

Mississippi Secretary of State
125 S. Congress Street, Jackson, MS 39201

ADMINISTRATIVE PROCEDURES NOTICE FILING

AGENCY NAME Mississippi Commission on Environmental Quality Mississippi Department of Environmental Quality		CONTACT PERSON Emily Brennan	TELEPHONE NUMBER 601-961-5340	
ADDRESS P.O. Box 2261		CITY Jackson	STATE MS	ZIP 39225
EMAIL ebrennan@mdeq.ms.gov	Submit Date 3-21-25	Name or number of rule(s): Title 11, Part 6, Chapter 1, Subchapter 4 – State Water Alteration Program (SWAP) for Discharge of Dredged or Clean Fill Material into Waters of the State Title 11, Part 6, Chapter 1, Subchapter 1, Rule 1.1.1 – amendment to existing definition of “waters of the State”		

Short explanation of rule/amendment/repeal and reason(s) for proposing rule/amendment/repeal: Pursuant to Miss. Code Ann. § 49-17-29 (2), a permit or permit exemption is required for “any person to cause pollution of any waters of the state or to place or cause to be placed any wastes in a location where they are likely to cause pollution of any waters of the state.” Pursuant to 11 Miss. Admin. Code Pt. 6, Ch. I, R. 1.1.1.B.1, the submission of an application is required for any proposed discharge to waters of the State. This regulation is proposed to clarify the definition of waters of the State and enhance regulatory certainty by introducing less burdensome alternatives to permitting – exemptions and conditional exemptions – for certain activities that affect waters of the State exclusively.

Specific legal authority authorizing the promulgation of rule: Miss. Code Ann. §§ 49-17-17, 49-17-25, and 49-2-9(1)(b) (Rev. 2012)
List all rules repealed, amended, or suspended by the proposed rule: This is a new rule.

ORAL PROCEEDING:

☒ An oral proceeding is scheduled for this rule on: Date: April 17, 2025 Time: 1:00 p.m. Place: MDEQ Commission Hearing Room, 1st Floor, 515 E. Amite Street, Jackson, MS 39201

☐ Presently, an oral proceeding is not scheduled on this rule.

If an oral proceeding is not scheduled, an oral proceeding must be held if a written request for an oral proceeding is submitted by a political subdivision, an agency or ten (10) or more persons. The written request should be submitted to the agency contact person at the above address within twenty (20) days after the filing of this notice of proposed rule adoption and should include the name, address, email address, and telephone number of the person(s) making the request; and, if you are an agent or attorney, the name, address, email address, and telephone number of the party or parties you represent. At any time within the twenty-five (25) day public comment period, written submissions including arguments, data, and views on the proposed rule/amendment/repeal may be submitted to the filing agency.

ECONOMIC IMPACT STATEMENT:

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

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

Printed name & Title of person authorized to file rules: Emily Brennan, Senior Attorney, MDEQ

Signature of person authorized to file rules: Emily Brennan

OFFICIAL FILING STAMP 	DO NOT WRITE BELOW THIS LINE OFFICIAL FILING STAMP 	OFFICIAL FILING STAMP 
Accepted for filing by _____	Accepted for filing by <u>27911 438</u>	Accepted for filing by _____

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



Michael Watson

SECRETARY OF STATE

CONCISE SUMMARY OF ECONOMIC IMPACT STATEMENT

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

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ADDRESS P.O. Box 2261	CITY Jackson	STATE MS	ZIP 39225
EMAIL ebrennan@mdeq.ms.gov	DESCRIPTIVE TITLE OF PROPOSED RULE State Water Alteration Program (SWAP) for Discharge of Dredged or Clean Fill Material into Waters of the State, 11 Miss. Admin. Code Pt. 6, Ch. 1, Subch. 4		
Specific Legal Authority Authorizing the promulgation of Rule: Miss. Code Ann. §§ 49-17-17, 49-17-25, and 49-2-9(1)(b)		Reference to Rules repealed, amended or suspended by the Proposed Rule: This is a new rule.	

A. Estimated Costs and Benefits

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

The proposed rule provides a framework, where none previously existed, to comply with existing regulations. Additionally, it provides clarity and consistency regarding the definition of waters of the State and introduces less burdensome alternatives to permitting for certain activities that affect waters of the State.

2. Briefly describe the need for the proposed rule:

Pursuant to Miss. Code Ann. § 49-17-29 (2), a permit or permit exemption is required for "any person to cause pollution of any waters of the state or to place or cause to be placed any wastes in a location where they are likely to cause pollution of any waters of the state." Pursuant to 11 Miss. Admin. Code Pt. 6, Ch.1, R. 1.1.1.B.1, the submission of an application is required for any proposed discharge to waters of the State. This regulation is proposed to clarify the definition of waters of the State and enhance regulatory certainty by introducing less burdensome alternatives to permitting – exemptions and conditional exemptions – for certain activities that affect waters of the State exclusively.

3. Briefly describe the effect the proposed action will have on the public health, safety, and welfare:

The proposed action will not affect public health, safety, or welfare.

4. Estimated Cost of implementing proposed action:

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

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

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

6. Estimated impact on small businesses:

- ☒ Nothing ☐ Minimal ☐ Moderate ☐ Substantial ☐ Excessive

a. Estimate of the number of small businesses subject to the proposed regulation:

The proposed rule would be effective statewide. Any small business whose activities may potentially affect waters of the State would be subject to the proposed regulation.

b. Projected costs for small businesses to comply:

The adoption of the proposed rule will result in no reporting costs and minimal recordkeeping costs, and it will not increase administrative costs beyond those necessitated by the current permitting requirements (i.e., Section 401 Water Quality Certifications, Antidegradation Analyses, etc.).

c. Statement of probable effect on impacted small businesses:

The requirements included in the regulation are already imposed by the various statutes addressing activities that affect waters of the State, specifically Miss. Code Ann. § 49-17-29. The proposed rule will provide clarity and consistency to the implementation of these statutes, thereby enhancing predictability and removing uncertainty as to activities affecting waters of the State. This rule is less burdensome and represents a pathway to economic development that previously did not exist within MDEQ regulations. Thus, there should be no additional effect on impacted small businesses other than to provide clarity regarding activities which may affect waters of the State.

7. The cost of adopting the rule compared to not adopting the rule or significantly amending the existing rule (check option):

- ☐ substantially less than ☐ moderately less than ☒ minimally less than

☐ the same as minimally more than moderately more than
☐ ☐ ☐
substantially more than ☐ excessively more than

8. The benefit of adopting the rule compared to not adopting the rule or significantly amending the existing rule (check option):

☐ substantially less than ☐ moderately less than ☐ minimally less than
☐ the same as ☐ minimally more than ☒ moderately more than
☐ substantially more than ☐ excessively more than

B. Reasonable Alternative Methods

1. Other than adopting this rule, are there less costly or less intrusive methods for achieving the purpose of the proposed rule?
☐ yes ☒ no

2. If yes, please briefly describe available, reasonable alternative(s) and the reasons for rejecting those alternatives in favor of the proposed rule. (Please see §25-43-4.104 for factors you must consider.)

C. Data and Methodology

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

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

D. Public Notice

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

A public hearing is scheduled for April 17, 2025, at 1:00 pm. in the Commission hearing room at 515 East Amite Street, Jackson, Mississippi, 39201. A public notice was published in multiple newspapers advising of the hearing and various methods of submitting written comments.

SIGNATURE

Emily Brown

TITLE

Senior Attorney

DATE

3/21/2025

PROPOSED EFFECTIVE DATE OF
RULE

30 days after final filing