the records shall be destroyed, or when appropriate, transferred to the Mississippi State Archives.

G. The fees for inspection, copying or reproducing records of the Board are as follows:
   1) If the record requested is maintained by the Board as a paper document, the fees for inspection and copying will be as follows:
      (a) $2.50 for locating each paper document requested;
      (b) $0.50 for each page of the paper document to be copied;
      (c) The cost of postage or other delivery charges if the copy of the document is to be mailed through the US postal service or delivered through another delivery service (FedEx, UPS, etc.).

2) If the record requested is maintained by the Board in an electronic form, including, but not limited to, any audio and/or video recording of a hearing maintained on tape, cd, dvd or on any other storage media, the fee to be charged will be the actual cost incurred by the Board to retrieve, produce, copy and provide the record, including, but not limited to, the following:
   (a) Any software or programming costs;
   (b) Any charges from the Department of Information Technology Services;
   (c) Any charges for services provided by a private provider of information technology, computer and/or audio visual services;
   (d) Operation cost of computer and/or printer;
   (e) Paper cost if printed and provided on paper;
   (f) Cost of the storage media (tape, cd, dvd, etc.) to which the record is copied;
   (g) Time spent by a Board employee to retrieve, produce, copy and/or print the record; and
   (h) The cost of postage or other delivery charges if the record is to be mailed through the US postal service or delivered through another delivery service (FedEx, UPS, etc.).
3) If the person requesting the record also requests that a record be certified as true and correct by the Executive Director, the fee for such certification shall be $1.00 for each record so certified.

H. The Board or the Executive Director shall waive the fee set out above for any request for records by another state agency, including, but not limited to, the State Auditor, the Department or the ABC Division.

Source: *Miss. Code Ann.* § 27-4-3(1)(a) (Rev. 2010)

Rule 3.6 Declaratory Opinions.

A. This rule sets forth the Board's requirements governing the form, content, and filing of requests for declaratory opinions, the procedural rights of persons in relation to the written requests, and the Board's procedures regarding the disposition of requests as required by the Miss. Code Ann. § 25-43-2.103.
B. The Board will issue declaratory opinions regarding the applicability to specified facts of:
   1) a statute administered or enforceable by the Board,
   2) a rule promulgated by the Board, or
   3) an order issued by the Board.
C. A request must be limited to a single transaction or occurrence.
D. When a person with a substantial interest, as required by section 25-43-2.103 of the Administrative Procedures Act, requests a declaratory opinion, the requestor must submit a printed, typewritten, or legibly handwritten request.
   1) Each request must be submitted on 8-1/2" x 11" white paper.
   2) The request may be in the form of a letter addressed to the Board or in the form of a pleading as if filed with a court.
   3) Each request must include the full name, telephone numbers, and mailing address of the requestor(s).

4) All requests shall be signed by the person filing the request, unless represented by an attorney, in which case the attorney may sign the request.
5) Each request must clearly state it is a request for a declaratory opinion.

E. Any party who signs the request shall attest that the request complies with the requirements set forth in these rules, including but not limited to a full, complete, and accurate statement of relevant facts ant that there are not related proceedings pending before any agency, administrative or judicial tribunal.

F. Each request must contain the following:
1) A clear identification of the statute, rule, or order at issue;
2) The question for the declaratory opinion;
3) A clear and concise statement of all facts relevant to the question presented;
4) The identity of all other known persons involved or impacted by the facts giving rise to the request including their relationship to the facts, and their name, mailing address, and telephone number; and
5) A statement sufficient to show that the requestor has a substantial interest in the subject matter of the request.

G. The Board may, for good cause, refuse to issue a declaratory opinion. The circumstances in which declaratory opinions will not be issued include, but are not necessarily limited to:
1) The matter is outside the primary jurisdiction of the Board;
2) Lack of clarity concerning the question presented;
3) There is pending or anticipated litigation, administrative action or anticipated administrative action, or other adjudication which may either answer the question presented by the request or otherwise make an answer unnecessary.
4) The statute, rule, or order on which the declaratory opinion is sought is clear and not in need of interpretation to answer the question presented;
5) The facts presented in the request are not sufficient to answer the question presented;
6) The request fails to contain information required by these rules or the requestor failed to follow the procedure set forth in these rules;
7) The request seeks to resolve issues which have become moot or are abstract or hypothetical such that the requestor is not a substantially affected by the rule, statute or order on which the declaratory opinion is sought;
8) No controversy exists or is certain to arise which raises a question concerning the application of the statute, rule or order.
9) The question presented by the request concerns the legal validity of a statute, rule or order;
10) The request is not based upon facts calculated to aid in the planning of future conduct, but is, instead, based on past conduct in an effort to establish the effect of that conduct;
11) No clear answer is determinable;
12) The question presented by the request involves the application of a criminal statute or sets forth facts which may constitute a crime;
13) The answer to the question presented would require the disclosure of information which is privileged or otherwise protected by law from disclosure;

14) The question is currently the subject of an Attorney General's opinion;
15) The question has been answered by an Attorney General's opinion;
16) One or more requestors have standing to seek an Attorney General's opinion on the proffered question;
17) A similar request is pending before this agency or any other agency, or a proceeding is pending on the same subject matter before any agency, administrative or judicial tribunal, or where such an opinion would constitute the unauthorized practice of law; or
18) The question involves eligibility for a license, permit, certificate or other approval by the Board or some other agency and there is a statutory or regulatory application process by which the eligibility for said license, permit, or certificate or other approval may be determined.

H. Within forty-five (45) days after receipt of a request for a declaratory opinion which complies with the requirements of these rules, the Board shall, in writing:
1) Issue an opinion declaring the applicability of the statute, rule or order to the specified circumstances;
2) Agree to issue a declaratory opinion by a specified time but not later than ninety (90) days after receipt of the written request; or
3) Decline to issue a declaratory opinion, stating the reasons for its action.
The forty-five (45) day period shall begin on the first business day after which the request is received by the Board.

I. Declaratory opinions and requests for declaratory opinions shall be available for public inspection and copying at the expense of the viewer during normal business hours. All declaratory opinions and requests shall be indexed by name, subject, and date of issue. Declaratory opinions and requests which contain information which is confidential or exempt from disclosure under the Mississippi Public Records Act or other laws shall be exempt from this requirement and shall remain confidential.

Source: *Miss. Code Ann. § 25-43-2.105* (Rev. 2006)

Rule 3.7 Rulemaking Oral Proceedings.

A. This rule applies to all oral proceedings held for the purpose of providing the public with an opportunity to make oral presentations or written input on proposed new rules, amendments to rules, and proposed repeal of existing rules before the Board pursuant to the Administrative Procedures Act.
B. When a political subdivision, an agency, or a citizen requests an oral proceeding in regards to a proposed rule adoption, the requestor must submit a printed, typewritten, or legibly handwritten request.
1) Each request must by on 8-1/2" x 11" white paper.
2) The request may be in the form of a letter addressed to the Board or in the form of a pleading as if filed with a court.
3) Each request must include the full name, telephone numbers, and mailing address of the requestor(s).
4) All requests shall be signed by the person filing the request, unless represented by an attorney, in which case the attorney may sign the request.

C. Notice of the date, time, and place of all oral proceedings shall be filed with the Secretary of State's Office for publication in the Administrative Bulletin. The Board shall provide notice of oral proceedings to each requestor. The oral proceedings will be scheduled no earlier than twenty (20) days from the filing of the notice with the Secretary of State. The Executive Director, or designee who is familiar with the substance of the proposed rule, shall preside at the oral proceeding on a proposed rule.

D. Public participation shall be permitted at oral proceedings in accordance with the following:
   1) At an oral proceeding on a proposed rule, persons may make statements and present documentary and physical submissions concerning the proposed rule.
   2) Persons wishing to make oral presentations at such a proceeding shall notify the Board at least three business days prior to the proceeding and indicate the general subject of their presentations. The presiding officer in his or her discretion may allow individuals to participate that have not contacted the Board prior to the proceeding.
   3) At the proceeding, those who participate shall indicate their names and addresses, identify any persons or organizations they may represent, and provide any other information relating to their participation deemed appropriate by the presiding officer.
   4) The presiding officer may place time limitations on individual presentations when necessary to assure the orderly and expeditious conduct of the oral proceeding. To encourage joint presentations and to avoid repetition, additional time may be provided for persons whose presentations represent the views of other individuals as well as their own views.
   5) Persons making presentations are encouraged to avoid restating matters that have already been submitted in writing. Written materials may, however, be submitted at the oral proceedings.
   6) Where time permits and to facilitate exchange of information, the presiding officer may open the floor to questions or general discussion. The presiding officer may question participants and permit the questioning of participants by other participants about any matter relating to that rulemaking proceeding, including any prior written submissions made by those participants in that proceeding. No participant shall be required to answer any question.

E. Physical and Documentary Submissions presented by participants in an oral proceeding shall be submitted to the presiding officer. Such submissions shall become the property of the Board, part of the rulemaking record, and are subject to the Board's public records request procedure. The Board may record oral proceedings by stenographic or electronic means.

Source: *Miss. Code Ann. § 25-43-2.105* (Rev. 2006)

Part 101 Chapter 4: General Rules of Practice

Rule 4.1 Ex Parte Communications.

A. There shall be no verbal communications by a party or his representative with the Board or its members regarding any issue of fact or law involved in an administrative appeal pending before the Board without notice and opportunity for all parties to participate. There shall also not be any written communication or electronic transmission by a party or his representative to the Board or its members regarding an issue of fact or law involved in an administrative appeal pending before the Board unless the written communication or electric transmission is also served on all parties in the administrative appeal. For purposes of this subsection, representative means not only the designated representative of a party in the administrative appeal, but anyone who is an officer or employee of a party or otherwise represents the party in any capacity at the time of the administrative appeal.
B. Nothing in this section shall prevent a party or his designated representative from unilaterally seeking clarification of purely procedural matters, orally, in writing or by electronic transmission, by directing questions about same to the Executive Director. If the questions are directed to the Executive Director in writing or by electronic transmission, the party or his designated representative shall also serve a copy of same on all parties to the administrative proceeding. Nothing in this section shall prevent the Department and the Executive Director from communicating orally, in writing or by electronic transmission as provided in Rule 5.7 to obtain computations requested by the Board or other documentation or information necessary for the Executive Director to perform his duties including, but not limited to, drafting the Board's orders.

Source: *Miss. Code Ann.* § 27-4-3(1)(a) (Rev. 2010)

Rule 4.2 Persons Authorized To Represent Parties Before the Board.

A. All attorneys licensed and in good standing to practice law in this State;
B. All accountants who have received a certificate as a certified public accountant from the Mississippi State Board of Public Accountancy and maintain such certification;
C. All other accountants practicing accountancy within this State and who are entitled to practice as enrolled agents before the Internal Revenue Service;
D. Certified public accountants duly admitted to practice accountancy by the appropriate authorities in other states, the District of Columbia, or other American jurisdiction and other accountants practicing accountancy outside of this State who are entitled to practice as enrolled agents before the Internal Revenue Service;
E. Attorneys licensed to practice law and in good standing in another state, the District of Columbia, or other American jurisdiction;
F. Any employee of a party where such employee is duly appointed by the party to undertake such representation before the Board or such representation is within the scope of the employee's employment with the party;
G. Any natural person appearing and representing himself;
H. A party's spouse;
I. Any natural person representing a partnership, general or limited, in which he is a partner;
J. Any natural person representing a limited liability company in which he is a member;

K. Any natural person representing a corporation in which he is an officer; and
L. Any other natural person that the Board determines is of good moral character and repute and possesses the qualifications necessary to appear on behalf of others in the administrative appeal before the Board.

Source: *Miss. Code Ann.* § 27-4-3(1)(a) (Rev. 2010)

Rule 4.3 Establishment of Official Mailing Address. By statute, regulation and when directed by the Board, the Executive Director is required to mail notices, orders and other documents to parties. Where the party is represented in the administrative appeal, unless requested otherwise in writing, such mailings to the party will be sent to his designated representative. Mailing to a designated representative in an administrative appeal shall constitute mailing and notice to the party represented. There is a presumption that the addressee received such notices, orders and/or documents if mailed to the addressee's last known address, being the official mailing address that the Executive Director has for the addressee. The process by which this official mailing address is established and changed is as follows:

A. The official mailing address of a person, including, but not limited to, a party or a party's designated representative, shall be the mailing address for that person appearing on the first document filed with the Executive Director in the administrative appeal containing a mailing address for that person.
B. If subsequent to the establishment of an official mailing address, a person wishes to change his official mailing address with the Board in regard to an administrative appeal, the person must file with the Executive Director a written notification of the change of address with the style and docket number of the administrative appeal stated and the phrase "Change of Address" highlighted in the written notification. If this person has appeared in multiple administrative appeals, a separate written notification of change of address is to be filed in each separate administrative appeal. Such change of address will not be effective until filed with the Executive Director in regard to the administrative appeal in which change of address is submitted. As provided in Rule 4.6 below, the party or designated representative filing the written notification of change of address shall serve a copy of such change of address notification on all other parties in the administrative appeal.

Source: *Miss. Code Ann.* § 27-4-3(1)(a) (Rev. 2010)

Rule 4.4 Computation of Time. When an appeal, objection or other document is required by statute, regulation or the Board to be filed with the Executive Director or with the Board within any number of days, the day of the act, event or default from which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included unless it is a Saturday, a Sunday, legal holiday or any other day when the office of the Board is in fact closed, whether with or without legal authority, in which event the period runs until the end of the next day which is not a Saturday, a Sunday, a legal holiday or any other day when the office of the Board is closed. Legal holidays for the Board are found at Miss. Code Ann. § 3-3-7(1). When the period of time prescribed or allowed is less than seven (7) days, intermediate Saturdays, Sundays and legal holidays shall be excluded in the computation. Mailing does not

constitute filing, and the time period within which the appeal, objection or other document has to be filed is not extended because of mailing.

Source: *Miss. Code Ann.* § 27-4-3(1)(a) (Rev. 2010)

Rule 4.5 Filing of Documents with the Board.

A. The date of filing of a document required by statute, regulation or the Board to be filed with the Executive Director and/or the Board shall be the date of actual receipt of the document in the office of the Board. The date stamped on the document by the Executive Director or other Board employee as the date received by the Board office shall be considered the date of receipt by the Executive Director and/or the Board.
B. Documents received in the office of the Board between the hours of 8:00 a.m. and 5:00 p.m., central time, on a business day will be stamped as received by the Executive Director or other Board employee on that day. Documents sent by electronic transmission will be considered received based on the date and time indicated by the Board's fax machine or computer for receipt of such electronic transmission. Any electronic transmission which is indicated by the Board's fax machine or computer to have been received after 5:00 p.m., central time, on a business day or at any time on a Saturday, Sunday, legal holiday or other day on which the Board's office is closed shall be stamped as received on the next business day.
C. If a document is filed with the Executive Director or Board by e-mail, the document, including any exhibits and attachments to the document, shall be attached to the e-mail as a PDF file or a Word file. The use of any other format for attachment of documents to an e-mail is subject to the approval of the Executive Director.
D. When a document is filed with the Executive Director or Board by electronic transmission, the original document and such copies of the original which are required to be filed with the original document shall be mailed or hand delivered to the Executive Director no later than the next business day.
E. When a party or the party's designated representative sends a document to the Executive Director and/or the Board for filing, the party shall bear the risk of the method chosen for delivery and/or transmission of the document to the Executive Director and/or to the Board. The failure of a document being actually received by the Executive Director and/or the Board in the Board's office by the date set for the filing of the document shall not be excused even when caused by an unexpected delay or failure in delivery and/or transmission of the document by the method chosen, including, but not limited to, delays and/or failures to deliver and/or transmit the document by a courier service, the US mail, another delivery service (FedEx, UPS, etc.), fax machine or e-mail.
F. Unless otherwise ordered by the Board or directed by the Executive Director, any party filing a document with the Executive Director and/or the Board in regard to an administrative appeal shall file an original and three (3) copies of the document.
G. Any document filed with Executive Director and/or the Board shall be in English or an English translation shall be included with any document that is not in English.

Source: *Miss. Code Ann.* § 27-4-3(1)(a) (Rev. 2010)

Rule 4.6 Service of Documents Filed With Board.

A. Unless otherwise ordered by the Board or provided by statute or other regulation, a copy of all documents filed with the Executive Director and/or the Board in regard to an administrative appeal shall at the time of filing be served upon every other party to the administrative appeal.
B. In regard to a party, other than the Department or the ABC Division, which is not represented in the administrative appeal, service shall be made upon the party.
C. In regard to a party, other than the Department or the ABC Division, which is represented in the administrative appeal by a designated representative, service shall be made upon the designated representative.
D. In regard to the Department or on the ABC Division, service shall be as follows:
    1) Until a party is advised by the Executive Director, the Board, a Department attorney or by a filing in the administrative appeal that the Department or the ABC Division is being represented in the administrative appeal by a specific attorney, service on the Department or the ABC Division shall be made upon the Chief Counsel for the Legal Division of the Department.
    2) From and after the point that a party is advised by the Executive Director, the Board, an attorney representing the Department or the ABC Division or by a filing in the administrative appeal that the Department or the ABC Division is being represented in the administrative appeal by a specific attorney, service shall be made upon the attorney representing the Department or the ABC Division in the administrative appeal.
E. Service of a document may be made by hand delivery, mail or electronic transmission. Such methods of service shall be accomplished and completed as follows:
    1) Service by hand delivery of a document is to be accomplished and completed by the occurrence of one of the following events:
        a. Handing a copy of the document being filed to the person being served, or
        b. By leaving a sealed envelope containing the document being filed and addressed to the person being served at the office or home of that person.
    2) Service by mail of a document is to be accomplished by mailing a copy of the document being filed to the person being served. Service by mail is complete upon mailing. Please note however that under Rules 4.4 and 4.5, filing a document with the Executive Director or the Board is not complete upon mailing.
    3) Service by electronic transmission is to be accomplished and completed as follows:
        a. Service by electronic transmission is accomplished by faxing a copy of the document being filed to the fax number of the person being served or by e-mailing a copy of the document being filed to the e-mail address of the person being served.
        b. Service by electronic transmission is complete when the electronic equipment being used by the person being served acknowledges receipt of the transmission. If the equipment used by the person being served does not

automatically acknowledge receipt of the transmission, service is not complete until the sending party obtains an acknowledgment of receipt of the transmission from the recipient.

F. Filing of an executed certificate of service as part of the document being filed with the Executive Director and/or Board setting out the method and date of service shall be prima facie evidence of the service of the document to which it relates.

Source: *Miss. Code Ann.* § 27-4-3(1)(a) (Rev. 2010)

Rule 4.7 Contents of Notices of Appeal or Written Objections Filed with Board.

A. An appellant filing a written appeal or objection with the Board is required to use the Notice of Appeal or Objection form available from the Executive Director in filing his appeal or objection. The Notice of Appeal or Objection form is to be filled out completely and executed, and a copy of the action from which the appeal is being taken or to which the objection is being made is to be attached to the form. Typically, the document to be attached would be:
   1) From an appeal from the decision of the Review Board, the Review Board Order;
   2) From an appeal from the decision of an administrative hearing officer, the order of the administrative hearing officer;
   3) From an appeal of a decision of the ABC Division, a copy of the notice received from the ABC Division setting out its revocation or suspension of an ABC permit, ABC manager status and/or qualified resort area or its denial of an application for an ABC permit (issuance, transfer or renewal), ABC manager status and/or qualified resort from which the appeal is being filed;
   4) From the proposed disposal of alcoholic beverages or raw materials under Miss. Code Ann. § 67-1-18, a copy of the notice received from the ABC Division setting out the proposed disposal of alcoholic beverages or raw material in regard to which a hearing is being requested ;
   5) From an ad valorem assessment, a copy of the ad valorem assessment to which objection is being made;
   6) From a decision of the Department concerning the examination of the recapitulation of the ad valorem rolls of a county under Miss. Code Ann. § 27-35-113, the notice sent by the Department to the president of the Board of Supervisors under Miss. Code Ann. § 27-35-115 setting out the results of the examination; or
   7) From a decision of the Department to deny the objection of a Board of Supervisors to the Department's rejection of an application for homestead exemption, the notice sent by the Department advising the Board of Supervisors of the Department's denial of the objection of the Board of Supervisors;

B. If the person signing the Notice of Appeal or Objection form is not the appellant, but a designated representative of the appellant, a power of attorney authorizing such person to sign the written appeal or objection on behalf of the appellant, to represent the appellant in the administrative appeal and to receive confidential

information and/or documents regarding the administrative appeal is also to be attached to the Notice of Appeal or Objection.

C. In addition to those documents required to be attached under subsections A & B above, an appellant may attach to the Notice of Appeal or Objection any other document to support his appeal or objection.

D. If an appellant is appealing from multiple orders of the Review Board or of an administrative hearing officer and a separate Notice of Appeal or Objection is not filed for each order being appealed, the Notice of Appeal or Objection form that is filed shall clearly set out the numbers of all orders being appealed and all orders being appealed are to be attached to the Notice of Appeal or Objection that is filed. Any order of the Review Board or of an administrative hearing officer whose number is not set out in the Notice of Appeal or Objection and which is not attached to the Notice of Appeal or Objection will not be considered as having been appealed to the Board and will not be reviewed by the Board.

E. This rule does not apply to written objections and requests for hearings initially filed with the ABC Division under Miss. Code Ann. § 67-1-72(5) and (6) to an application for the issuance or transfer of an ABC permit and/or for the declaration of a qualified resort area. The manner and form of such written objections and request for hearing shall be determined by the Department.

Source: *Miss. Code Ann.* § 27-4-3(1)(a) (Rev. 2010)

Rule 4.8 Incomplete Notices of Appeal or Written Objections.

A. If an appellant files a timely written appeal or objection but such appeal or objection is not on the required Notice of Appeal or Objection form, does not provide the information and attachments as set out on the Notice of Appeal or Objection form and/or is not filed with the appropriate number of copies, the Executive Director may notify the appellant of the deficiency in his filing and grant the appellant fifteen (15) days from the filing date of the incomplete appeal or objection to file the appeal or objection on the proper form and/or to provide the information, attachments or copies missing from the original appeal or objection.

B. Upon written request, the Executive Director may for good cause shown grant an extension not exceeding fifteen (15) additional days of the time period set out in subsection A.

C. Failure of an appellant to timely complete the appeal or objection within the time provided may result in the Board determining that the appeal or objection should be dismissed as untimely or considered involuntarily withdrawn.

Source: *Miss. Code Ann.* § 27-4-3(1)(a) (Rev. 2010)

Rule 4.9 Changes in Appellant's Identity, Structure and/or Ability to Pursue Appeal or Objection. An appellant and/or his designated representative, if any, while the Appeal or Objection is pending before the Board or during any appeal from the order of the Board to Court, is to advise the Executive Director of any changes in the identity, structure, interest and/or ability of the appellant to pursue the appeal or objection, including, but not limited to, the following:

A. Change in name of the appellant by marriage, divorce, adoption, judicially, corporate filing or any other method;
B. Divorce between appellants who were married at the time of filing the appeal or objection;
C. Change in trade name of the appellant;
D. Change in the structure of the appellant, including, but not limited to, merger, liquidation or change in type of entity (i.e. corporation to limited liability company, limited liability company to limited partnership, etc.);
E. Change in ownership of appellant, including, but not limited to, majority ownership of corporate stock, majority ownership of an interest in a limited liability company, or change in the partners of a general or limited partnership;
F. Change in interest or ownership of the property or business which is the subject of the appeal, including, but not limited to, ownership of the motor vehicle or manufactured housing involved in an appeal concerning the title to same, or ownership of the business for which the ABC permit, other permit or license which is the subject of the appeal was issued or for which application was denied;
G. Cessation of the business or activity of appellant for which the ABC permit, ABC manager status, other permit or license which is the subject of the appeal was issued or for which an application was denied;
H. Change in authority or ability to pursue the appeal or objection, including, but not limited to, death of an appellant, receivership of the appellant or the filing of bankruptcy by the appellant.

Source: *Miss. Code Ann.* § 27-4-3(1)(a) (Rev. 2010)

Rule 4.10 Time Period for Filing Appeals or Written Objections.

A. The time periods in which the written appeals or objections have to be filed with the Executive Director are set out by statute and vary depending on the type of administrative appeal involved. These filing periods are as follows:
   1) A written appeal under Miss. Code Ann. § 27-77-5 from a Review Board order, which would involve a tax assessment, a tax refund claim or the denial of a waiver of tag penalty, shall be filed with the Executive Director within sixty (60) days from the date of the Review Board order being appealed;
   2) A written appeal under Miss. Code Ann. § 27-77-9 or § 27-77-12 from a Review Board order or from an order of an administrative hearing officer, which would involve a suspension, surrender, seizure or revocation of a permit (excluding ABC permits), IFTA license, IRP registration, IRP credentials, tag or title, shall be filed within thirty (30) days from the date of the Review Board order or the order of the administrative hearing officer being appealed;
   3) A written appeal under Miss. Code Ann. § 27-77-11 from a Review Board order, which would involve the denial of an application for a permit (excluding ABC permits), IFTA license, IRP registration, tag or title, shall be filed within thirty (30) days from the date of the Review Board order being appealed;

4) A written appeal under Miss. Code Ann. § 27-33-41 from the Department's rejection of the objection of a Board of Supervisors to the Department's disallowance of homestead exemption application shall be filed within thirty (30) days from the date of the written notice to the Board of Supervisor of the Department's rejection of the objection of the Board of Supervisors;
5) A written appeal by a Board of Supervisors under Miss. Code Ann. § 27-35-113 from the decision of the Department regarding the Department's examination of the recapitulations of the county's assessment rolls shall be filed with the Executive Director within thirty (30) days from the date of the notice of the results of the Department's examination as provided for at Miss. Code Ann. § 27-35-115;
6) A written objection under Miss. Code Ann. § 27-35-309, § 27-35-325, § 27-35-501 or §27-35-703 to an ad valorem assessment shall be filed with the Executive Director within thirty (30) days from the date of the assessment to which the objection is being made;
7) Except as provided in subsection (8) below, a written appeal under Miss. Code Ann. § 67-1-72 from an action of the ABC Division in regard to an ABC permit, ABC manager status, qualified resort area or the disposal of alcoholic beverages or raw materials under Miss. Code Ann. § 67-1-18 shall be filed within fifteen (15) days from the date of receipt of notice of the action being appealed; and
8) A written appeal under Miss. Code Ann. § 67-1-72(4) from the decision of the ABC Division to revoke approval of a qualified resort area where the appellant did not receive written notice of the revocation but was advised of such revocation by publication by the ABC Division or the Department shall be filed with the Executive Director within fifteen (15) days from the date that notice of revocation of approval of the qualified resort area was first published.

B. Failure to file with the Executive Director a written appeal or objection within the time periods described above shall result in the order, decision, action or ad valorem assessment becoming final.
C. Since a written objection and request for hearing on an application for the issuance or transfer of an ABC permit under Miss. Code Ann. § 67-1-72(5) or on an application for approval of a qualified resort area under Miss. Code Ann. § 67-1-72(6) is initially filed with the ABC Division, any rule concerning the form and time period for filing such written objection and request for hearing is within the authority of the Department to promulgate.

Source: *Miss. Code Ann.* § 27-4-3(1)(a) (Rev. 2010)

Rule 4.11 Voluntary Withdrawals of Administrative Appeals to the Board.

A. At any time after an administrative appeal is filed with the Executive Director, the appellant may withdraw his administrative appeal to the Board.
B. At any time after a written objection and request for hearing in regard to an ABC permit or a qualified resort area under Miss. Code Ann. § 67-1-71(5) and/or (6) is received by the Executive Director from the ABC Division, the appellant may withdraw his written objection and request for hearing.

C. A voluntary withdrawal under subsections A or B above must be in writing or by electronic transmission and filed with the Executive Director. The withdrawal shall clearly state the style of the administrative appeal being withdrawn, including docket number, and be signed by the appellant or his designated representative.

Source: *Miss. Code Ann.* § 27-4-3(1)(a) (Rev. 2010)

Rule 4.12 Involuntary Withdrawals of Administrative Appeals to the Board.

A. The failure of an appellant and his designated representative, if any, to appear at a scheduled hearing before the Board on his administrative appeal shall constitute an involuntary withdrawal of the administrative appeal.
B. Where an appellant has obtained permission under Miss. Code Ann. § 27-77-5(5) to submit his position in writing or by electronic transmission in lieu of attending the hearing on his administrative appeal from a Review Board order under Miss. Code Ann. § 27-77-5, the appellant's failure to file such submission with the Executive Director by the date specified for such filing or by the date of the hearing when no date is specified will constitute an involuntary withdrawal of the administrative appeal.
C. In addition to the failures set out in subsections A and B above, the Board may also determine that an administrative appeal has been involuntary withdrawn if it finds that any other act or failure committed by the appellant constitutes a failure by the appellant to prosecute his appeal.
D. Upon a finding by the Board that an administrative appeal has been involuntary withdrawn, the Board shall note on its minutes the involuntary withdrawal of the administrative appeal and state the basis of the withdrawal.

Source: *Miss. Code Ann.* § 27-4-3(1)(a) (Rev. 2010)

Rule 4.13 Effect of Withdrawal.

A. At the point in time when an administrative appeal is withdrawn, whether voluntarily or involuntarily, the action from which the administrative appeal was filed will become final.
B. If subsequent to the filing of the administrative appeal, but before the withdrawal, the Department, ABC Division, Review Board or administrative hearing officer amends the order and/or changes the action from which the administrative appeal was filed, the last order entered and/or action taken will be the order and/or action which will become final upon the withdrawal of the appeal.

Source: *Miss. Code Ann.* § 27-4-3(1)(a) (Rev. 2010)

Rule 4.14 Settings and Notices of Hearings.

A. Upon receipt of a completed Notice of Appeal or Written Objection, including receipt from the ABC Division of a written objection and request for hearing under Miss.

Code Ann. § 67-1-72 (5) or (6), the Executive Director shall set a hearing before the Board on the administrative appeal.

B. The Executive Director may set more than one (1) hearing for the same date and time with such administrative appeals set for the same date and time to be heard based on an order to be determined by the Executive Director or the presiding board member.

C. Upon the setting of the hearing, the Executive Director shall mail to all parties to the administrative appeal a written notice giving the date, time and location of the hearing. If after such notice is mailed, the date, time or location of the hearing is changed for any reason, the Executive Director shall mail a written notice to all parties advising them of the change; provided however that if the change occurs within seven (7) days of the date of the previously scheduled hearing, in addition to the written notice, the Executive Director may advise the parties of the change by any means he deem appropriate, including, but not limited to, in person, by telephone, by electronic transmission, or by posting a notice at the previously set location of the hearing.

Source: *Miss. Code Ann.* § 27-4-3(1)(a) (Rev. 2010)

Rule 4.15 Continuances and Extensions of Time.

A. A party desiring a continuance of an administrative appeal set for hearing shall file a written request for a continuance with the Executive Director setting out the reasons for the request. Requests filed within ten (10) days from the date of the notice setting the hearing will be routinely granted. Requests filed after this ten (10) day period but more than seven (7) days before the hearing date will only be granted if good cause is shown for the continuance. Requests filed within seven (7) days of the date of the hearing will only be granted in the case of an emergency.

B. If a continuance is granted for a hearing in regard to which the Board has incurred a cost because of the original setting, including, but not limited to, a court reporter appearance fee, the Board may assess such costs to the party requesting the continuance. If assessed, the cost must be paid by the party to the Executive Director within fifteen (15) days from the date the continuance was granted. Failure to timely pay such costs shall be considered an involuntary withdrawal of the administrative appeal.

C. A party desiring an extension of a time period prescribed by these regulations or by the Board shall file a written request for such extension with the Executive Director and explain the basis for the extension. Such requests may be considered and granted in whole or in part by the Executive Director. However, no time period set by statute, including, but not limited to, the time period for filing an appeal or objection with the Board or Executive Director and the time period for filing an appeal from the Board to Court, can be extended.

Source: *Miss. Code Ann.* § 27-4-3(1)(a) (Rev. 2010)

Rule 4.16 Consolidations.

A. The hearing on a written objection and request for hearing under Miss. Code Ann. § 67-1-72(5) and/or (6) in regard to the application for issuance or transfer of an ABC permit and/or the declaration of an area or locality as a qualified resort area shall be consolidated with the hearing on any timely appeal from the denial by the ABC Division of the issuance, transfer and/or declaration of the ABC permit and/or qualified resort area to which the written objection was made.
B. The Executive Director may consolidate two or more administrative appeals for hearing purposes if he determines that the appellants in these administrative appeals are the same person or related persons and have common representation. The Executive Director may also consolidate administrative appeals filed by unrelated appellants if he determines such consolidation will expedite or simplify consideration of the issues in these administrative appeals, and such consolidation will not prejudice a party or violate any confidentiality statutes.
C. The Executive Director shall advise all affected parties of the consolidation in writing. Such notification may be included in the notice setting the hearing. Except for the consolidation set out in subsection A above, which is mandated by statute, a party may file a written objection with the Executive Director to the consolidation within ten (10) days from the date of the written notification of the consolidation. Failure to file the written objection within this ten (10) day time period shall constitute consent to the consolidation.
D. Administrative appeals may also be consolidated for hearing purposes if all parties to the administrative appeals proposed to be consolidated consent to such consolidation.

Source: *Miss. Code Ann.* § 27-4-3(1)(a) (Rev. 2010)

Rule 4.17 Reasonable Accommodation and Interpreters at a Board Hearing.

A. Any party requesting a reasonable accommodation under the Americans with Disabilities Act in regard to attendance and/or participation at a Board hearing shall file a written request for such accommodation with the Executive Director at least five (5) days before the date of the hearing.
B. Any request for an interpreter under Miss. Code Ann. § 13-1-303(2) by a party as a deaf person shall be filed in writing with the Executive Director at least five (5) days before the hearing for which the interpreter is requested.
C. Except for an interpreter for a deaf party under Miss. Code Ann. § 13-1-303(2), it is the responsibility of a party to provide any interpreter that the party determines is needed to present his argument and/or evidence at any hearing before the Board.
D. When an interpreter is provided at a hearing by the Board or a party, the interpreter shall be available for use at the hearing by all parties in the administrative appeal and the Board members at the cost of the person who provided the interpreter.

Source: *Miss. Code Ann.* § 27-4-3(1)(a) (Rev. 2010)

Rule 4.18 Decorum. The conduct, demeanor and dress of parties, their designated representatives, their witnesses or any other person when present during any hearing or other proceeding before the Board shall reflect respect for the dignity and authority of the Board. The

presiding board member may remove or limit the participation of any disruptive person during a hearing or any other meeting of the Board.

Source: *Miss. Code Ann.* § 27-4-3(1)(a) (Rev. 2010)

Rule 4.19 Subpoenas. Any party desiring the issuance of a subpoena to require the attendance of a witness at a hearing before the Board to give testimony and/or to produce and permit inspection of designated books, documents or other tangible thing shall file a written request for the issuance of the subpoena with the Executive Director at least ten (10) days before the date of the hearing for which the subpoena is requested. Upon receipt of the request, the Executive Director will issue the subpoena and return it to the party requesting same. The party requesting the subpoena will be responsible for service of the subpoena and such service shall be performed in accordance with the method for service of subpoenas under Rule 45(c) of the Mississippi Rules of Civil Procedure with the exception that proof of service of the subpoena shall be filed with the Executive Director.

Source: *Miss. Code Ann.* § 27-4-3(1)(a) (Rev. 2010)

Rule 4.20 Pre-hearing Production of Documents. Upon request or on its own initiative, the Board may require a party to provide the other party in the administrative appeal with a copy of all documents which he intends to provide to the Board in the presentation of his case at the hearing before the Board. Failure to timely provide the other party with a copy of such documents when required to do so may be found by the Board to be an involuntary withdrawal of the administrative appeal or the Board may determine that such documents should not be considered by it in the administrative appeal. In each appeal, when applicable, the Department shall provide the Board and, if it has not already done so, the other party, with copies of all applicable Review Board orders, Review Board minutes, assessments, and audit reports including auditor comments.

Source: *Miss. Code Ann.* § 27-4-3(1)(a) (Rev. 2010)

Rule 4.21 Finding of Facts, Conclusions of Law and Briefs. At any time prior to the issuance of a final order in an administrative appeal covered by this chapter, the Board may request the parties to file proposed Findings of Fact and Conclusions of Law and/or file briefs on issues raised in the administrative appeal. When such a request is made, the Board will set the date by which such proposed Findings of Fact and Conclusions of Law and/or briefs are to be filed with the Executive Director in the administrative appeal.

Source: *Miss. Code Ann.* § 27-4-3(1)(a) (Rev. 2010)

Rule 4.22 Orders of the Board.

A. After a hearing has been held before the Board on an administrative appeal, the Board may verbally announce its decision in the administrative appeal at the end of the hearing or take the matter under advisement for a decision at a later time.

B. After the Board has made a decision, even when that decision is announced at the hearing, the Board shall issue a written order. The written order will be the formal decision of the Board in the administrative appeal and shall be executed by a majority of the members participating in the decision.
C. The Board may elect to uphold the assessment or action, to amend the assessment, to issue a revised assessment, to issue a refund or credit, to remand the issue to the Review Board or originating division for further work, or any other action it deems appropriate.
D. Any time period for appealing from a decision of the Board to Court will run from the date of the written order. If the written order of the Board is amended for any reason during the time period for appealing the order to Court, but before an appeal from the order is actually filed in Court, the time period for appealing the Board's decision in the administrative appeal will then run from the date of the amended order. Up to the earlier of the date that the time period for filing an appeal from the order to Court expires or the date that an appeal of the order is actually filed in Court, the Board retains the authority to withdraw its order and return the administrative appeal to its docket for further consideration and decision. If this occurs, the order withdrawn will no longer be the final order of the Board in the administrative appeal and will not be appealable to Court. When an appeal from an order is timely and appropriately filed in Court, the Board no longer has jurisdiction or authority to change its written order, unless or until the order is remanded back to the Board by a Court.
E. If the time period for appealing the Board's decision to Court has expired with no timely and appropriate appeal being filed in Court and the order has not been withdrawn by the Board, the decision of the Board will become final and shall not be subject to further review by the Board or any Court.
F. Any appeal from a Board order under Miss. Code Ann. § 67-1-39 regarding an ABC matter shall be without supersedeas, which means any Board order regarding an ABC matter will go into effect on the date of the order and shall remain in effect unless and until it is overturned in a judicial appeal by a Court in a final non-appealable order. The Board does however retain authority, as set out in subsection D above, to amend or withdraw an order up to the earlier of the date that the time period for filing an appeal from the order to Court expires or the date that an appeal of the order is actually filed in Court.
G. The Executive Director shall mail a copy of the written order entered in an administrative appeal to all parties in the administrative appeal.

Source: *Miss. Code Ann.* § 27-4-3(1)(a) (Rev. 2010)

Rule 4.23 Time Periods and Conditions for Appealing to Court and Notice to Executive Director of an Appeal.

A. The time period for appealing from an order of the Board to Court varies depending on the type of administrative appeal involved. The time periods as set out by statute for these appeals are as follows:

1) An appeal under Miss. Code Ann. § 27-77-7 from a Board order involving a tax assessment, a tax refund claim or the denial of a waiver of tag penalty shall be filed within sixty (60) days from the date of the Board order being appealed;
2) An appeal under Miss. Code Ann. § 27-77-13 from a Board order involving the denial, suspension, surrender, seizure or revocation of a permit, IFTA license, IRP registration, IRP credentials, tag or title, shall be filed within thirty (30) days from the date of the Board order being appealed;
3) An appeal under Miss. Code Ann. § 27-35-163 from a Board order involving a written objection under Miss. Code Ann. § 27-35-309, § 27-35-325, § 27-35-501 or §27-35-703 to an ad valorem assessment shall be filed within thirty (30) days from the date of the order of the Board order being appealed;
4) An appeal under Miss. Code Ann. § 67-1-39 from a Board order regarding an action taken under the ABC law shall be filed within thirty (30) days from the date of the Board order being appealed.

B. The court and county in which an appeal from the Board is to be filed also varies depending on the type of order being appealed and the type of party filing the appeal. A party appealing from the order of the Board is advised to consult the statute under which he is appealing to determine in what Court (chancery or circuit) and in what county he is required to file his appeal.
C. In addition to timely filing an appeal in the appropriate Court, a party appealing from an order of the Board may, by statute, also be required to perform other acts within the period for filing the appeal or prior to filing his petition in Court, including, but not limited to, posting a bond, paying the uncontested portion of a tax, paying the tax under protest in lieu of posting a bond, or paying the estimate of the cost of preparing the entire record before the Board. A party appealing from the order of the Board is advised to the consult the statute under which he is appealing to determine what other acts he is required to perform and when to properly and timely appeal from the order of the Board to Court.
D. Any party appealing from an order of the Board to Court shall mail to the Executive Director a copy of his written appeal to Court to place the Board on notice of the pendency of the appeal and to insure that the Executive Director maintains all records regarding the administrative appeal pending a final decision by the Court.

Source: *Miss. Code Ann.* § 27-4-3(1)(a) (Rev. 2010)

Rule 4.24 Conferences. As soon as possible after the filing of an appeal and as often as necessary thereafter, each party to the appeal shall confer with the other party or parties to the appeal for the purpose of narrowing the issues to be decided so that, at the time of the hearing before the Board, the issues to be decided will be well defined and the only remaining issues will be those that are truly intractable and require a decision by the Board.

Source: *Miss. Code Ann.* § 27-4-3(1)(a) (Rev. 2010)

Part 101 Chapter 5: Procedure for Administrative Appeals Involving Appeals from Review Board Orders under Miss. Code Ann. § 27-77-5 and Written Objections to Ad Valorem Assessments

Rule 5.1 Administrative Appeals Covered By This Chapter. There are several administrative appeals to the Board where by statute this Board is prohibited from making an official transcript, the judicial review of the Board's decision will be heard de novo and/or the appeal to Court involves a full evidentiary judicial hearing. This Chapter sets out the procedure to be followed in those types of administrative appeals. Specifically, this Chapter applies to the following administrative appeals:

A. Any appeal under Miss. Code Ann. § 27-77-5 from an order of the Review Board to the Board;
B. Any written objection filed with the Executive Director pursuant to Miss. Code Ann. § 27-35-309(2)(a) and § 27-35-311(2) to an ad valorem assessment by the Department regarding railroads or other public service companies under Miss. Code Ann. § 27-35-309(1);
C. Any written objection under Miss. Code Ann. §27-35-325 to an ad valorem assessment issued by the Department on property of railroads or other public service companies escaping taxation;
D. Any written objection under Miss. Code Ann. § 27-35-517 filed with the Executive Director to railcar assessments by the Department under Miss. Code Ann. § 27-35-501; and
E. Any written objection under Miss. Code Ann. § 27-35-703 to an ad valorem assessment by the Department of aircraft under that statute.

Source: *Miss. Code Ann.* § 27-4-3(1)(a) (Rev. 2010)

Rule 5.2 Method and Standard for Presentation of Evidence at Hearings.

A. Since an official transcript is not made of the hearing of an administrative appeal covered by this Chapter and any judicial review of the decision of the Board in an administrative appeal covered by this Chapter will be heard de novo and/or involve a full evidentiary judicial hearing before a Court and in order to streamline the hearing process, presentation of evidence before the Board in an administrative appeal covered by the Chapter is not required to be by examination of witnesses. Parties may present evidence through an oral presentation, written presentation and/or by the introduction of documentary evidence.
B. If a party does present evidence to the Board through examination of a witness, the witness shall be sworn in by the presiding board member.
C. The Mississippi Rules of Evidence will apply at hearings held in the administrative appeals covered by this Chapter, but they will be relaxed. Relevant hearsay evidence may be presented unless the presiding board member determines that such evidence lacks trustworthiness.
D. If a party presents evidence to the Board through witnesses, any other party to the administrative appeal will be entitled to cross-examine such witnesses.
E. Any board member may ask questions of any party, witness or other person who is present at the hearing. When such questioning occurs, each party to the administrative appeal will be given the opportunity to also question such party or

person, but such questioning shall be limited to the area of examination by the board member. The order of such questioning will be determined by the presiding board member.

F. Any party presenting a document to the Board for consideration shall provide all other parties to the administrative appeal with a copy of the document before or at the time of presentation of the document to the Board and shall have sufficient copies of the document at the hearing to allow at least four (4) copies of the document to be left with the Board.
G. The Board may also take official notice of the following without the presentation of additional evidence:
   1) Records and files maintained by the Board;
   2) Tax returns, tax reports and related documents filed with the Department for or on behalf of the appellant or any affiliated company; and
   3) Any fact that may be judicially noticed by the courts of this state.
H. Even though an official transcript is not made of the hearings in the administrative appeals covered by this Chapter, the Executive Director may make an audio and/or video recording of the hearing. When such recording is made, a party may obtain a copy of the recording from the Executive Director on the prepayment of the cost of the copy. In the case of a request for a copy of the recording by the Department, the Executive Director shall waive payment of this cost.
I. To avoid unnecessary disruption and delays during the hearing, if the Executive Director makes a recording of a hearing in an administrative appeal covered by this Chapter, a party will not be allowed to record the hearing by any means, including, but not limited to, an audio recording, video recording or transcription by a court reporter.
J. If the Executive Director does not make a recording of a hearing in an administrative appeal covered by the Chapter, but a recording is made by one of the parties to the administrative appeal, a copy of the recording will be provided by this party to any other party in the administrative appeal and/or the Executive Director upon request and payment of the cost of copying the recording.

Source: *Miss. Code Ann.* § 27-4-3(1)(a) (Rev. 2010)

Rule 5.3 Burden of Proof. In any administrative appeal covered by this Chapter, the burden of proof shall be on the appellant to prove that the action of the Department is incorrect.

Source: *Miss. Code Ann.* § 27-4-3(1)(a) (Rev. 2010)

Rule 5.4 Order of Presentation at Hearings. Unless otherwise directed by the presiding board member, a hearing in an administrative appeal covered by this Chapter shall be conducted in the following order:

A. The presiding board member shall call the hearing to order;
B. The presiding board member, the Executive Director or other employee of the Board shall state the style of the administrative appeal being heard, the nature of the

administrative appeal and a summary of the decision or action from which the administrative appeal was filed;

C. The appellant shall present his case by making his argument and presenting his evidence, if any;
D. The Department shall present its response to appellant's case by making its argument and presenting its evidence, if any;
E. Upon request by a party and only on approval and subject to any restrictions of the presiding board member, the parties, including the Department, may be allowed to present additional arguments and evidence after the response of the Department to the appellant's presentation; and
F. Upon conclusion of all argument and evidence, the presiding officer shall bring the hearing to a close.

Source: *Miss. Code Ann.* § 27-4-3(1)(a) (Rev. 2010)

Rule 5.5 Presentation of Evidence to the Board after Hearings.

A. After the hearing has been concluded, no additional factual evidence shall be presented to the Board except under the following circumstances:
   1) If during the hearing, it was agreed or ordered that such additional evidence could be presented at a later time;
   2) The Board or the Executive Director on behalf of the Board requests such additional evidence;
   3) All parties to the administrative appeal agree to presentation of the additional evidence to the Board; or
   4) After motion and hearing, the Board determines that there is good cause for a party to be allowed to submit such additional evidence.
B. Any evidence permitted to be filed with the Board after the hearing has been concluded as set out above shall at the time of filing also be served on all other parties to the administrative proceedings. Any other party to the administrative appeal will be given seven (7) days from the date of service of the additional evidence to file evidence with the Board in response to such additional evidence.
C. This Rule does not apply to the Department or any other party providing the Executive Director with computations or other documentation or information under Rule 5.7 below.

Source: *Miss. Code Ann.* § 27-4-3(1)(a) (Rev. 2010)

Rule 5.6 Written or Electronic Submissions in Lieu of Appearances.

A. An appellant in an administrative appeal covered by this Chapter may request to submit his position to the Board of Tax Appeals in writing or by electronic transmission in lieu of appearing at a hearing on the appeal.
B. Any request by an appellant to submit his position to the Board in writing or by electronic transmission in lieu of appearance at a hearing shall be made in writing and filed with the Executive Director.

C. The Executive Director shall consider such request for written or electronic submission in lieu of appearance and advise the parties to the administrative appeal of his decision as to whether the request should be granted. If granted, the Executive Director should state in such notice the date by which appellant's written or electronic submission is to be filed with the Board. If no date is stated, the deadline for filing the written or electronic submission will be the date the administrative appeal is set for hearing before the Board.

D. An appellant's request to submit his position in writing or by electronic transmission shall be considered to be a voluntary waiver by the appellant of his right to appear before the Board in person and shall constitute his consent to have his administrative appeal decided without a hearing if the Department also consents to the Board's consideration of the administrative appeal without a hearing as set out in subsection E below.

E. If a request by an appellant to submit his position in writing or by electronic transmission in lieu of appearance is granted, the Department may also consent to submit its position to the Board in writing or by electronic transmission and have the administrative appeal considered and decided without a formal hearing. Upon receipt of such a written consent by the Department, the Executive Director will advise all parties in writing of the date by which the written or electronic submissions of the parties are to be filed with the Board.

F. If a request by appellant to submit his position in writing or by electronic transmission in lieu of appearance is granted and the appellant fails to file his written or electronic submission with the Board by the date set for such filing, this failure shall constitute an involuntary withdrawal of an appeal by the appellant as set out in Rule 4.12(B) above.

Source: *Miss. Code Ann.* § 27-4-3(1)(a) (Rev. 2010)

Rule 5.7 Requests for Computations and/or Additional Information. Where the Board determines that a revised computation of the amount of tax and/or overpayment in issue is needed by the Board in its consideration of the administrative appeal covered by this Chapter, the Executive Director may request such computation from the Department. The Executive Director shall also have the authority to request such additional documentation and/or information from the Department or any other party as he shall deem necessary for the purposes of performing his duties including, but not limited to, drafting the Board's orders. Such requests and the responses thereto may be made in person, by telephone, by electronic transmission or in writing.

Source: *Miss. Code Ann.* § 27-4-3(1)(a) (Rev. 2010)

Part 101 Chapter 6: Procedure for Administrative Appeal Involving Appeals Where the Hearing before the Board is Transcribed

Rule 6.1 Administrative Appeals Covered by Chapter. Besides those administrative appeals covered by Chapter 5 above, the Board is also charged with hearing a number of other types of administrative appeals from actions by the Department or the ABC Division which do not involve major tax matters and in regard to which the Board is not prohibited from making an

official transcript and the judicial review of the Board's decision will be based on the record before the Board. In these administrative appeals, a complete record of the administrative appeal and of any hearings before the Board in the administrative appeal shall be created and maintained, including the taking down of any testimony at the hearing by a court reporter. This Chapter sets out the procedure to be followed in these types of administrative appeals involving record hearings. Specifically, this Chapter applies to the following administrative appeals:

A. Any appeal from an order of the Review Board or administrative hearing officer regarding the suspension, surrender, seizure and/or revocation of a permit, IFTA license, IRP credential, IRP registration, tag, motor vehicle title or manufactured housing title;
B. Any appeal from a Review Board order regarding the denial of a permit, IFTA license, IRP credential, IRP registration, tag, motor vehicle title or manufactured housing title;
C. Any appeal from a decision of the ABC Division to revoke or suspend an ABC permit, qualified resort area or ABC manager status;
D. Any appeal from a decision of the ABC Division to deny an application for the issuance, transfer or renewal of an ABC permit;
E. Any hearing on a written objection and request for a hearing regarding an application for issuance or transfer of an ABC permit;
F. Any appeal from a decision of the ABC Division to deny the application for a qualified resort area;
G. Any written objection and request for a hearing regarding an application for a qualified resort area;
H. Any appeal from a decisions of the ABC Division to deny an application for ABC manager status;
I. Any written request for a hearing on the proposed disposal of alcoholic beverages or raw materials under Miss. Code Ann. § 67-1-18;
J. Any appeal from a decision of the Department under Miss. Code Ann. § 27-33-41(i) to deny the objection of a board of supervisors to the Department's rejection of an application for homestead exemption; and
K. Any appeal from a decisions of the Department regarding examination of the recapitulation of the assessment rolls of a county under Miss. Code Ann. § 27-35-113.

Source: *Miss. Code Ann.* § 27-4-3(1)(a) (Rev. 2010)

Rule 6.2 Method and Standard for Presentation of Evidence at Record Hearings before the Board.

A. Since an official transcript is to be made of the hearing of an administrative appeal covered by this Chapter, the Board will only consider the testimony and documents introduced into evidence at the hearing, the facts and documents stipulated to by the parties and the facts of which it can take judicial notice.
B. Except as provided in subsection C below, stipulations of fact entered into by the parties, if in writing, shall be introduced as an exhibit at the hearing before the Board,

but if not in writing, shall be stated at the hearing and taken down by the court reporter as part of the record of the hearing.

C. If an administrative appeal is submitted to the Board without a formal hearing based solely on the stipulations of the parties, the stipulation shall be signed by both parties with any stipulated documents attached and identified by exhibit numbers and the original signed stipulation with documents attached will be filed with the Executive Director.

D. If a party offers testimony at a hearing through the examination of a witness or where a party representing himself testifies at the hearing by making a statement, the person so testifying shall be sworn in by the presiding board member or the court reporter. Any other party to the administrative appeal shall be entitled to cross-examine the person testifying and any board member may ask questions of this person.

E. If a board member asks questions after the examination of the person by the parties has been completed, the parties to the administrative appeal will be given the opportunity to also question the person, but such questioning shall be limited to the area of examination by the board member. The order of such questioning will be determined by the presiding board member.

F. The Mississippi Rules of Evidence will apply at hearings held in the administrative appeals covered by this chapter, but they will be relaxed. Relevant hearsay evidence may be presented and introduced into evidence unless the presiding board member determines that such evidence lacks trustworthiness.

G. If the Department or the ABC Division determines after the action or order from which the administrative appeal was filed that there are additional and/or different facts and/or charges on which to base the order or action being appealed, these additional and/or different facts and/or charges may be used by the Department or the ABC Division in an administrative appeal under this Chapter to support its order and/or action, if the Department or the ABC Division provides the appellant with reasonable notice of such facts and charges before the hearing in the administrative appeal.

H. Any party offering a document into evidence at the hearing before the Board in an administrative appeal covered by this Chapter shall provide all other parties to the administrative appeal and the Executive Director with a copy of the document before or at the time that the document is offered into evidence.

I. The Board may also take judicial notice of the following without the introduction of additional evidence:
   1) Records and files maintained by the Board; and
   2) Any fact that may be judicially noticed by the courts of this state.

J. If it is determined that the testimony of witnesses at the hearing shall be repetitive and limiting such repetitive testimony will not prejudice a party in the administrative appeal, the Executive Director, prior to a hearing, or the presiding board member, at the hearing, may direct the party or parties offering such repetitive testimony to limit the number of witnesses testifying to the same matter.

Source: *Miss. Code Ann.* § 27-4-3(1)(a) (Rev. 2010)

Rule 6.3 Burden of Going Forward and Ultimate Burden of Persuasion. In any administrative appeal covered by this Chapter, the Department or the ABC Division shall have the burden of going forward to present a prima facie case of the validity of the action taken. The appellant shall have the ultimate burden of persuasion to prove that the action taken by the Department or the ABC Division was:

A. Arbitrary or capricious;
B. Not supported by any substantial evidence;
C. Beyond the power of the Department or the ABC Division to make; or
D. In violation of some statutory or constitutional right of the appellant.

Source: *Miss. Code Ann.* § 27-4-3(1)(a) (Rev. 2010)

Rule 6.4 Order of Presentation at Hearings. Unless otherwise directed by the presiding board member, a hearing in an administrative appeal covered by this Chapter shall be conducted in the following order:

A. The presiding board member shall call the hearing to order;
B. The presiding board member, the Executive Director or other employee of the Board shall state the style of the administrative appeal being heard, the nature of the administrative appeal and a summary of the decision or action from which the administrative appeal was filed;
C. The presiding board member or the court reporter shall swear in all witnesses, including any party, who expect to testify at the hearing;
D. If requested by a party or upon the presiding board member's own initiative, all witnesses shall be excluded from the hearing room to a location where they cannot hear the testimony of other witnesses in the hearing, except for those witnesses who are either a natural person who is a party to the administrative appeal or an officer or employee of a party which is not a natural person and who has been designated by the party's attorney to be the party's representative at the hearing;
E. Any stipulation of facts and/or documents between the parties shall be admitted into evidence;
F. Each party shall be given the opportunity to make an opening statement;
G. The Department or the ABC Division shall present its evidence;
H. If the administrative appeal involves a written objection and request for hearing in regard to an application for issuance or transfer of an ABC permit and/or an application for a qualified resort area, the party filing such written objection and request for hearing shall present his evidence;
I. If the administrative appeal involves multiple written objections and requests for hearing in regard to an application for issuance or transfer of an ABC permit and/or an application for a qualified resort area, the presiding hearing officer shall determine the order in which such objectors shall present their evidence;
J. The appellant who filed the written appeal with the Executive Director initiating the administrative appeal and/or is the applicant for the ABC permit or qualified resort area to which the written objection and request for hearing referred to in subsection H was filed shall present his evidence;

K. Upon request by a party and only on approval and subject to any restrictions of the presiding board member, the parties may be allowed to present additional evidence after the close of the appellant's case;
L. Each party shall be given the opportunity to make a closing argument; and
M. Upon conclusion of all arguments and evidence, the presiding board member shall bring the hearing to a close.

Source: *Miss. Code Ann.* § 27-4-3(1)(a) (Rev. 2010)

Rule 6.5 Written or Electronic Submissions in Lieu of Appearances not Permitted, but Submission of Administrative Appeals on Stipulation Allowed.

A. Since the administrative appeals covered by this Chapter require that a record be made of the hearing before the Board, an appellant may not request to submit his position to the Board of Tax Appeals in writing or by electronic transmission in lieu of appearing at a hearing on the appeal. The failure of an appellant and his designated representative, if any, to appear at the hearing shall constitute an involuntary withdrawal of the administrative appeal under Rule 4.12(B) above.
B. Notwithstanding subsection A above, if all parties to an administrative appeal under this Chapter stipulate to the facts and documents in the administrative appeal, the parties may request that the administrative appeal be submitted to the Board on such stipulation. The filing with the Executive Director of such a request signed by all parties shall constitute a waiver by all parties to a formal record hearing before the Board. If granted, the Executive Director shall set the dates by which the stipulation of facts and documents signed by all parties is to be filed and the date by which the written arguments of the parties are to be filed. In such administrative appeal covered by this Chapter which is submitted on a stipulation, the Board's consideration of the facts in this appeal will be limited to those facts set out in the stipulation and in the stipulated documents and any facts of which it can take judicial notice under Rule 6.2(I) above.
C. The stipulation and the stipulated exhibits filed with the Executive Director in an administrative appeal submitted to the Board on a stipulation as set out in subsection B above shall constitute the record made before the Board in the administrative appeal.

Source: *Miss. Code Ann.* § 27-4-3(1)(a) (Rev. 2010)

Rule 6.6 Payment of Cost for Preparation of the Record on Appeal.

A. Any appellant appealing from an order of the Board to Court in regard to an administrative appeal covered by this Chapter, before filing his appeal in Court, shall pay to the Executive Director the amount of the estimate provided by the Executive Director to the appellant of the cost of preparing the entire record of the administrative appeal before the Board.
B. If upon preparation of the record, it is determined that the actual cost of preparation is different than the amount of the estimate, the Executive Director shall provide the

appellant with notice, in writing, of any deficiency or shall refund to the appellant any overpayment. The appellant is to pay the deficiency within thirty (30) days from the date of the notice of the deficiency. Failure of an appellant to pay the estimate before filing his appeal or to pay the deficiency within the thirty (30) days provided may result in his appeal to Court being dismissed with prejudice.

C. If the Department or the ABC Division appeals from an order of the Board to Court in regard to an administrative appeal covered by this Chapter, the Executive Director, after preparation of the record, shall bill the Department or the ABC Division with the cost of such record preparation or a proportional share of such cost if the appellant also appealed from the Board order. When billed, the Department or the ABC Division shall promptly pay the cost of preparation of the record, but the Department or the ABC Division will not be required to pay the estimate of the cost of preparation of the record before filing an appeal to Court.

Source: *Miss. Code Ann.* § 27-4-3(1)(a) (Rev. 2010)