DELBERT HOSEMANN
Secretary of State

ECONOMIC IMPACT STATEMENT

An Economic Impact Statement is required for this proposed rule by Section 25-43-3.105 of the Administrative Procedures Act. An Economic Impact Statement must be attached to this Form and address the factors below. A PDF document containing this executed Form and the Economic Impact Statement must be filed with any proposed rule, if required by the aforementioned statute.

AGENCY NAME	CONTACT PERSON		TELEPHONE NUMBER
Mississippi Department of Environmental Quality	Ted Lampton		(601) 961-5573
ADDRESS P.O. Box 2261	CITY Jackson	STATE MS	ZIP 39201
EMAIL tlampton@mdeq.ms.gov	DESCRIPTIVE TITLE OF PROPOSED RULE Rules of Practice and Procedure for Formal Evidentiary Hearings before the Mississippi Environmental Quality Permit Board		

Specific Legal Authority Authorizing the promulgation of Rule:	Reference to Rules repealed, amended or suspended by the Proposed Rule:
Miss. Code Ann. Section 49-17-29 (3) (d) (Rev. 2012)	This is a new rule.

SIGNATURE	TITLE
DATE	PROPOSED EFFECTIVE DATE OF RULE

1. Describe the need for the proposed action:
2. Describe the benefits which will likely accrue as the result of the proposed action:
3. Describe the effect the proposed action will have on the public health, safety, and welfare:
4. Estimate the cost to the agency and to any other state or local government entities, of implementing and enforcing the proposed action, including the estimated amount of paperwork, and any anticipated effect on state or local revenues:
5. Estimate the cost or economic benefit to all persons directly affected by the proposed action:
6. Provide an analysis of the impact of the proposed rule on small business:
    a. Identify and estimate the number of small businesses subject to the proposed regulation:
    b. Provide the projected reporting, recordkeeping, and other administrative costs required for compliance with the proposed regulation, including the type of professional skills necessary for preparation of the report or record:
    c. State the probable effect on impacted small businesses:
    d. Describe any less intrusive or less costly alternative methods of achieving the purpose of the proposed regulation including the following regulatory flexibility analysis:
        i. The establishment of less stringent compliance or reporting requirements for small businesses;

ii. The establishment of less stringent schedules or deadlines for compliance or reporting requirements for small businesses;
iii. The consolidation or simplification of compliance or reporting requirements for small businesses;
iv. The establishment of performance standards for small businesses to replace design or operational standards required in the proposed regulation; and
v. The exemption of some or all small businesses from all or any part of the requirements contained in the proposed regulations:

7. Compare the costs and benefits of the proposed rule to the probable costs and benefits of not adopting the proposed rule or significantly amending an existing rule:
8. Determine whether less costly methods or less intrusive methods exist for achieving the purpose of the proposed rule where reasonable alternative methods exist which are not precluded by law:
9. Describe reasonable alternative methods, where applicable, for achieving the purpose of the proposed action which were considered by the agency:
10. State reasons for rejecting alternative methods that were described in #9 above:
11. Provide a detailed statement of the data and methodology used in making estimates required by this subsection:

ECONOMIC IMPACT STATEMENT

AND

IMPACT UPON SMALL BUSINESS STATEMENT

Name and Mississippi Administrative Code citation for Regulation:

Rules of Practice and Procedure for Formal Evidentiary Hearings before the Mississippi Environmental Quality Permit Board, 11 Miss. Admin. Code Pt. 1, Ch. 6.

A Public Hearing will be held on this proposed rule on March 17, 2015, at 4:00 p.m. in the Commission hearing room at 515 East Amite Street, Jackson, Mississippi, 39201. Persons may present their views on the proposed regulation orally at the hearing, may provide written comments at the hearing, or may submit written comments prior to the hearing, by mailing or emailing the comments to the following:

Lisa Thompson Ouzts
515 East Amite Street (39201)
P.O. Box 2261
Jackson, Mississippi, 39225-2261
lisa_ouzts@deq.state.ms.us

I. ECONOMIC IMPACT STATEMENT
(Miss. Code Ann. § 25-43-3.105)

(a) The specific legal authority authorizing the promulgation of the rule:

Miss. Code Ann. § 49-17-29 (3)(d) (Rev. 2012). This statute provides that the Mississippi Environmental Quality Permit Board ("Permit Board") may adopt rules of practice and procedure governing its proceedings.

(b) A description of:

i. The need for the proposed action:

Pursuant to Miss. Code Ann. § 49-17-29 (4)(b) (Rev. 2012), interested parties aggrieved by the Permit Board's issuance, reissuance, denial, modification, or revocation of an environmental permit may request a formal evidentiary hearing before the Permit Board. The proposed action is the Permit Board's adoption of such Rules of Practice and Procedure to govern its formal evidentiary hearings. The proposed Rule is necessary to provide guidance to hearing participants regarding the Permit Board's requirements related to its formal evidentiary hearings including, but not limited to, the following: procedures for timely filing of documentary evidence; procedures for timely filing of pre-filed testimony, motions, and motion responses, and procedures governing the actual conduct of the formal hearing. The proposed Rule will allow all hearing participants, including those with no practice experience before the Permit Board, to

more effectively prepare for formal evidentiary hearings before the Permit Board.

ii. The benefits which will likely accrue as the result of the proposed action:

The proposed Rule should result in more efficient and streamlined hearings and hearing participants will be able to more effectively prepare for their presentation of witnesses and evidence before the Permit Board.

iii. The effect the proposed action will have on the public health, safety and welfare:

The proposed Rule will not affect public health, safety, and welfare.

(c) An estimate of the cost to the agency, and to any other state or local government entities, of implementing and enforcing the proposed action, including the estimated amount of paperwork, and any anticipated effect on state or local revenues:

The Permit Board currently conducts formal evidentiary hearings pursuant to informal, non-promulgated Procedures for Conducting Permit Board Evidentiary Hearings. Costs to the agency currently associated with formal evidentiary hearings before the Permit Board include costs for Court Reporter attendance and transcription of the formal evidentiary hearing. Court Reporter costs vary depending on the length of the hearing; however, generally such costs range from $500 to $1,200. The agency also incurs costs associated with preparing pre-filed written testimony and providing hard copies of such testimony to opposing parties and to each Permit Board member and the Hearing Officer in advance of the hearing. The agency also incurs costs associated with preparing motions, motion responses, and documentary evidence and providing hard copies of same to all parties and to each Permit Board member and the Hearing Officer in advance of the hearing. Costs of preparing and distributing these documents depend upon the complexity of the matter being considered by the Permit Board but may range from $50 to $100. Also, agency personnel spend considerable time in preparing for the formal evidentiary hearing. These costs are currently being borne by the agency and the agency will continue to bear these costs even in the absence of the proposed Rule. The proposed Rule will not generate any additional costs to the agency, or to any other state or local government entities, and will not affect state or local revenues.

(d) An estimate of the cost or economic benefit to all persons directly affected by the proposed action:

There are currently costs associated with participating in formal evidentiary hearings before the Permit Board. Such costs include those described in (c) above, excluding the Court Report costs. Hearing participants who wish to retain legal counsel may incur attorney fees associated with preparation for and representation at the hearing. These costs are currently being borne by hearing participants and hearing participants will continue to bear these costs even in the absence of the proposed Rule. The proposed Rule will not generate any additional costs to hearing participants. The proposed Rule could potentially provide some economic benefit, compared to not having the proposed Rule, because comprehensive Rules of Practice and Procedure would provide guidance to hearing participants regarding what is rules and procedures are required which would reduce communications between hearing participants and agency staff

as well as attorney fees associated with such communications.

(e) An analysis of the impact of the proposed rule on small business; **SEE SECTION II BELOW.**

(f) A comparison of the costs and benefits of the proposed rule to the probable costs and benefits of not adopting the proposed rule or significantly amending an existing rule:

No additional costs are anticipated from the proposed rule, and some small economic benefit is anticipated (see (d) above). Not adopting the proposed rule would likewise have no associated costs, but there would be no economic benefit either since there would be no reduction in communications between the agency and hearing participants to inquire about the hearing procedures.

(g) A determination of whether less costly methods or less intrusive methods exist for achieving the purpose of the proposed rule where reasonable alternative methods exist which are not precluded by law:

No less costly methods or less intrusive methods are known to exist for achieving the purpose of the proposed Rule. No reasonable alternative methods are known to exist which would affect the purposes of the proposed rule.

(h) A description of reasonable alternative methods, where applicable, for achieving the purpose of the proposed action which were considered by the agency and a statement of reasons for rejecting those alternatives in favor of the proposed rule:

No reasonable alternative methods are known to exist which would affect the purposes of the proposed rule.

(i) A detailed statement of the data and methodology used in making estimates required by this subsection:

Because there are no additional costs associated with the proposed Rule, no data was available and no methodology was required.

II. IMPACT UPON SMALL BUSINESS STATEMENT
(Miss. Code Ann. 25-43-4.104)

Note: Miss. Code Ann. Section 25-43-4.102 (e) defines "small business" as a for-profit business entity employing fewer than one hundred full-time employees OR having gross annual sales or revenues of less than Ten Million Dollars.

(a) An identification and estimate of the number of small businesses subject to the proposed regulation:

The proposed Rule would be effective statewide. Any small business participating in a formal evidentiary hearing before the Permit Board would be subject to the proposed regulation.

The proposed Rule would typically only impact small businesses required to obtain environmental permits from the Permit Board.

(b) The projected reporting, recordkeeping, and other administrative costs required for compliance with the proposed regulation, including the type of professional skills necessary for preparation of the report or record:

The adoption of the proposed Rule will not result in any reporting or recordkeeping costs and will not increase administrative costs beyond those costs currently associated with preparing for formal evidentiary hearings before the Permit Board.

(c) A statement of the probable effect on impacted small businesses:

The proposed Rule should result in more efficient and streamlined hearings because hearing participants can more effectively prepare for their presentation of witnesses and evidence by knowing in advance the Rules of Practice and Procedure required for the Permit Board's formal evidentiary hearings. Thus there should be no probable effect on impacted small businesses other than to provide clear guidance for those businesses participating in Permit Board evidentiary hearings.

(d) A description of any less intrusive or less costly alternative methods of achieving the purpose of the proposed regulation, including the following regulatory flexibility analysis:

No less intrusive or less costly alternative methods are known which would achieve the purpose of the proposed regulation.

(i). The establishment of less stringent compliance or reporting requirements for small businesses:

The proposed Rule governs practice and procedures for formal evidentiary hearings before the Permit Board and does not contain compliance or reporting requirements. The proposed Rule governs requirements for submission of pre-filed testimony, motions, motion responses, documentary evidence and other related information but does not impose reporting requirements. There are no less intrusive or less costly alternative methods which would achieve the purpose of the proposed Rule.

(ii). The establishment of less stringent schedules or deadlines for compliance or reporting requirements for small businesses:

No less intrusive or less costly alternative methods are known which would achieve the purpose of the proposed regulation.

(iii). The consolidation or simplification of compliance or reporting requirements for small businesses:

No less intrusive or less costly alternative methods are known which would achieve the purpose of the proposed regulation.

(iv). The establishment of performance standards for small businesses to replace design or operational standards required in the proposed regulation:

The proposed Rule is administrative in nature and would not impose design or operational standards. No less intrusive or less costly alternative methods are known which would achieve the purpose of the proposed regulation.

(v). The exemption of some or all small businesses from all or any part of the requirements contained in the proposed regulations.

No less intrusive or less costly alternative methods are known which would achieve the purpose of the proposed regulation.