

NOTICE OF RULE ADOPTION—FINAL RULE

STATE OF MISSISSIPPI  
MISSISSIPPI DEPARTMENT OF MARINE RESOURCES  
OFFICE OF MARINE FISHERIES



Mississippi Department of Marine Resources  
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Specific Legal Authority Authorizing the promulgation of  
Rule: 49-15-15 (1) (b)

**Reference to Rules repealed, amended or  
suspended by the Proposed Rule:**

The following rules have been amended, renumbered or repealed (See explanation). Proposed change by the addition to Title 22 Part 1; Chapter 03, Sections 101, 102, 113; Chapter 4, Sections 100 and 101.03; Chapter 7, Section 100; Chapter 8, Sections 100.01.06 and 101; Chapter 9, Section 101.03.03; Chapter 12, Section 100.01; Chapter 13, Section 100.03; Chapter 16, Section 104; Chapter 17, Sections 102, 103, 103.01.01, 103.01.05.01, 103.01.05.03 through 103.01.05.07, 103.01.07, 103.02, 104.07, 104.07.01, 104.08, 105; Chapter 18, Sections 100.04.05 through 100.04.07, Sections 101.01.01 through 101.05.01, Sections 102.01.02, 102.01.02.01, 102.02.01, Sections 102.03 through 102.08.04, Sections 103.02.03.02 through 103.02.03.02.03 Sections 103.03 through 103.06.01, Sections 104.01.01.02 through 104.03.01.01; Chapter 20, Sections 102.02 and 105.01.

Date Rule Proposed: August 18, 2009

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

TITLE 22 - MISSISSIPPI DEPARTMENT OF MARINE RESOURCES, PART 1 RULES AND REGULATIONS FOR SHELLFISH HARVESTING, TAGGING, LANDING, UNLOADING, TRANSPORTING, RELAYING, MANAGEMENT, AREA CLASSIFICATION, AND OTHER SHELLFISH RELATED ACTIVITIES IN THE STATE, AND THE LEASING OF TERRITORIAL WATERS UNDER THE JURISDICTION OF THE STATE OF MISSISSIPPI. The proposed changes are to Title 22 Part 1; Chapter 03, Sections 101, 102, 113; Chapter 4, Section 100; Chapter 7, Section 100; Chapter 8, Section 101; Chapter 12, Section 100.01; Chapter 17, Sections 102, 103, 103.01.07, 103.02, 104.08, 105 and Chapter 20, Sections 102.02; 105.01 adds the Bureau Director authority or responsibility to more accurately reflect the organizational structure. Adds Chapter 4, Section 101.03 which authorizes the MDMR to require additional shellstock tagging requirements as may be necessary in order to achieve current and future ISSC requirements of illness reduction plans or management plans for *Vibrio parahaemolyticus* or *Vibrio vulnificus* to better protect the public health, or health of "at-risk" consumers, and to allow for greater options to the industry and harvesters in meeting those requirements. Amends Chapter 8, Section 100.01.06 and Chapter 9, Section 101.03.03 by the addition of additional tagging requirements and additional time to temperature requirements of shellstock. This would help meet current and future ISSC requirements of illness reduction plans or management plans for *Vibrio parahaemolyticus* or *Vibrio vulnificus* to better protect the public health, or health of "at-risk" consumers, and to allow for greater options to the industry and harvesters in meeting those requirements. Amends Chapter 13, Section 100.03 by allowing the times and temperatures to be adjusted by the Executive Director as required or necessary. This would help meet current and future ISSC requirements of illness reduction plans or management plans for *Vibrio parahaemolyticus* or *Vibrio vulnificus* to better protect the public health, or health of "at-risk" consumers, and to allow for greater options to the industry and harvesters in meeting those requirements. Amends Chapter 16, Section 104, Chapter 17, Sections 104.07, 104.07 pertains to the authorization of the MDMR to modify or change area specific management provisions and directs that they will be maintained and published as Legal Notices. This allows the MDMR to manage the area specific management provisions and the classification and description of shellfish growing areas through the Legal Notice process. This is intended to reduce confusion from the public concerning the current regulations, as well as reflect the technical processes involved in managing and classifying shellfish growing areas, and allows for a more timely response to changing environmental conditions, necessary to protect the public health and help maximize the resource harvest potential. Amend Chapter 17, Section 103.01.01 by adding the provision that an area may not be opened for harvest or shall be closed to harvest when area specific closing criteria as published by the MDMR are met or exceeded. This allows the MDMR to manage the area specific management provisions of shellfish growing areas through the Legal Notice process. Chapter 17, Section 103.01.05.01 is being amended to comply with current management plan criteria; Chapter 17, Section 103.01.05.03 is being amended to include area subdivisions. Chapter 17, Sections 103.01.05.04 through 103.01.05.07, 104.07.01, Chapter 18, Sections 100.04.05, 100.04.05, Chapter 18, Section 101.01.01 through 101.05.01, 102.01.02 through 102.01.02.01 (new),

102.02.01, 102.03 through 102.04.01, 102.05.01 through 102.08.04, 103.02.02.01, 104.02 through 104.03.01.01 are being deleted, amended or added because these areas are being reclassified. Chapter 18, Sections 100.04.07, 102.05, 102.05.10, 102.08 through 102.08.04, 103.03 through 103.06.01 are being renumbered. Chapter 18, Sections 103.02.03.02 through 103.02.03.02.03, 104.01.01.02 through 104.01.01.02.02 are being added to subdivide existing areas to limit the effects of a recall.

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

An oral proceeding was held on this rule:

Date:

Time:

Place:

An oral proceeding was not held on this rule.

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

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

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

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

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

Effective Date of Rule: September 28, 2009

Michael Hill, Staff Officer  
Signature and Title of Person Submitting Rule for Filing