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

Chapter 01 Introduction

Purpose

100 This Part establishes the minimum requirements necessary to regulate the intrastate and interstate commerce of molluscan shellfish and to establish a program to protect the public health of consumers by assuring the sale or distribution of shellfish from safe sources and assuring shellfish have not been adulterated during landing, unloading, transporting, processing, buying, selling, opening and other shellfish related activities in the state.

Chapter 02 Justification and Authority

100 The Mississippi Commission on Marine Resources (MCMR) has determined that it is in the best interest of the State of Mississippi and necessary for the protection, conservation, and propagation of all shellfish in the waters under the territorial jurisdiction of the State of Mississippi to regulate the harvesting, landing, unloading, transporting, processing, buying, selling, opening, relaying, and other shellfish related activities in the state, and the leasing of waters within the area under the territorial jurisdiction of the State of Mississippi.

101 The MCMR is authorized by Miss. Code Ann. § 49-15-15, as amended, to enact all regulations necessary for the protection, conservation or propagation of all seafood in the waters under the territorial jurisdiction of the State of Mississippi.

102 The MCMR is required by Miss. Code Ann. § 49-15-15 (1) (c), as amended, to regulate all seafood sanitation and processing programs.

103 The MCMR is required by Miss. Code Ann. § 49-15-44, as amended, to prohibit the sale or possession of illegal oysters as defined in Miss. Code Ann. § 49-15-3(e), as amended.

104 All beds, banks and accumulations of all shells being under the bottom of, or under the tidewaters within the territorial jurisdiction of the State of Mississippi are declared to be the property of the State of Mississippi under the jurisdiction of the MCMR as provided for in Miss. Code Ann. § 49-15-7, as amended.

105 Miss. Code Ann. § 49-15-36(3), as amended, requires the MCMR to promulgate regulations regarding the closing of oyster reefs which are determined to be restricted.

106 Miss. Code Ann. § 49-15-27, as amended, grants the MCMR authority to lease bottoms.

107 Miss. Code Ann. § 49-15-29, as amended, authorizes the MCMR to assess and collect certain taxes and license fees.

108 Miss. Code Ann. § 49-15-30, as amended, authorizes the MCMR to promulgate regulations for nonresident permits.

109 Miss. Code Ann. § 49-15-37, as amended, authorizes the cultivation of oyster reefs and removal of oysters from restricted areas through the MCMR.

110 Miss. Code Ann. § 49-15-39, as amended, provides for dredging limits and designation of reefs reserved for tonging by the MCMR.

111 Miss. Code Ann. § 49-15-41, as amended, prohibits oyster harvesting at night.

112 Miss. Code Ann. § 49-15-42, as amended, addresses tagging, landing and unloading of oysters.

113 Miss. Code Ann. § 49-15-43, as amended, addresses the packaging of oysters.

114 Miss. Code Ann. § 49-15-45, as amended, provides that certain municipalities may enforce oyster regulations.

115 Miss. Code Ann. § 49-15-46 (3), as amended, requires that all oysters harvested in Mississippi shall be tagged.

116 Miss. Code Ann. § 49-15-63, as amended, addresses general penalties for violation of these regulations.

Chapter 03 Definitions

100 **ADULTERATED -** Shellfish shall be deemed to be adulterated if any foreign substance has been added to the shellfish, or has been mixed or packed therewith so as to increase its bulk or weight, or reduce its quality, or make it appear better or of greater value than it is.

101 **APPROVED AREA -** Waters where the growing and harvesting of shellfish for direct marketing is allowed by the authority of the MCMR or as hereby authorized the Mississippi Department of Marine Resources (MDMR), its Executive Director, Director of Marine Fisheries, Bureau Director, Program Coordinator or other MDMR designee; where pathogenic micro-organisms, poisonous and deleterious substances are not present in the area in dangerous concentrations, and where bacteriological quality of the water of every sampling station does not exceed a fecal coliform median or geometric mean MPN of 14 per 100 ml, and not more than 10 percent of the samples exceed an MPN of 43 for a 5-tube

decimal dilution test or an MPN of 49 per 100 ml. for a 3-tube decimal dilution test. An approved area may be temporarily closed when a public health emergency resulting from, for example, a hurricane, flooding, chemical spill, hazardous waste or raw sewage discharge, sinking or grounding of vessels carrying hazardous cargoes, evidence of the existence of marine biotoxins, or any other public health emergency as declared by the MCMR or as hereby authorized the MDMR, its Executive Director, the Director of Marine Fisheries, Bureau Director, Program Coordinator or other MDMR designee thereof.

102 **CONDITIONALLY APPROVED AREA -** Waters that meet approved area criteria for a predictable period. The period is conditional upon established performance standards specified in a management plan. A conditionally approved shellfish growing area is a closed area when the area does not meet the approved growing area criteria and is temporarily closed by the MCMR or as hereby authorized the MDMR, its Executive Director, Director of Marine Fisheries, Bureau Director, Program Coordinator or other MDMR designee.

103 **ILLEGAL MOLLUSCAN SHELLFISH –** All untagged molluscan shellstock, molluscan shellfish obtained from uncertified shops or dealers or from an unlicensed catcher, molluscan shellstock obtained from waters not declared safe and sanitary by the MDMR and offered for sale or sold, and shucked molluscan shellfish obtained from uncertified shops or dealers (Miss Code Ann. §49-15-3 (e), as amended).

104 **LANDED -** The point at which shellfish first are brought to a point of land after being harvested and are no longer transported by boat or vessel.

105 **MISBRANDED –** Shucked shellfish shall be deemed to be misbranded if its labeling is false or misleading in any way, or if it does not bear a label containing (1) the name and place of business of the processor or packer and the name of the product (2) an accurate statement of the quantity of the contents in terms of weight, measure, numerical count or size of container, (3) the permit number of the processor or packer (4) net drained weight when packed (5) on packages of sixty-four (64) fluid ounces or more of fresh product, labeled with the date shucked with the wording "DATE SHUCKED" followed by the date expressed as the month, day, and year, or (6) on packages of less than sixty-four (64) fluid ounces of fresh product labeled with the wording "SELL BY" followed by a date expressed as a month, day and year, not to exceed fourteen (14) days from the date shucked. Containers of frozen shucked shellfish shall show the date the product was shucked and the date frozen, labeled as "DATE SHUCKED" and "DATE FROZEN" followed by the date expressed as the month, day, and year. Shucked product previously frozen must be labeled with the wording "PREVIOUSLY FROZEN".

106 **PROHIBITED AREA –** Waters that are prohibited for the harvest of shellfish for any purpose except depletion. A prohibited shellfish growing area is a closed area for the harvesting of shellfish at all times.

107 **RESTRICTED AREA –** Closed area waters from which shellfish may be harvested only if permitted and subjected to a suitable and effective purification process as determined and permitted by the MCMR.

108 **SANITARY SURVEY** – The evaluation of all actual and potential pollution sources and environmental factors having a bearing on shellfish growing area water quality.

109 **SHALL** – Is used to state mandatory requirements.

110 **SHELLFISH** – All edible molluscan shellfish species of oysters, clams, mussels, or scallops; either shucked or in the shell; fresh or frozen; whole or in part.

111 **SHELLSTOCK** – Shellfish in the shell.

112 **SHOULD** – Is used to state recommended or advisory procedures or to identify recommended equipment.

113 **UNCLASSIFIED AREA** – Waters that are presently unclassified and from which the harvest of shellfish is prohibited pending classification of the area as prohibited, restricted, conditionally approved, or approved based on a sanitary survey of the area and granting of permission to harvest shellfish in accordance with the respective classification by the MCMR or as hereby authorized the MDMR, its Executive Director, Director of Marine Fisheries, Bureau Director, Program Coordinator or other MDMR designee.

Chapter 04 Legally Harvested and Properly Tagged Shellfish

100 It shall be unlawful for any person, firm, or corporation to harvest, possess, land, handle, unload, open, sell or offer for sale or transport any shellfish taken from the waters under the territorial jurisdiction of the State of Mississippi except those shellfish taken legally and properly tagged from an area declared open to shellfish harvesting by public order of the MCMR or as hereby authorized the MDMR, its Executive Director, Director of Marine Fisheries, Bureau Director, Program Coordinator or other MDMR designee in accordance with the procedures outlined in this Part and its document parts.

101 With the exception of permitted private leaseholders or their agents legally harvesting from their own lease, it shall be unlawful for any person, firm, or corporation to have possession of tags in excess of the daily sack limit.

101.01 It shall be unlawful for harvesters to fail to tag shellstock at the time of landing with the following indelible, legible information (as required by Mississippi Code § 49-15-46(3) as amended).
101.01.01 Harvester's name.
101.01.02 Harvester's license number.
101.01.03 Date of harvest.
101.01.04 Harvest location(s).
101.01.05 Mississippi shellstock dealer's name and permit number.

101.02 All shellstock or oyster tags provided by the MDMR shall be affixed to the sack or container with the fastener provided by the MDMR for such purpose.

101.03 Additional shellstock tagging requirements may be required by the MDMR as may be necessary.

102 All shellfish purchased for personal consumption must be properly labeled as specified in this Part, and be accompanied by a receipt or a bill of sale containing the following information, the intent being that the following information is present and available for inspection by any official of MDMR:

102.01 Name and permit or license number of seller.
102.02 Quantity of shellfish purchased.
102.03 Purchase date.

103 Failure to meet the above-described standards shall be unlawful.

Chapter 05 Possession of Illegal (Molluscan) Shellfish

100 It shall be unlawful for any person, firm or corporation to sell or possess any illegal (molluscan) shellfish as defined in Miss. Code Ann. § 49-15-3 and as provided for in § 49-15-44, as amended.

Chapter 06 Shellfish Harvesting Requirements/Specifications

100 Except for oysters legally harvested on private lease sites, it shall be unlawful for any person, firm or corporation to take from the reefs of this state any oysters that measure less than three (3) inches from end to end.

100.01 End to end shall be defined for the purpose of this chapter as the greatest length from the hinge of the oyster to its bill.

101 It shall be unlawful to fail to immediately scatter and broadcast evenly on to the natural reefs from which they are taken all dead shells, small oysters and oysters in excess of the daily sack limits.

102 It shall be unlawful for any person, firm or corporation to purchase, sell or have in his possession or under his control any oysters taken from the public reefs not culled according to the provisions of this Chapter, or any oysters under the legal size aforesaid.

102.01 A ten percent (10%) tolerance by number shall be allowed in relation to any culling.
102.01.01 The ten percent (10%) tolerance shall be determined from a representative sample of the total catch.
102.01.02 A representative sample is defined for the purposes herein as ten percent (10%) of the total catch.

103 It shall be unlawful to fail to pack shellstock oysters in clean barrels, sacks, hampers, or other measurable containers before the boat or vessel leaves the natural reef from which they were harvested.

104 It shall be unlawful to transfer oysters from one vessel to another vessel, until said vessel has been checked-out at the appropriate check station.

105 While engaged in the harvest of oysters, it shall be unlawful for any boat or vessel to tow or to be tied to any other boat or vessel licensed for oystering.

106 It shall be unlawful for any boats or vessels engaged in the harvest of oysters to fail to be continuously manned by a qualified person capable of operating said boat or vessel from the time they check-in for the day till the time they check-out.

107 During the period of May 1 through September 30 of each year, it shall be unlawful for any boats or vessels harvesting or transporting shellstock, to fail to provide protection from direct exposure to the sun by having a suspended awning or similar covering above said shellstock at any time shellstock is onboard said boat or vessel.

Chapter 07 Dredge Specifications

100 It shall be unlawful for any person, firm, or corporation to take or attempt to take any oysters from the waters under the territorial jurisdiction of the State of Mississippi by the use of a dredge having a weight in excess of one hundred forty (140) pounds and the tooth bar cannot have more than sixteen (16) teeth and the teeth on the tooth bar cannot exceed five (5) inches unless otherwise permitted by the MCMR or as hereby authorized the MDMR, its Executive Director, Director of Marine Fisheries, Bureau Director, Program Coordinator or other MDMR designee.

101 No person, firm or corporation may use more than two (2) such dredges.

Chapter 08 Shellfish Area Openings and Closings

100 The MCMR shall set the opening date of oyster season in an Opening Order at a regularly scheduled meeting.

100.01 The Opening Order shall include:

100.01.01 The date that oyster season shall open.

100.01.02 A description of shellfish growing areas to open.

100.01.03 A description of check-in and check-out stations and alternate stations.

100.01.04 Telephone number(s) from which information may be obtained with respect to closing and reopening waters.

100.01.05 Sack limits.

100.01.06 Necessary regulations relating to shellfish harvesting, additional tagging requirements, additional time to temperature requirements of shellstock, processing and distribution.

100.02 Notice of the opening date shall be included in the minutes of the meeting, in its Opening Order and shall be published in a newspaper or newspapers having general circulation in the three coastal counties.

101 Opening and closing of shellfish growing area waters and oyster reefs shall be by issuance of a legal notice signed by the MCMR or as hereby authorized the MDMR, its Executive Director, Director of Marine Fisheries, Bureau Director, Program Coordinator or other MDMR designee thereof.

101.01 Notice of openings and closings shall be released to the news media.

101.02 A twenty-four (24) hour recorded telephone message service of closures and openings may be provided when possible.

101.03 If a closure is necessitated by a rainfall event or rise in river stage occurring after 4:00 p.m., the closure will be effective no later than 4:00 p.m. the following day.

101.04 If a closure is necessitated by a rainfall event or rise in river stage occurring prior to 4:00 p.m., the closure will be effective no later than 4:00 p.m. that day.

101.05 Whenever sampling data indicates this time frame sequence is not adequate to protect public health in a reef area, said area may be closed immediately and any oysters or other shellfish taken from said area may be required to be returned to the water.

102 If closure is necessitated by any other polluting event, which threatens imminent peril to public health, closure will be immediate and any oysters or other shellfish taken which have been subjected to such pollution as determined by the MDMR shall be returned to the water.

103 During any closure of a conditionally approved area the MDMR will:

103.01 Sample closed areas in accordance with state statute until oysters or other shellfish are free of pollutants in accordance with the respective Management Plan and state statue.

103.02 Provide notification of the reopening through standard media news releases, and by recorded telephone messages.

104 The Executive Director of the MDMR is authorized to close any area to harvest when necessary to conserve the resource.

Chapter 09 Harvester License and Check Stations

100 It shall be unlawful for any person, firm, or corporation to take or attempt to take any oysters from the waters under the territorial jurisdiction of the State of Mississippi without first having obtained a license as specified in Miss. Code Ann. § 49-15-29, as amended.

101 It shall be unlawful for any person, firm, or corporation to take or attempt to take any oysters from the waters under the territorial jurisdiction of the State of Mississippi without first having registered (checked-in) on the day of harvest at the check-in station or drop box in the area where harvesting shall be attempted.

101.01 Upon registration, while harvesting, or upon check-out, each person may be required to show his license to the Marine Patrol Officer or other designated official of the MDMR. The licensee may receive from the Marine Patrol Officer or other designated official a trip ticket upon which shall be included the area that the licensee is permitted to harvest oysters.

101.02 All licensees must observe any instructions given at the check station by any Marine Patrol Officer or other designated official.

101.03 All fishermen must check out at the same designated check station where they checked in.

101.03.01 Check stations shall operate from 7:00 A.M. to 4:00 P.M. local time when the area is open for harvest.

101.03.02 All oystering activities shall cease prior to 4:00 P.M. each day and all fishermen shall be checked out at the appropriate check station by 4:00 P.M.

101.03.03 The Executive Director is hereby authorized to establish earlier checkout times, additional tagging requirements and additional time to temperature requirements of shellstock as may be required or necessary.

101.03.04 All oysters must be landed and tagged as soon as possible after the boat is safely secured on the date of harvest.

101.04 The MDMR trip ticket shall indicate the check out time and must remain with the catch until final disposition and be available for inspection with the molluscan shellfish by any authorized Marine Patrol Officer or MDMR staff in charge of the regulatory molluscan shellfish handling and processing responsibilities.

Chapter 10 Resident Recreational and Non-Resident Requirements

100 No nonresident recreational harvest will be permitted in the State of Mississippi.

101 It shall be unlawful for any Mississippi recreational harvesters to fail to obtain a recreational harvest tally card at the check-in/out station prior to their initial harvest trip.

101.01 The recreational tally card must be presented at the check-in/out station prior to any recreational harvest trip.

102 It shall be unlawful for any nonresidents buying, selling, transporting, or handling shellfish in the State of Mississippi to fail to:

102.01 Purchase or pay all fees and licenses required of a Mississippi resident engaged in a similar or like activity in said nonresident's state.

102.02 Purchase or pay all additional fees and licenses required of a Mississippi resident engaged in a similar or like activity in Mississippi.

Chapter 11 Closed Shell or Cultch Plant Areas

100 It shall be unlawful for any person, firm, or corporation to place or cause to be placed any material or gear used in the catching or taking of saltwater fish, shrimp, crabs or shellfish, with the exception of crab traps or pots, or hook and line fishing or cast nets on any public reef area that has been planted with shells or other cultch material that has not been released or opened to harvest by the MCMR or the MDMR.

Chapter 12 Adulterated, Misbranded, or Unlabeled Shellfish and Products

100 It shall be unlawful for any person within the state of Mississippi to produce, harvest, provide, purchase, sell, offer, possess, or expose for sale, or have in possession with intent to sell, any raw shellfish and shellfish products which are adulterated, misbranded, or unlabeled and no person shall hold or pack shellfish under conditions whereby the shellfish may become adulterated.

100.01 Any adulterated, misbranded, mislabeled, or unlabeled shellfish or shellfish products may be impounded by the direction of the MCMR or as hereby authorized the MDMR, its Executive Director, Director of Marine Fisheries, Bureau Director, the Program Coordinator or other MDMR designee in charge of molluscan shellfish handling and processing, or Marine Patrol Officer.

100.02 Seizure and disposal of such shellfish products shall be by the direction of the MCMR, or as hereby authorized the MDMR, its Executive Director or Marine Patrol Officer.

Chapter 13 Transportation of Shellstock by Vessel

100 Boats or vessels transporting shellstock legally harvested and legally transported from waters outside the State of Mississippi into Mississippi unrefrigerated shall:

100.01 Before entering Mississippi territorial waters apply to the Department for a transport permit.

100.02 Comply with all permit conditions required by the Department.

100.03 Properly tag shellstock as described in this Part.

100.04 Mechanically refrigerate shellstock within four (4) hours after landing such that the product is maintained at 45° F. (7.2° C.) or less.

100.05 The Executive Director is hereby authorized to establish earlier checkout times, additional tagging requirements and additional time to temperature requirements of shellstock as may be required or necessary.

101 The MDMR may place any additional conditions on the transportation of shellstock harvested from waters outside of the State of Mississippi that it deems necessary to protect public health and to ensure compliance with the provisions of this Part and with the laws of the State of Mississippi.

102 Failure to comply with the above shall be unlawful.

Chapter 14 Tonging Line

100 All waters north of a line herein described shall be defined as tonging reefs in accordance Miss. Code Ann. § 49-15-3 (j), as amended. Beginning at a point on the southern shore at the mouth of Bayou Caddy, thence proceeding to a point one (1) nautical mile due east of said point, thence proceeding northeasterly, following the meandering of the shoreline one (1) nautical mile there from, and maintaining one (1) nautical mile off the CSX railroad bridge, thence proceeding easterly following the meandering of the shoreline one (1) nautical mile there from, to a point on Longitude 89°15.139'W, thence proceeding due south to a point at Latitude 30°17.138'N, Longitude 89°15.139'W , thence proceeding due east to a point at Latitude 30°17.138'N, Longitude 89°14.340'W, thence proceeding due north to a point at Longitude 89°14.340'W one (1) nautical mile from the shoreline, thence proceeding easterly following the meandering of the shoreline one (1) nautical mile from the shoreline to the intersection of the Alabama State line.

101 It shall be unlawful for any person, firm or corporation engaged in the catching of oysters on a tonging reef, as described in Chapter 14.100, to have on board the boat or vessel an oyster dredge, unless that area is temporarily open to dredging by order of the MCMR.

Chapter 15 Marine Sanitation Devices

100 As provided for in Miss. Code Ann. § 97-15-30, as amended, it shall be unlawful for any person, firm or corporation to discharge solid or human waste overboard any boat or vessel while said boat or vessel is in any public or private marine waters of the State of Mississippi. Each boat or vessel used in the harvest or transport of shellfish is required to have onboard a functional approved marine sanitation device (MSD), portable toilet or other sewage disposal receptacle to contain human sewage. The approved marine sanitation device (MSD), portable toilet or other sewage disposal receptacle shall:

100.01 Be used only for the purpose intended.
100.02 Be secured while on board and located to prevent contamination of shellstock by spillage or leakage.
100.03 Be emptied only into a sewage disposal system.
100.04 Be cleaned before being returned to the boat.
100.05 Not be cleaned in equipment used for washing or processing food.

101 The use of other receptacles for sewage disposal may be approved by the MDMR if the receptacles are:

101.01 Constructed of impervious, cleanable materials and have tight fitting lids.
101.02 Meet the requirements listed in Chapter 15.100.

102 Failure of harvest vessels to have such device on board while harvesting or transporting shellfish shall be unlawful.

Chapter 16 Management Documents Associated With This Part

100 The MDMR shall manage and maintain a Management Plan for Shellfish Growing Waters and harvesters' operations according to the relevant specifications stated in the current National Shellfish Sanitation Program (NSSP) of the Interstate Shellfish Sanitation Program (ISSP), according to MCMR Titles and Parts and requirements that are not in conflict with these specifications and according to the applicable statutes of the State of Mississippi.

101 This plan shall include opening and closing criteria for all shellfish growing area waters in the State of Mississippi.

102 The MDMR Management Plan for Shellfish Growing Waters includes the classification of shellfish growing areas in accordance with relevant NSSP or ISSP growing waters.

103 The implementation of the requirements by the MDMR as specified herein is subject to the following:

103.01 No procedure or guideline of the NSSP or ISSC, which is or may be in conflict with any provisions of Mississippi Code has or should be in the future applied or enforced by the MDMR.
103.02 No procedure or guideline of the NSSP or ISSC, which is more stringent than any relevant federal regulation or law, has or should be applied by the MDMR.
103.03 The MDMR may, consistent with its existing practice, dispute any proposed or adopted procedure or guideline of the ISSC, in accordance with the procedures laid down therefore by said Conference, when, in the opinion of the MDMR, any such proposed guideline or regulation would appear to be unnecessary for the accomplishment of the goals of the ISSC, or scientifically invalid, or unduly and unnecessarily burdensome upon the State of Mississippi's molluscan shellfish industry, or for any other reason deemed proper by the MDMR.

104 In managing and maintaining its' Management Plan for Shellfish Growing Waters, the MDMR may modify or change area specific management provisions of Chapter 17 of this Part, or the classification and description of shellfish growing area waters in Chapter18 of this Part in accordance with this Chapter. Area specific management provisions and the classification and description of shellfish growing area waters will be maintained and published as Legal Notices.

104.01 Such changes will become effective after publication of those changes in a newspaper having general circulation in the three coastal counties.

Chapter 17 Management Plan for Shellfish Growing Waters

100 All Areas classified as **PROHIBITED** are closed to the harvesting of shellfish at all times.

101 All Areas classified as **RESTRICTED** are closed to the direct harvesting of shellfish.

101.01 The MCMR may permit relaying or depuration operations out of these areas after sufficient study to determine that the shellfish will depurate to the required levels within a specified period of time, and that the growing waters in these areas meet the requirements to be classified as restricted to relaying and/or depuration.

102 All Areas classified as **APPROVED** may be open to the direct harvesting of shellfish from the time the MCMR adopts as the opening date of oyster season provided the area is open pursuant to this Part and its subsequent revision and until that area is officially closed by order of the MCMR, or as hereby authorized the MDMR its Executive Director, Deputy Director, Director of Marine Fisheries, Bureau Director or Biological Program Coordinator, however, all Areas, or portions thereof, classified as **APPROVED** may be opened and closed to the harvest of shellfish in the manner outlined below for **CONDITIONALLY APPROVED** Areas, other than the area specific measures listed.

103 All Areas or portions thereof classified as **CONDITIONALLY APPROVED**, may be open to the direct harvesting of shellfish only during the time the MCMR adopts as the opening date of oyster season provided the area is open pursuant to this Part and until the area is officially closed by order of the MCMR or as hereby authorized the MDMR, its Executive Director, Deputy Director, Director of Marine Fisheries, Bureau Director or Biological Program Coordinator, **AND ONLY UNDER THE FOLLOWING CONDITIONS**:

103.01 The area, or portions thereof, shall not be "opened" to start the season and/or shall be "closed":

103.01.01 When reports concerning chemical spills, discharge of hazardous wastes, and/or discharge of raw untreated sewage, or poorly treated sewage from malfunctioning city sewage collection system pump stations, chemical plants or users, harbors, shipping terminals, marinas, ships, barges, or the sinking or grounding of vessels carrying hazardous cargoes are substantiated, or when other area specific closing criteria as published by the MDMR are met or exceeded.

103.01.02 When hurricanes, storms, localized flooding or other natural disasters strike the area.

103.01.03 When the geometric mean of the seawater from compliant sampling stations in the area exceed a fecal coliform most probable number (MPN)

of 14 per 100 ml. and/or more than 10 percent of the samples exceed a MPN of 43 for a 5-tube 3 dilution test.

103.01.04 When there is evidence of the existence of marine biotoxins or other biological, chemical, or radiological agents in the seawater or shellfish in the area exceeding recognized acceptable limits.

103.01.05.01 **AREA I "B" CONDITIONALLY APPROVED WATERS-** The Pearl River is equal to or exceeds 10 feet as measured at the Pearl River, Louisiana gauge, and/or, when one (1) or more inches of rainfall occurs in any 24 consecutive hours as measured at the Waveland and/or Bay St. Louis (NASA) NOAA rainfall gauges.

103.01.05.02 **AREA II "A", II "B" or II "D" CONDITIONALLY APPROVED WATERS** - The Pearl River is equal to or exceeds 10 feet as measured at the Pearl River, Louisiana gauge, and/or, when one (1) or more inches of rainfall occurs in any 24 consecutive hours as measured at the Waveland or Bay St. Louis (NASA) NOAA gauges.

103.01.05.03 **AREA II "C" CONDITIONALLY APPROVED WATERS and its' subdivisions** - The Pearl River is equal to or exceeds 12.5 feet as measured at the Pearl River, Louisiana gauge, and/or when two (2) or more inches of rainfall occurs in any 24 consecutive hours as measured at the Waveland or Bay St. Louis (NASA) NOAA gauges.

103.01.06 Designated MDMR personnel will perform monitoring of the closing criteria utilizing sources such as the Internet, telephone, direct observation, and reports provided by other official sources.

103.01.07 When a closing criteria condition is found to exist, the designated MDMR personnel will immediately notify the MDMR Executive Director, Deputy Director, Director of Marine Fisheries, Bureau Director or Biological Program Coordinator of the situation. The area, or portion thereof, will then be closed in accordance with this Part.

103.01.08 If a controlling gauge for rainfall or river stage reading is missing or unavailable, evaluation of all available information such as from the Intranet, National Weather Service, precipitation estimates, U.S. Geological Survey hydrographic estimates and direct observations will be utilized to determine if the closing criteria had been met or exceeded, in which case, the area will be closed in accordance with this Part.

103.02 When any one or more of the above criteria are found to exist, the MCMR or as hereby authorized the MDMR, its Executive Director, Deputy Director, Director of Marine Fisheries, Bureau Director or Biological Program Coordinator thereof, shall delay opening or shall close subject area, or affected portion thereof, to shellfish harvesting.

103.03 Whenever any shellfish growing water area is closed under the provisions listed above, said waters are hereby deemed not safe and sanitary, and oyster reefs lying in

said closed waters are hereby deemed and determined to be contaminated or otherwise unfit for consumption.

104 Areas may be "opened" to start the season and/or may be "re-opened":

104.01 When any chemicals or hazardous waste residuals remaining in the seawater or oyster meats are less than the tolerance set for such chemicals or hazardous waste by the federal agencies responsible; or, when such residuals are judged to be non-hazardous to the public health by the MDMR.

104.02 When any raw sewage spills or discharges are diluted to the point that they are within accepted standards as determined by microbiological analysis of seawater samples collected at the site of the spill or discharge.

104.03 When hurricanes, storms, localized flooding or other natural disasters have subsided; and microbiological analysis of seawater and/or oyster meat samples indicate that the seawater is again acceptable and that the shellfish have gone through a sufficient time interval to permit natural biological cleansing.

104.04 When rainfall has subsided and microbiological analysis of seawater samples indicate that the seawater is again acceptable and that the shellfish have gone through a sufficient time interval to permit natural biological cleansing.

104.05 When, following a delay in the "opening" of the area for oyster season or following a "closure" of the area due to any one or more of the environmental conditions listed above, seawater samples shall be collected from each compliant sampling station in the area for microbiological analysis in accordance with state statute. The seawater shall be deemed acceptable when the microbiological analysis of compliant stations in the area indicates a geometric mean fecal coliform MPN of 14 per 100 ml of water or less. This shall be deemed a sufficient time interval to permit natural biological cleansing; however, if oyster meats are sampled for verification, the results shall be less than a fecal coliform MPN of 230 per 100 grams of meat.

104.06 When there is no evidence of the existence of marine biotoxins or other biological, chemical or radiological agents in excess of tolerances set for such biotoxins, biological, chemical or radiological agents in the seawater and oyster meat samples taken from the area.

104.07 When the following area specific criteria or when other area specific criteria as published by the MDMR are met:

104.07.01 **AREA I "B", II "A", II "B" or II "D" CONDITIONALLY APPROVED WATERS-** The Pearl River has receded to less than 10 feet or has crested as measured at the Pearl River, Louisiana gauge, and/or the microbiological analysis of seawater samples indicate that the seawater is again acceptable and the shellfish have gone through a sufficient time interval to permit natural biological cleansing.

104.07.02 **AREA II "C" CONDITIONALLY APPROVED WATERS-** The Pearl River has receded to less than 12.5 feet or has crested as measured at the Pearl River, Louisiana gauge, and/or the microbiological analysis of seawater samples indicate that the seawater is again acceptable and the shellfish have gone through a sufficient time interval to permit natural biological cleansing.

104.08 When the above criteria are in compliance, the MCMR or as hereby authorized the MDMR, its Executive Director, Deputy Director, Director of Marine Fisheries, Bureau Director or Biological Program Coordinator thereof, may open subject area to shellfish harvesting.

105 All **UNCLASSIFIED AREAS** are closed to the harvest of shellfish pending classification of the area as **PROHIBITED**, **RESTRICTED**, **CONDITIONALLY APPROVED**, or **APPROVED** based on a sanitary survey of the area and granting of permission to harvest shellfish in accordance with the respective classification by the MCMR or as authorized in this Part; the MDMR, its Executive Director, Director of Marine Fisheries, Bureau Director or Biological Program Coordinator.

Chapter 18 Classification and Description of Shellfish Growing Areas Waters

100 Prohibited Areas

100.01 The following waters are **PROHIBITED** in **ALL AREAS**:

100.01.01 All waters that lie within a 1,000-foot radius of any present or future wastewater treatment plant or facility outfall, or located within any present or future marina, harbor or yacht club are classified as **PROHIBITED**.

100.02 The following waters of **AREA II (2)** are **PROHIBITED**:

100.02.01 All waters of Bayou Caddy west of a line running from the most seaward point on the south shore of the mouth of Bayou Caddy northward to the most seaward point on the north shore of the mouth of Bayou Caddy.

100.02.02 All waters west of a line commencing at a point on the east shore of the mouth of Joe's Bayou and running due north to a point on the northwestern shoreline of St. Louis Bay. These waters include Joe's Bayou, the Jourdan River, Catfish Bayou, Cutoff Bayou, and all waters west of the described line.

100.02.03 All waters north of a line commencing at the southern most point of the south shore of the mouth of the Wolf River and running due west to a point of intersection on the aforesaid north-south prohibiting line of the Jourdan River. These waters include Bayou Acadian, the Wolf River, DeLisle Bayou, Cedar Bayou, the northern reaches of St. Louis Bay, and waters adjacent to the DuPont Titanium Oxide Plant.

100.02.04 All waters east of a line commencing at the northwestern most point on the west shore of Mallini Bayou and running in a north northwestern direction to the Bayou Portage Channel Light 3 (Qk. Fl. 17ft. "3"), thence, running in a north-northwestern direction to a point of intersection on the aforesaid east-west prohibiting line of the Wolf River. These waters include Mallini Bayou, Bayou Portage, and waters of the eastern reaches of St. Louis Bay.

100.03 The following waters of **AREA III (3)** are **PROHIBITED**:

100.03.01 All waters between a LINE running parallel to and 0.5 nautical mile west of the center of the Gulfport Ship Channel and a LINE running parallel to

and 0.5 nautical mile east of the center of the Gulfport Ship Channel for the full length of the Gulfport Ship Channel.

100.04 The following waters of **AREA V (5)** are **PROHIBITED**:

100.04.01 All waters between a LINE running parallel to and 0.25 nautical mile west of the center of the Broadwater Channel and a LINE running parallel to and 0.25 nautical mile east of the center of said Channel for the full length of the Broadwater Channel.

100.04.02 All waters between a LINE running parallel to and 0.25 nautical mile west of the center of Biloxi Channel and a LINE running parallel to and 0.25 nautical mile east of the Biloxi Channel for the full length of said Channel.

100.04.03 All waters including Biloxi Channel between the mainland shoreline and Deer Island as defined by the following line: A line commencing at the southeastern most tip of Point Caddie (Coast Guard Point) in the City of Biloxi, Mississippi, thence, directly south to the north shore of Deer Island, thence, following the meanderings of the Deer Island shoreline northwestward to the west end of Deer Island, thence, due west toward Biloxi Channel Light 12, (Fl. R. 2.5 sec. 17 Ft. 3M "12") intersecting the Biloxi Channel east prohibiting line herein established, thence, north along said prohibiting line to the mainland shoreline and along said mainland shoreline to the point of beginning.

100.04.04 All waters of the Biloxi Back Bay and tributaries of Biloxi Back Bay north of the U.S. Highway 90 Bridge.

100.04.05 All waters of the Ocean Springs Small Craft Harbor, Channel, and Bayou.

100.05 The following waters of **AREA VI (6)** are **PROHIBITED**:

100.05.01 All waters enclosed by the following described line:

100.05.01.01 This line commences at a point on the U.S. Highway 90 Pascagoula River Bridge running due south through the southeastern most point on the western shore of Lac La Buche, thence, continuing due south to intersect the above described west-east restriction line running from Biloxi East Channel Light 8 to Pascagoula Channel Light 39, thence, running due east along that restriction line toward Pascagoula Channel Light 39 intersecting the Area 6 eastern boundary prior to reaching Pascagoula Channel Light 39, thence, running in a northwestern and northern direction along the eastern boundary of Area 6, which is the prohibiting line running 0.5 nautical mile west of and parallel to the west spoil line of the Pascagoula Channel and the West bank of the East Pascagoula River, to the east end of the U. S. Highway 90 Pascagoula River Bridge, thence, in a northwestern direction along said Bridge to the point of beginning.

100.06 The following waters of **AREA VII (7)** are **PROHIBITED**:

100.06.01 All waters north of a line running east to west along the north side of the U.S. Highway 90 Pascagoula River Bridge from a point on the west bank of the East Pascagoula River to a point on the west bank of the West

Pascagoula River including the East Pascagoula River, the West Pascagoula River, Marsh Lake, and all associated tributaries.

100.06.02 All waters enclosed by the following described line:

100.06.02.01 The line is the western boundary of Area VII commencing from a point on the west bank of the East Pascagoula River and the north side and east end of the U.S. Highway 90 Pascagoula River Bridge, thence, running south along said west bank to the Pascagoula Bay at the mouth of the East Pascagoula Channel, thence, running along said west spoil bank line southeastward to a point on a line running due east from Round Island North Spit Light 2 (Fl. R. 4 sec. 17ft. "2"), thence, running due west on said east-west line for 0.5 nautical mile from the west spoil bank line, thence, running southeastward, parallel to and remaining 0.5 nautical mile west from the west spoil bank line of the Pascagoula Channel to a point of directional change, thence, running southward, parallel to and remaining 0.5 nautical mile west from the west spoil bank line of the Pascagoula Channel to a point due west of the western tip of Petit Bois Island, thence, running due east from said point to a point 0.5 nautical mile east from the east spoil bank line of the Pascagoula Ship Channel, thence, running northward, parallel to and remaining 0.5 nautical mile east from the east spoil bank line of the Pascagoula Ship Channel, to a point due east of Pascagoula Channel Lighted Buoy 28, (R. "28" Fl. R. 2.5 sec.), thence, running northeastward to that southern most tip of that part of the Grande Batture Islands just south of L'Isle Chaude Bay, thence, running westward to the northern shore of the mouth of Brown Bayou on Pt. aux Chenes, thence, after enclosing the waters of Brown Bayou, running southwestward following the meanderings of the shoreline and enclosing shoreline tributaries, natural or manmade, around Pt. aux Chenes to the eastern shore of Bayou Cassotte, thence, after enclosing the waters and tributaries of Bayou Cassotte, running northwestward following the meanderings of the shoreline to the eastern shore of Bayou Chico, thence, after enclosing the waters and tributaries of Bayou Chico, running westward following the meanderings of the shoreline and enclosing tributaries, manmade or natural, to the eastern shore of the mouth of the East Pascagoula River, thence, running northward following the east bank of the East Pascagoula River and enclosing the waters of each of its' tributaries, natural or manmade, to a point on the north side and east end of the U.S. Highway 90 Pascagoula River Bridge, thence, running westward along the north side of said Bridge to a point on the west bank of the East Pascagoula River and the north side and east end of said Bridge, which is the **POINT OF BEGINNING**. These herein described prohibited waters include: the East Pascagoula River, the Pascagoula Channel and adjacent waters, Bayou Chico, Bayou

Cassotte, the Bayou Cassotte Ship Channel and adjacent waters, and adjacent waters of Pt. Aux Chenes around to and including Brown Bayou.

101 **Unclassified Areas**

101.01 The following waters are **UNCLASSIFIED** in ALL AREAS:

101.01.01 All bodies of waters of the state not otherwise classified in this Part or through Legal Notices of the MDMR are **UNCLASSIFIED**.

102 **Restricted Areas**

102.01 The following waters of **AREA I (1)** are **RESTRICTED**:

102.01.01 All waters of the Pearl River north of its mouth and all waters north and west of the mouth of all bayous and tributaries entering Area I from the mouth of the Pearl River following the mainland shoreline in an easterly direction around Lighthouse Point thence northerly to the mouth of Bayou Caddy.

102.01.02 **AREA I "A"** enclosed by the following described line:

102.01.02.01 The line commences at the mouth of the Pearl River on the Mississippi/Louisiana state line and running due south to a point on the Mississippi/Louisiana state line, thence running in a south-southeasterly direction following the aforesaid state line to Mississippi Intracoastal Waterway St. Joe Pass Light 3, thence running in a due north direction to the southern shore of Heron Bay Point, thence running in a northeasterly direction following the meanderings of the mainland shoreline of Heron Bay, thence running in a westerly direction following the meanderings of the mainland shoreline to the mouth of the Pearl River, which is the **POINT OF BEGINNING**.

102.02 The following waters of **AREA II (2)** are **RESTRICTED**:

102.02.01 All waters between the mainland SHORELINE commencing at the most seaward point on the south shore of the mouth of Bayou Caddy, thence, running northeastward across the mouth of Bayou Caddy and following the meanderings of the mainland shoreline enclosing the waters of all other tributaries to a point on the mainland shoreline and on the west end of the U.S. Highway 90 bridge across the mouth of St. Louis Bay AND A LINE commencing at a point due east of the most seaward point on the south shore of the mouth of Bayou Caddy at Longitude 89°24.000'W and thence running due north to a point 700 feet seaward from the mainland shoreline and thence running northeastward, parallel to and remaining 700 feet seaward of the mainland shoreline, to a point on the U.S. Highway 90 bridge across the mouth of St. Louis Bay 700 feet east of the mainland shoreline and the west end of the U.S. Highway 90 bridge. These waters are known as a **RESTRICTED SHORELINE SAFETY ZONE**.

102.02.02 All waters of St. Louis Bay north of an east-west line running along the U.S. Highway 90 Bridge across the mouth of St. Louis Bay not otherwise classified are classified as **RESTRICTED**. These waters include the waters the waters off Cowand Point; but do not include the waters of Mallini Bayou. All waters between the mainland SHORELINE commencing at the east end of the U.S. Highway 90 bridge across St. Louis Bay and running south-southeastward following the meanderings of the mainland shoreline around Henderson Point enclosing all tributaries to a point on the mainland shoreline on the eastern boundary of Area II at Menge Avenue in Pass Christian, MS AND A LINE commencing at a point seaward and 700 feet west of the east end of the U.S. Highway 90 bridge across St. Louis Bay and running south-southeastward, parallel and remaining 700 feet seaward of the mainland shoreline, around Henderson Point to a point 700 feet seaward and due south of Menge Avenue in Pass Christian, MS; except those waters otherwise classified. These waters are known as a **RESTRICTED SHORELINE SAFETY ZONE**.

102.03 The following waters of **AREA V (5)** are **RESTRICTED**:

102.03.01 All waters of Biloxi Bay and Davis Bayou, and its' tributaries south and east of the U.S. Highway 90 Biloxi Bay Bridge enclosed by the following described line; except, for those waters classified as **PROHIBITED**.

102.03.01.01 The enclosing line commences at a point on the southeastern most tip of Point Cadet (Coast Guard Point or Point Caddie) in the City of Biloxi, Mississippi, thence, due south to the north shore of Deer Island, thence, following the meanderings of the shoreline southeastward to the east end of Deer Island, thence, running southeastward to Biloxi East Channel Light 14 (Q R 17ft 3M "14" Ra Ref), thence, due east to a point on the shore, thence, northwestward following the meanderings of the mainland shoreline to Marsh Point, thence, eastward along the south shore of Davis Bayou, thence, after enclosing the tributaries on the southern shore of Davis Bayou, to a point on the southern shore of Davis due south of Cedar Point, thence running in a westerly direction following the meanderings of the north shoreline of Davis Bayou across the mouth of Ocean Springs Harbor, Channel, and Bayou (classified as PROHIBITED), thence, continuing westward following the meanderings of the north shore of Biloxi Bay to the north end of the U.S. Highway 90 Biloxi Bay Bridge, thence, southwestward along said Bridge to the point of beginning at said southeastern most tip of Point Cadet (Coast Guard Point or Point Caddie).

102.04 The following waters of **AREA VIII (8)** are **RESTRICTED**:

102.04.01 All waters of Bayou Cumbest

102.04.02 All waters of Bayou Heron and its tributaries and all waters of Mattie Clark Bayou and its tributaries.

102.04.03 All waters of Bang's Lake, North Bayou and Bangs Bayou and their tributaries south of Latitude 30°23.000'N.

102.04.04 All waters and tributaries of Point Aux Chenes Bay and Mississippi Sound north of a line beginning at a point on the western shoreline of Point Aux Chenes Bay north of Brown Bayou at Latitude 30°20.500'N and running due east to the Mississippi/Alabama state line boundary; including all waters and tributaries of L'Isle Chaude Bay, Jose Bay, Grand Bay, North and South Rigolets, Middle Bay, Jose Bayou, Graw Point Bay, Crooked Bayou, Southwest Bayou, Clay Bayou and Middle Bayou, unless otherwise classified.

103 **Conditionally Approved Areas**

103.01 The following waters of **AREA I (1)** are **CONDITIONALLY APPROVED**:

103.01.01 **AREA I "B"** enclosed by the following described line:

103.01.01.01 The line commences on a point at Mississippi Intracoastal Waterway St. Joe Pass Light 3 and running easterly along the Mississippi/Louisiana state line boundary, to Longitude 89°20.000'W thence northerly along Longitude 89°20.000' W to a point of intersection with a line drawn due east from the most seaward point on the south shore of the mouth of Bayou Caddy, thence westerly along said line of intersection to a point on the south shore of the mouth of Bayou Caddy, thence running in a south southwesterly direction along and following the meanderings of the mainland shoreline around Point Clear and Point St. Joseph to the westernmost point of Heron Bay Point, thence due south to Mississippi Intracoastal Waterway St. Joe Pass Light 3 which is the **POINT OF BEGINNING**.

103.02 The following waters of **AREA II (2)** are **CONDITIONALLY APPROVED**:

103.02.01 **AREA II "A"** enclosed by the following described line:

103.02.01.01 The line commences at a point on the CSX Railroad Bridge across St. Louis Bay at the center of the swing span and runs easterly along said bridge to a point 700 feet seaward of the eastern end of said bridge thence, running south-southeastwardly, parallel to and remaining 700 feet seaward of the mainland shoreline around Henderson Point following the meanderings of the mainland shoreline 700 feet there from, running easterly and remaining 700 feet seaward of the prohibited waters of Pass Christian Municipal Harbor to a point 700 feet seaward of the southernmost point on the mainland shoreline due south of Menge Avenue in Pass Christian, Mississippi, thence, running south-southeastwardly, along a direct line drawn between the aforesaid point to the westernmost tip of Cat Island, to a point one (1) nautical mile from the mainland shoreline, thence running westerly, parallel to and following the meanderings of the mainland shoreline, maintaining a distance of one (1) nautical mile there from, to a point one (1) nautical mile south of the CSX Railroad Bridge across St. Louis Bay, on a line drawn between the Mississippi

Square Handkerchief Shoal Light 2 (FL R 4s 17ft 4M "2") and a point on the CSX Railroad Bridge across St. Louis Bay at the center of the swing span, thence northeasterly following said line to a point on the CSX Railroad Bridge across St. Louis Bay at the center of the swing span, said point being the **POINT OF BEGINNING**. This area includes portions of the public reefs known as Henderson Point and Pass Christian.

103.02.02 **AREA II "B"** enclosed by the following described line:

103.02.02.01 The line commences at a point at the center of the swing span on the CSX Railroad Bridge across St. Louis Bay thence running southwesterly along a direct line to Mississippi Sound Square Handkerchief Shoal Light 2 (FL R 4s 17ft 4M "2"), on the western edge of the Square Handkerchief Shoal, thence running due west from said Mississippi Sound Square Handkerchief Shoal Light 2 to Longitude 89°20.000'W, thence southerly along 89°20.000'W, to a point of intersection with a line drawn due east from the most seaward point of the south shore mouth of Bayou Caddy, thence due west along said line to a point at Longitude 89°24.000'W and thence running due north to a point 700 feet seaward from the mainland shoreline, thence running north-northeastward parallel to and remaining 700 feet seaward from the mainland shoreline to a point 700 feet seaward and east of the west end of the CSX Railroad Bridge across the St. Louis Bay, thence running eastward along the CSX Railroad Bridge to a point at the center of the swing span, said point being the POINT OF BEGINNING. This area includes the public reefs known as St. Stanislaus and Waveland.

103.02.03 **AREA II "C"** enclosed by the following described line:

103.02.03.01 The line commences at a point one (1) nautical mile from the mainland shoreline on a direct line drawn between a point 700 feet seaward of the southernmost point on the mainland shoreline due south of Menge Avenue in Pass Christian, MS, to the westernmost tip of Cat Island, thence running westerly, parallel to and following the meanderings of the mainland shoreline, maintaining a distance of one (1) nautical mile there from, to a point one (1) nautical mile south of the CSX Railroad Bridge across St. Louis Bay, on a line drawn between the Mississippi Square Handkerchief Shoal Light 2 (FL R 4s 17ft 4M "2") and a point on the CSX Railroad Bridge across St. Louis Bay at the center of the swing span, thence running due west from said Mississippi Sound Square Handkerchief Shoal Light 2 to Longitude 89°20.000'W, thence southerly along Longitude 89°20.000'W to a point of intersection with a line drawn through Mississippi Sound Pass Marianne Light 4P (Fl R 2.5s 17ft 3M "4P") and Mississippi Sound Pass Marianne Light 15P (Fl G. 4s 17ft. 5M "15P"), thence running north-northeasterly from said

Pass Marianne Light 15P, thence running northeasterly to Mississippi Sound Pass Marianne Buoy 12P, thence running northeasterly to the Mississippi Sound Pass Marianne Merrill Shell Bank Light (Fl W 6s 30ft. 4M), thence running northerly to Mississippi Sound Pass Marianne Buoy 6P, thence running northeasterly to Mississippi Sound Pass Marianne Light 4P (Fl R 2.5s 17ft 3M "4P"), thence running easterly to Mississippi Sound Pass Marianne Buoy 2P, thence running easterly to Mississippi Sound Marianne Channel Lighted Buoy 3 (Fl G 4s 4M "3"), thence running northeasterly from said Marianne Channel Lighted Buoy 3 to a point of intersection on the Mississippi Intracoastal Waterway with a line drawn north-northwesterly from the westernmost tip of Cat Island and a point 700 feet seaward of the southernmost point on the mainland shoreline due south of Menge Avenue in Pass Christian, MS, thence running north-northwesterly along said line to the **POINT OF BEGINNING**. This area includes the northern portion of Pass Marianne reef and southern portions of the Pass Christian reef.

103.02.03.02 **AREA II "C"** shall be further sub-divided as follows:

103.02.03.02.01 **AREA II "E"** is comprised of those waters of AREA II "C" that are west of Longitude 89° 16.000' W and north of Latitude 30° 15.500' N.

103.02.03.02.02 **AREA II "F"** is comprised of those waters of AREA II "C" that are east of Longitude 89° 16.000' W and north of Latitude 30° 16.300' N.

103.02.03.02.03 **AREA II "G"** is comprised of those waters of AREA II "C" that are south of Areas II "E" and II "F".

103.02.04 **AREA II "D"** enclosed by the following described line:

103.02.04.01 Starting at a point 700 feet from the western shore of the St. Louis Bay on the CSX Railroad Bridge, thence easterly along the CSX Railroad Bridge to a point 700 feet from the eastern shore of St. Louis Bay thence northerly 700 feet from the mainland shoreline following the meanderings of the mainland shoreline 700 feet from the mainland shoreline to a point 700 feet from the eastern shoreline of St. Louis Bay on the U.S. Highway 90 bridge, thence westerly along the U.S. Highway 90 bridge to a point 700 feet from the western shoreline of the St. Louis Bay on the U.S. Highway 90 bridge, thence southerly 700 feet from the mainland shoreline following the meanderings of the mainland shoreline 700 feet from the mainland shoreline, to the point of beginning on the CSX Railroad Bridge.

104 **Approved Areas**

104.01 The following waters of **AREA II (2)** are **APPROVED**:

104.01.01 **AREA II APPROVED** enclosed by the following described line:

104.01.01.01 The line commences at a point on the boundary line between Mississippi and Louisiana at Longitude 89°20.000'W, thence running easterly along said state line to a point due south of the westernmost tip of Cat Island, thence running due north to the westernmost tip of Cat Island, thence running north-northwesterly along a line drawn between the westernmost tip of Cat Island and a point 700 feet seaward of the southernmost point on the mainland shoreline due south of Menge Avenue in Pass Christian, MS, thence continuing along said line to a point of intersection with the Mississippi Intracoastal Waterway thence running southwesterly to Mississippi Sound Marianne Channel Lighted Buoy 3 (Fl G 4s 4M "3"), thence running westerly to Mississippi Sound Pass Marianne Buoy 2P, thence running westerly to Mississippi Sound Pass Marianne Light 4P (Fl R 2.5s 17ft 3M "4P"), thence running southwesterly to Mississippi Sound Pass Marianne Buoy 6P, thence running westerly to the Mississippi Sound Pass Marianne Merrill Shell Bank Light (Fl W 6s 30ft. 4M), thence running southwesterly to Mississippi Sound Pass Marianne Buoy 12P, thence running southwesterly to Mississippi Sound Pass Marianne Light 15P (Fl G. 4s 17ft. 5M "15P"), and from said Pass Marianne Light 15P running southwesterly along a line drawn through Mississippi Sound Pass Marianne Light 4P and Pass Marianne Light 15P to a point of intersection with Longitude 89°20.000'W, thence running southerly along Longitude 89°20.000'W to a point on the boundary line between Mississippi and Louisiana, said point being the **POINT OF BEGINNING**. This area includes the public reefs known as Telegraph, and Buoy reefs, the Shell Keys referred to as Pelican, Fletcher's, and Umbrella, and the southern portion of Pass Marianne reef.

104.01.01.02 **AREA II APPROVED** shall be further sub-divided as follows:

104.01.01.02.01 **AREA II "H"** is comprised of those waters of AREA II APPROVED that are west of Longitude 89° 15.000' W.

104.01.01.02.02 **AREA II "I"** is comprised of those waters of AREA II APPROVED that are east of Longitude 89° 15.000' W.

Chapter 19 On-Bottom Shellfish Leasing Regulations

100 Authority to Lease.

100.01 The MDMR shall accept applications for on-bottom leases within the coastal waters of Mississippi.

100.02 For purposes of this Part, on-bottom lease operations shall be restricted to operations using natural shell or other approved cultch material without employing racks or other support structures.

100.03 Any individual or entity wanting to lease bottoms shall complete a bottom lease application form and submit it to the MDMR Director of Marine Fisheries.

100.03.01 Application forms shall be available from the MDMR in Biloxi, MS.

100.03.02 Applications will be reviewed by the MDMR staff for compliance with application guidelines and completeness.

100.03.03 When all application guidelines are met and requested information is provided, the applicant's intent to lease will be advertised by the MDMR once a week for two consecutive weeks in a newspaper of general circulation in the county of the intended lease area.

100.03.03.01 Costs of the Advertisement will be paid to the MDMR by the original lease applicant.

100.03.04 If the guidelines cannot be met or requested information provided, the applicant may withdraw his application.

100.03.05 Written public comment and sealed bids from other interested parties will be received by the MDMR for a period of fifteen (15) days from the first date of advertisement.

100.03.06 The advertisement will set the date, time and place for opening the sealed bids.

100.03.07 A recommendation will be made to the MCMR to grant or deny the lease application following the fifteen (15) day period and applicant will be notified in writing of the MCMR action on his lease application within 30 days after the MCMR action on the lease proposal.

101 Application Requirements to Lease Bottoms

101.01 All lease applicants and applications must meet the following guidelines:

101.01.01 Each individual, firm, corporation, partnership, association, or other entity requesting to lease must be a resident of the State of Mississippi, or be organized under the laws of the State and registered with the Secretary of State's Office.

101.01.02 Each application for a bottom lease must be for five (5) acres or more, but shall not exceed one hundred (100) acres.

101.01.02.01 The proposed lease area must be contiguous.

101.01.02.02 The proposed lease area must be configured as a square or rectangle with the lease area boundaries meeting at right angles.

101.01.02.03 The length of the proposed lease area cannot be greater than twice the distance of the width of the lease area.

101.01.02.04 No proposed lease areas will be approved that are within one-quarter (0.25) nautical mile of an existing lease area or lease area that is pending final approval.

101.02 Political subdivisions of the State of Mississippi may lease up to one thousand (1,000) acres of bottoms for oyster reef development and such political subdivisions are authorized to permit residents of the State of Mississippi to harvest shellfish from such reefs and charge and receive a fee for each sack of shellfish harvested.

101.02.01 The MCMR shall consider and approve the application of a political subdivision after determining that:

101.02.01.01 No conflicts exist with sites requested in applications filed prior to the application of the political subdivision.

101.02.01.02 A fair and reasonable rental payment has been set.

101.02.01.03 Such lease will ensure the maximum cultivation and propagation of shellfish.

102 No individual, corporation, partnership, or association may lease less than five (5) acres nor more than one hundred (100) acres; provided, however, that in the case of an individual, there shall not be counted towards such limitation any lands leased by a corporation, partnership, or association in which such individual owns ten (10%) percent or less interest, and, in the case of a corporation, partnership, or association, there shall not be counted towards such limitation, any lands leased by an individual stockholder, partner, or associate thereof, who owns ten (10%) percent or less interest in such corporation, partnership, or association.

103 No areas designated as tonging reefs by this Part, nor areas defined as natural reefs by Miss. Code Ann. §49-15-3 (g), as amended, nor areas within the boundaries of riparian property owners defined by Miss. Code Ann. §49-15-9, as amended, shall be leased for oystering by the MCMR.

104 Each application shall be accompanied by a description of the area intended for lease using differential GPS latitude and longitude coordinates, and a map taken from NOAA nautical charts, 11371, 11372, 11373, or 11374, depicting the area to be leased.

105 Each lease application must be accompanied by a bid price per acre in the form of a sealed bid attached to the application. Said bid must be at least five dollars ($5.00) per acre.

106 Each proposed lease area must be located in waters classified as **APPROVED** or **CONDITIONALLY APPROVED** as described in this Part.

107 Applications shall be submitted to the MDMR Director of Marine Fisheries.

107.01 The time and date each application is received shall be noted on the application.

107.01.01 In the event that applications are received for overlapping areas, the applications shall be processed in order of the earliest receipt and so noted before the MCMR, prior to consideration of each lease application; however, the MCMR is authorized to exercise its discretion as to which bid is the highest responsible bid, and such leases shall be awarded to promote the maximum cultivation and propagation of oysters.

107.01.02 In granting leases, the MCMR may specify any special conditions and limitations under which the lease is granted.

108 Conditions of Leases

108.01 All leases granted by the MCMR shall include the following conditions:

108.01.01 Such leases shall be for a period of one (1) year with the right of the lessee to renew the lease for an additional year, and from year to year, at the same ground rental so long as lessee actively cultivates and gathers shellfish and complies with all provisions specified herein, and all applicable state laws, ordinances, Titles and Parts and public notice requirements, provided that no lease shall be renewed for more than twenty-five (25) years unless it is rebid.

108.01.01.01 In any such rebidding, if the successful bidder is someone other than the lessee, the successful bidder shall, before taking possession of the leased bottoms, pay to the lessee the fair market value of the lessee's shellfish in place as determined by the MCMR.

108.01.01.02 If the lessee is prevented from gathering shellfish from the area leased by storm, or other natural phenomenon, he nevertheless may renew the lease if the bottoms are actively worked by lessee during the remaining term of the lease.

108.01.01.03 No lease may be transferred without prior written approval by the MCMR of the transfer. The MCMR may deny such transfer.

108.02 Appropriate poles, stakes or buoys, constructed of such material as will not be injurious to watercraft, shall mark all leases at the expense of the leaseholder.

108.02.01 Each leaseholder shall mark at least the four (4) corners of each lease with an appropriate marker, and shall maintain all markers.

108.02.02 Each marker shall list the lease number and marker position (i.e. southeast (SE) corner).

108.02.03 Each lessee must file a "Private Aids to Navigation" application with and receive permit approval from the U.S. Coast Guard, for the lease markers, and provide a copy of the permit approval to the MDMR Director of Marine Fisheries prior to final granting of the lease and placement of the markers.

108.03 Each lessee must apply for and receive a permit to alter the bottoms (wetlands permit) from the MCMR and supply a copy of the permit to the MDMR Director of Marine Fisheries, prior to the final granting of the lease.

109 All leases made by the MCMR under the authority of this chapter shall be subject to the paramount right of the State of Mississippi and any of its political subdivisions authorized by law, to promote and develop ports, harbors, channels, industrial or recreational projects, freshwater diversion projects, and all such leases shall contain a provision that in the event such authorized public body shall require the area so leased or any part thereof for such public purposes, that the lease shall be terminated on reasonable notice fixed by the MCMR in such lease.

109.01 On the termination of any lease, the lessees shall have the right to remove any shellfish within the leased area within such time as may be fixed by the MCMR and in accordance with such reasonable rules and regulations as the MCMR may adopt.

109.02 Further, all lease agreements shall contain provisions requiring the lessee to waive any and all claims for damages that may result from any fresh water diversion projects authorized by the State of Mississippi.

110 The MCMR shall cooperate with the Jackson County Port Authority, the Harrison County Development Commission, the Municipal Port Commissions, and other port and harbor agencies, in order that the oyster beds shall not be planted in close proximity to navigable channels.

110.01 The MCMR or lessee shall have no right of action as against any such public body for damages accruing to any natural reef or leased reef by any necessary improvement of such channel in the interest of shipping, commerce, navigation, or other purpose authorized by law.

111 All activities conducted by lessee on the lease area must have prior written approval from the MCMR, the MDMR Executive Director, or his designee in his possession at the time of such activity, and must be done in accordance within the provisions of the lease agreement, all applicable laws of the State of Mississippi, and all MCMR Titles, Parts, regulations, and public notices.

112 All leases shall expire on April 30 of each year.

112.01 All leases leased before or after April 30 of each year shall be prorated from the date of lease to the following April 30.

112.02 All leases leased prior to April 30, 1989 shall expire on the date indicated in the current lease agreement.

112.03 All leases leased after April 30, 1989 shall expire April 30, 1990, provided that said lease shall be prorated from the current date of lease to April 30, 1990, and any unearned balance returned to said lessee.

113 Each lessee shall have the option to renew said lease provided he submits a written application with payment of annual or prorated rental for the subsequent lease period within thirty (30) days of the lease expiration date to the MDMR Director of Marine Fisheries.

114 Each lessee shall provide a written summary of lease activity report for the previous lease period upon forms provided by the MDMR within thirty (30) days from the lease expiration date.

114.01 These forms shall be submitted to the MDMR Director of Marine Fisheries.

115 Failure to abide by any provision specified herein, in the lease agreement, any applicable laws of the State of Mississippi, or any MCMR Title, Part, regulation, or public notice shall be grounds for immediate termination of the lease agreement.

Chapter 20 Regulations for Relaying Activities

100 All persons or entities other than the MDMR wishing to relay shellfish in the State of Mississippi shall complete and submit an application for a relaying permit to the MDMR, attn: Biological Program Coordinator.

100.01 Applications are available from the MDMR.
100.02 Applications will be reviewed by the MDMR staff for compliance with application guidelines and requested information.
100.03 When all application guidelines are met and requested information provided, the applicant's intent to relay will be advertised once a week for two consecutive weeks in a newspaper of general circulation in the county or counties closest to the intended activity.
100.04 Written public comment will be received by the MDMR for a period of fifteen (15) days from the first date of advertisement.
100.05 A recommendation will be made to the MCMR to grant or deny the permit at the next regularly scheduled MCMR meeting following the fifteen day period, and applicants will be notified in writing of the MCMR actions.
100.06 All applicants must:
100.06.01 Hold a valid lease of oyster bedding grounds in the State of Mississippi.
100.06.02 Have been a resident of the State of Mississippi for at least five (5) years.
100.06.03 Have a valid Mississippi shellfish license.

101 Approval of Relaying Permit

101.01 If the MCMR approves the relaying permit application, a relaying permit will be issued.
101.01.01 Said permit shall specify any specific conditions under which the relaying is permitted in addition to those conditions specified in Miss. Code Ann. § 49-15-37, as amended, any other applicable section of the Statute, or any Title, Part or public notice adopted by the MCMR.
101.01.02 Permittee must comply with the following guidelines:
101.01.02.01 Permittee must hold a valid lease of oyster bedding grounds in the State of Mississippi.
101.01.02.02 Permittee shall not relay shellfish from one restricted area to another restricted area.
101.01.02.03 Permittee must fulfill all permit requirements as established by the MCMR.

102 Harvesting of Relayed Shellfish

102.01 Harvesting of shellfish is permitted only during daylight hours and with the most efficient gear possible, consistent with conservation considerations, and in such a way not to damage the reef.
102.01.01 This includes permission to use two (2) dredges per boat in restricted areas and on private leased grounds.

102.02 Prior to harvesting any relayed shellfish, the permittee must complete and submit a request to harvest relayed shellfish on an application form from the MDMR, and receive written permission for such harvesting from the MCMR or as hereby authorized the MDMR, its Executive Director, Directors, Director of Marine Fisheries, Bureau Director or Biological Program Coordinator.

102.03 The permittee must follow all procedures contained in this Part, as well as any set forth in the permit.

103 Bonding

103.01 Permittee must be bonded in compliance with the permit system established by the MCMR.

103.01.01 Permittees are required to post a penal bond of one hundred dollars ($100.00) per acre leased with the MCMR.

103.01.02 This bond shall be forfeited if permittee violates any provisions of this Part.

103.01.03 The Chairman of the MCMR shall approve the bond if sufficient property or sureties secure it.

104 Relaying Procedures

104.01 Permittee shall not relay shellfish from the restricted area without the presence of an Officer of the MDMR, or designated official of the MCMR.

104.01.01 The Officer or designated official shall be present at all times relaying activities are in progress.

104.01.01.01 This shall include the time the shellfish are harvested from the restricted area to their deposition on private leased grounds, or to an onshore, molluscan depuration facility.

104.01.01.02 The permittee shall pay to the MCMR an amount equal to the compensation regularly received by such Officer or designated official for the time such Officer or designated official actually spends performing the above described duties.

105 Permission to Harvest Relayed Shellfish

105.01 Permittee shall not harvest relayed shellfish without prior written permission from the MCMR or as hereby authorized the MDMR, its Executive Director, Director of Marine Fisheries, Bureau Director or Biological Program Coordinator.

106 Time Periods Between Relaying and Harvesting of Relayed Shellfish

106.01 There shall be a sufficient time interval to allow natural biological cleansing of the shellfish between the time the permittee is permitted to take the shellfish from the restricted area(s), and the time he is then allowed to harvest these shellfish or any other shellfish from his leased area, during which time neither activity is allowed.

106.01.01 During this time interval, the permittee nor any other person or entity is allowed to harvest the relayed shellfish.

106.01.02 This period shall be at least fourteen (14) consecutive days, except if the area relayed to fails during any of those 14 consecutive days to meet all requirements of its management plan.

106.01.03 If during the 14 consecutive days, the area fails to meet its management plan as specified above, harvesting shall be not be allowed until the area has once again met its management plan for 14 consecutive days, or until shorter periods of time are demonstrated to be adequate to permit natural biological cleansing to occur.

106.01.04 The period of time to allow natural biological cleansing shall be deemed sufficient and adequate if the bacteriological quality of the shellfish after relaying are of the same quality as the same species already in the approved or conditionally approved relay area; or if oyster meats are sampled for verification, the results shall be less than a fecal coliform MPN of 230 per 100 grams of meat, provided that no evidence exists that the shellfish prior to relaying contained substances that equal or exceed the action levels, tolerances, and other established levels for poisonous or deleterious substances in seafood as established by the Food and Drug Administration, and/or any levels of substances established by the State of Mississippi.

107 Protection from Contamination

107.01 All relayed shellfish shall be protected from contamination sources such as, but not limited to, boat fuel, oil, bilge, dogs, cats, birds, and other animals, and from sunlight for extended periods of time.

107.02 All portions of boats and other equipment coming in contact with shellfish relayed from restricted areas to permitted approved or conditionally approved areas shall be rinsed with waters from such approved or conditionally approved waters after each unloading and prior to leaving the permitted approved or conditionally approved area.

108 Relaying Records

108.01 The MDMR Biological Program Coordinator and each permittee shall maintain adequate relaying records.

108.01.01 Each record shall note the quantity and type shellfish relayed, dates of relaying, specific areas shellfish are relayed from and to, and any other necessary information.

108.01.02 Specific areas should be described using differential GPS latitude and longitude coordinates.

108.01.03 In the absence of differential GPS latitude and longitude readings an accurate map will be supplied depicting the relay source site and the specific location within the permittees' lease where the shellfish were relayed.

Chapter 21 Penalties

100 Any unlawful act under this Part committed by any person, firm, or corporation shall be deemed a violation of the provisions of this Part and shall constitute a misdemeanor and upon conviction shall be punished in accordance with Miss. Code Ann. § 49-15-63, as amended, unless a penalty is specifically provided elsewhere in the Mississippi Code Ann. of 1972, as amended.

101 Any person, firm, or corporation convicted of taking shellfish from leased land or from closed waters as described in Chapter 17 of this Part shall, upon conviction thereof, be subject to all the penalties provided under Miss. Code Ann. § 49-15-27, as amended.

102 Violations of more than one chapter or subchapter of this Part or part thereof shall be considered separate offenses and punished as such.

103 Any person in possession of shellfish in violation of any chapter of this Part shall be subject to confiscation and disposal of such shellfish by direction of any designated Marine Patrol Officer of the MDMR.

Chapter 22 Chapters and Subchapters Declared Separable

100 Each chapter and subchapter of this Part is hereby declared separable, and if any chapter or subchapter or part thereof shall be held invalid or unconstitutional, the balance of said Title 22 Part 01 shall remain in full force and effect.

101 Violations of more than one chapter or subchapter of this Part or part thereof shall be considered separate offenses and punished as such.

Chapter 23 Administrative Procedures Act

100 Pursuant to the amendments to the Administrative Procedures Act, § 25-43-1.101, *et seq.*, of the Mississippi Code Ann. of 1972, as amended, and the rules and regulations promulgated pursuant thereto by the Secretary of State; the former Ordinance 1.016 has been modified and the MCMR and Mississippi Department of Marine Resources have adopted the terminology and numbering system developed by the Secretary of State. Therefore, references to "ordinance" or to "Part" appearing in these regulations or the underlying statutes are used interchangeably and refer to the same instrument.

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, shall be in effect and be in force from and after the 20th day of May 2011.

Adopted this the 19th day of April 2011.

MISSISSIPPI COMMISSION ON MARINE RESOURCES

By: _____
Vernon Asper, Ph. D., Chairman

MISSISSIPPI DEPARTMENT OF MARINE RESOURCES

By: _____
William Walker, Ph.D., Executive Director

Source: Miss. Code Ann § 49-15-15 (Rev. July 1, 2009)

TITLE 22 – MISSISSIPPI DEPARTMENT OF MARINE RESOURCES

PART 2 RULES AND REGULATIONS FOR SHRIMPING IN THE STATE OF MISSISSIPPI

Chapter 01 Introduction

Purpose

100 This Part provides for the regulation of the commercial and recreational shrimp fishery.

Chapter 02 Justification and Authority

100 The Mississippi Commission on Marine Resources (MCMR) has determined that shrimping regulations are necessary for the protection, conservation, and propagation of shrimp in the waters under the territorial jurisdiction of the State of Mississippi.

101 The MCMR has determined that such regulations are in the best interest of the State of Mississippi and the seafood industry to promote the protection, conservation, and propagation of shrimp in the waters under the territorial jurisdiction of the State of Mississippi.

102 The MCMR is authorized by § 49-15-15 of the Mississippi Code Ann. of 1972, as amended, to enact all regulations necessary for the protection, conservation or propagation of all seafood in the waters under the territorial jurisdiction of the State of Mississippi.

Chapter 03 Definitions

100 **FOOTROPE** shall mean leadline, footline, groundrope or that lower part of the trawl that the webbing is first attached, that also provides for the weighing down of the trawl by means of lead weights, chain or other means.

101 **HEADROPE** shall mean corkline, headline, floatline or that upper part of the trawl that the webbing is first attached, that also provides flotation by means of corks, floats or other means.

102 **SALTBOX** shall mean any container or similar device in which the salinity is greater than one hundred (100) parts per thousand and is used to aid in separating the shrimp from the bycatch.

103 **BIB OR TONGUE** shall mean an extension of the middle section of the upper part of the net with a triangular piece of webbing. The bib or tongue requires additional line(s), other

than the lines attached to the trawl boards, which run from the bridle or boat to the bib or tongue.

104 **PUSH TRAWL** shall mean a trawl that is spread by poles suspended in a "V" configuration from the bow of the trawler.

105 **SKIMMER TRAWL** shall mean a trawl that extends from the outrigger of a vessel with a cable and a lead weight holding the trawl mouth open.

106 **WING NET (BUTTERFLY TRAWL** shall mean a trawl with a rigid frame holding open the trawl mouth rather than using trawl doors.

107 **SIAMESE TRAWL** shall mean a trawl that has two tongues one on the headrope and one on the footrope at or near the center of the net which requires additional line(s), other than the lines attached to the trawl boards, which run from the bridle, outrigger or boat to the tongues.

Chapter 04 Closure Areas

100 All waters north of a line beginning at a point one-half mile due South of the shoreline at the Mississippi-Alabama state boundary; thence running westerly following the meanderings of the shoreline one-half mile therefrom to Light "5" in the Bayou Casotte Channel; thence running northerly to Light "7" in the Bayou Casotte Channel; thence running westerly following the meanderings of the shoreline one-half mile therefrom to the intersection with the Pascagoula Channel; thence running northwesterly to Beacon "50" in the Pascagoula Channel; thence running southwesterly to Beacon "49" in the Pascagoula Channel; thence running in the most direct line to the northeast point of Singing River Island; thence running westerly along the north shoreline to the northwest point of Singing River Island; thence running northwesterly to a point one-half mile due south of the mouth of Graveline Bayou; thence running westerly following the meanderings of the shoreline one-half mile therefrom to Beacon "18" in the Biloxi Bay Channel; thence running northwesterly to Beacon "22" in the Biloxi Bay Channel; thence running northwesterly to Beacon "26" in the Biloxi Bay Channel; thence running westerly to Beacon "34", exclusive of the Biloxi Channel itself; thence running westerly to Beacon "30" in the Biloxi Channel, exclusive of the Biloxi Channel itself; and thence running due South to a point on the north shore of Deer Island; thence running westerly following the north shore of Deer Island to the westernmost tip; thence running westerly in the most direct line to Biloxi Beacon "8"; thence running westerly following the meandering of the shoreline at a distance of one-half mile therefrom to a point on the centerline of the CSX Railroad Bridge over St. Louis Bay; thence running westerly along the centerline of said bridge to a point one-half mile south of the western abutment; thence running southwesterly following the meanderings of the shoreline, at a distance of one-half mile therefrom, to a point one-half mile due East of the mouth of Bayou Caddy; thence running due West to the mouth of Bayou Caddy; thence running southwesterly following the meanderings of the shoreline to the southern most point of the Mississippi shoreline on the east bank of the mouth of the Pearl River thence following the

meanderings of the east bank of the Pearl River to a point where the east bank of the Pearl River intersects the centerline of the Highway 90 bridge; thence westerly along the centerline of the highway 90 bridge to a point that intersects the Mississippi/Louisiana State boundary, are hereby declared to be protective and staging areas for young shrimp, and as such permanently closed to commercial and recreational shrimping activities. The redesignation of beacon numbers by the United States Coast Guard shall not alter the description of the boundary described in this section.

101 Shrimping season in waters under the territorial jurisdiction of the State of Mississippi north of the Intracoastal Waterway shall be closed in accordance with § 49-15-64.1 of the Mississippi Code Ann. of 1972, as amended, each year from January 1 until it is opened by the MCMR. The Intracoastal Waterway transverses the Mississippi territorial waters is considered in part to be:

Beginning at a point near the Louisiana-Mississippi border known as Intracoastal Waterway Grand Island Channel "LIGHT 1" (F1 W 4 Sec 17ft 5M), at the intersection of Grand Island Channel and Marianne Channel; thence northeasterly along the Marianne Channel through "Buoy 22". "LIGHT 18" (F1 R 4 Sec 17ft), "Buoy 12", to "LIGHT 8" (F1 R 4 Sec 17ft); thence northeasterly along the most direct line to "LIGHTED BUOY 7"; thence northeasterly along the most direct line through "Buoy 6" to "LIGHTED BUOY 4"; thence continuing northeasterly to "LIGHT 3" (F1 G 4 Sec 17ft); thence northeasterly to "LIGHTED BUOY 1"; thence easterly to "LIGHTED BUOY 51" (F1 2.5 Sec 17ft 5M) in the Gulfport Channel.

102 Any person, licensed live bait dealers, licensed live bait shrimpers and licensed commercial shrimpers shall be allowed to take shrimp with cast nets or brille nets not exceeding twelve (12) feet (maximum radius or length) in the bays of Bay St. Louis, Biloxi and Pascagoula with a cast net or brille net, but shall not take more than fifty (50) pounds (heads-on) of shrimp per person per day. It shall be unlawful for any persons using said nets to remove the heads of the shrimp on site.

103 It shall be unlawful to recreationally trawl within the Gulf Islands National Seashore boundaries of Petit Bois, Horn and Ship islands.

Chapter 05 Gear Regulations

100 Except for a test or try trawl, it shall be unlawful for any boat or vessel to use more than two (2) trawls provided that when two (2) trawls are used such trawls shall not exceed a length of twenty-five (25) feet on the headrope and thirty-two (32) feet on the footrope for each trawl and the trawl doors shall not exceed eight (8) feet in length and forty three (43) inches in height when employed in the waters under the territorial jurisdiction of the State of Mississippi north of a line beginning at a point on the Louisiana-Mississippi border due south of the Intracoastal Waterway Grand Island Channel "LIGHT 1" (F1 G 4 Sec 17ft 3M), at the intersection of Grand Island Channel and Marianne Channel; thence running due north to said "LIGHT 1" thence northeasterly, along the Marianne Channel, through "Buoy 22",

"LIGHT 18" (F1 R 4 Sec 17ft 3M), "Buoy 12", to "LIGHT 8" (F1 R 4 Sec 17ft 3M); thence northeasterly along, the most direct line, to "Light Buoy 7" (F1 G 6 Sec 4M); thence east-northeasterly, along the most direct line, to "CAT ISLAND WEST END CHANNEL LIGHT" (F1 W 4 Sec 30ft 5M), located approximately 2.2 miles due west of Cat Island; thence easterly, along the most direct line, to the westernmost point of Cat Island; thence running northeasterly, following the northern shore, to the northeastern-most point of Cat Island; thence southeasterly, along the most direct line, to the westernmost point of West Ship Island; thence easterly, following the northern shore, to the easternmost point of West Ship Island; thence easterly along the most direct line, to the westernmost point of East Ship Island; thence easterly following the northern shore to the easternmost point of East Ship Island; thence easterly, along the most direct line, to the westernmost point of Horn Island, thence easterly, following the northern shore, to the easternmost point of Horn Island; thence easterly, along the most direct line, to the westernmost point of Petit Bois Island; thence easterly, following the northern shore, to the easternmost point of Petit Bois Island; thence due east to a point on the Mississippi-Alabama border. This regulation shall not apply to the waters under the territorial jurisdiction of the State of Mississippi south of the line described herein.

101 It shall be unlawful for any person, firm, or corporation to use any single trawl for the catching or taking of shrimp in the waters under the territorial jurisdiction of the State of Mississippi north of the line described in Chapter 5 of this Part with a measurement of more than fifty (50) feet along the headrope or more than sixty (60) feet along the footrope, continuous measurement. In addition to the aforesaid measurements, the wings of push-nets (trawls kept open by rigid supports or poles and pushed from behind) shall be secured to the rigid, supports or poles for a distance not to exceed twenty-four (24) feet on each side.

102 It shall be unlawful for any person, firm or corporation to use skimmer trawls, wing nets (butterfly nets), Siamese trawls or any like contrivance which is in excess of twenty-five (25) feet on the headrope and thirty-two (32) feet on the footrope for each trawl when employed in the waters under the territorial jurisdiction of the State of Mississippi.

103 It shall be unlawful for any person, firm or corporation to use any saltbox on board any vessel within the waters under the territorial jurisdiction of the State of Mississippi.

104 It shall be unlawful for any person, firm or corporation to use any test or try trawl for the catching or taking of shrimp in the waters under the territorial jurisdiction of the State of Mississippi north of the line described in Chapter 5 of this Part with a measurement of more than twelve (12) feet along the headrope or more than fifteen (15) feet along the footrope, or used with boards or doors more than thirty (30) inches in length.

105 It shall be unlawful for any person, firm or corporation to catch or take, attempt to catch or take, or to possess any shrimp taken from the waters under the territorial jurisdiction of the State of Mississippi that are closed to shrimping by order of the MCMR or by state statute, provided, however, that this chapter shall not apply to shrimp caught legally by properly licensed live bait boats in areas opened to live bait shrimping.

106 It shall be unlawful for any person, firm, or corporation to wash, drag, or pull a trawl or try net on top of the water or under the water with the bag tied or untied in any area of the territorial waters of the State of Mississippi which are closed to shrimping.
Further, it shall be unlawful for any person, firm, or corporation to wash, drag, or pull double or multiple rigs on top of the water or under the water with the bags tied or untied in any area of the territorial waters of the State of Mississippi which are closed to the use of double rigs, or in waters which are closed to the use of that size, type or number of rigs.

Chapter 06 Determining Legal Shrimp Size

100 For enforcement purposes, in determining the legal size of shrimp, three (3) pounds of shrimp with the heads on shall be taken at random from the deck of each boat or vessel. Said three (3) pounds of shrimp shall be counted and the number of shrimp shall be divided by three (3). In the event the result totals more than sixty-eight (68), the entire catch shall be forfeited to the State of Mississippi and the operator of said boat or vessel shall be in violation of § 49-15-63 of the Mississippi Code Ann. of 1972, as amended.

Chapter 07 Penalties

100 Any person, firm, or corporation violating any of the provisions of this Part shall be guilty of a misdemeanor and upon conviction shall be penalized in accordance with § 49-15-63 of the Mississippi Code Ann. of 1972, as amended. Violations of more than one chapter or subsection of this Part, or parts thereof, shall be considered separate offenses and punished as such.

Chapter 08 Chapters and Subchapters Declared Separable

100 Each chapter and subchapter of this Part is hereby declared separable, and if any chapter or subchapter or part thereof shall be held invalid or unconstitutional, the balance of said Title 22 Part 02 shall remain in full force and effect.

101 Violations of more than one chapter or subchapter of this Part or part thereof shall be considered separate offenses and punished as such.

Chapter 09 Administrative Procedures Act

100 Pursuant to the amendments to the Administrative Procedures Act, § 25-43-1.101, *et seq.*, of the Mississippi Code Ann. of 1972, as amended, and the rules and regulations promulgated pursuant thereto by the Secretary of State; the former Ordinance 2.016 has been modified and the MCMR and Mississippi Department of Marine Resources have adopted the terminology and numbering system developed by the Secretary of State. Therefore, references to

ordinance" or to "Part" appearing in these regulations or the underlying statutes are used interchangeably and refer to the same instrument.

TITLE 22 – MISSISSIPPI DEPARTMENT OF MARINE RESOURCES
PART 2 RULES AND REGULATIONS FOR SHRIMPING IN THE STATE OF MISSISSIPPI, shall be in effect and be in force from and after the 20th day of May 2011.

Adopted this the 19th day of April 2011.

MISSISSIPPI COMMISSION ON MARINE RESOURCES

By: _____
Vernon Asper, Ph.D., Chairman

MISSISSIPPI DEPARTMENT OF MARINE RESOURCES

By: _____
William W. Walker, Ph.D., Executive Director

Source: Miss. Code Ann § 49-15-15 (Rev. July 1, 2009)

TITLE 22 – MISSISSIPPI DEPARTMENT OF MARINE RESOURCES

PART 3 RULES AND REGULATIONS FOR MENHADEN (Brevoortia sp.) FISHING IN THE STATE ON MISSISSIPPI

Chapter 01 Introduction

Purpose

100 This Part provides for the regulation of Menhaden fishing through season and area restrictions.

Chapter 02 Justification and Authority

100 Pursuant to Miss. Code Ann. § 49-15-35, as amended, the Mississippi Commission on Marine Resources (MCMR) is vested with the authority to prohibit the taking and catching of menhaden within certain limits of the shoreline of the county so requesting, providing the request is made by the Board of Supervisors of the county desiring such a prohibition; and further providing that the said limit shall not exceed two (2) miles from the shoreline, or two (2) miles from the corporate limit boundaries of any municipality bordering on the Mississippi Sound as stated in MS Code Ann. § 49-15-35.

101 The MCMR is aware that the Board of Supervisors of Hancock and Harrison Counties, Mississippi have requested in the past a rule be adopted prohibiting the taking and catching of menhaden within a one (1) mile and two (2) mile limit of the shoreline of Hancock and Harrison Counties, Mississippi.

102 The MCMR has determined that it would be in the best interest and welfare of the State of Mississippi to prohibit the taking and catching of menhaden within a one (1) mile limit of the shoreline of Hancock and Harrison Counties, Mississippi.

103 The MCMR is vested with the authority to set a season for menhaden fishing, provided the opening of the season is established not later than the third Monday in April and the ending no sooner than the second Tuesday in October; as provided in Miss. Code Ann. § 49-15-74, as amended.

104 The MCMR has determined that it is in the best interest of the menhaden fishery to set the season for menhaden fishing to open on the third Monday in April and to close on the first day of November of each year.

Chapter 03 Definitions

100 **SHORELINE** shall be defined as that area where the water contacts the land including the

mainland and all offshore and barrier islands.

Chapter 04 Closure Area

100 It shall be unlawful for any person, firm, or corporation to take or catch menhaden from the waters under the jurisdiction of the MCMR within one (1) mile of the shoreline of Hancock and Harrison Counties, Mississippi.

Chapter 05 Fishing Season

100 It shall be unlawful for any person, firm or corporation to take or attempt to take any menhaden from the waters of the State of Mississippi, except from the third Monday in April through the first day of November of each year.

Chapter 06 Penalties

100 Any unlawful act under this Part committed by any person, firm, or corporation shall be deemed a violation of the provisions of this Part and shall constitute a misdemeanor and upon conviction, said person shall be punished in accordance with Miss. Code Ann. § 49-15-63, as amended, unless a penalty is specifically provided elsewhere in the Mississippi Code of 1972, as amended.

Chapter 07 Chapters and Subchapters Declared Separable

100 Each chapter and subchapter of this Part shall be declared separable, and if any chapter or subchapter or part thereof shall be held invalid or unconstitutional, the balance of said Title 22 Part 03 shall remain in full force and effect.

101 Violations of more than one chapter or subchapter of this Part or part thereof shall be considered separate offenses and punished as such.

Chapter 08 Administrative Procedures Act

100 Pursuant to the amendments to the Administrative Procedures Act, § 25-43-1.101, *et seq.*, of the Mississippi Code of 1972, as amended, the rules and regulations promulgated pursuant thereto by the Secretary of State; the former Ordinance 3.003 has been modified and the MCMR and Mississippi Department of Marine Resources have adopted the terminology and numbering system developed by the Secretary of State. Therefore, references to "ordinance" or to "Part" appearing in these regulations or the underlying statutes are used interchangeably and refer to the same instrument.

TITLE 22 – MISSISSIPPI DEPARTMENT OF MARINE RESOURCES
PART 3 RULES AND REGULATIONS FOR MENHADEN (Brevoortia sp.) FISHING IN THE STATE ON MISSISSIPPI, shall be in effect and be in force from and after the 1st day of January 2007.

Adopted this the 19th day of December 2006.

MISSISSIPPI COMMISSION ON MARINE RESOURCES

By: _____
Vernon Asper, Ph.D., Chairman

MISSISSIPPI DEPARTMENT OF MARINE RESOURCES

By: _____
William W. Walker, Ph.D., Executive Director

TITLE 22 – MISSISSIPPI DEPARTMENT OF MARINE RESOURCES

PART 4 RULES AND REGULATIONS FOR THE TAKING OF CRABS IN THE STATE OF MISSISSIPPI

Chapter 01 Introduction

Purpose

100 This Part provides for the regulations of the commercial and recreational taking of crabs.

Chapter 02 Justification and Authority

100 The Mississippi Commission on Marine Resources (MCMR) has determined that there is a continuing need for maintaining a sanctuary for sponge crabs.

101 There exists a need to prohibit the taking of crabs by unlicensed crab vessels.

102 In the case of licensed vessels fishing for crabs by means of crab traps or crab pots, that it is necessary for said traps or pots to be identifiable to enforcement personnel.

103 The MCMR is authorized to enact all regulations necessary for the protection, conservation or propagation of all seafood in the waters under the territorial jurisdiction of the State of Mississippi as provided for in § 49-15-15, of the Mississippi Code Ann. of 1972, as amended.

Chapter 03 Possession Regulations

100 It is unlawful to catch, have or have in possession any female sponge crab or any female crab bearing visible eggs at any time. It is not unlawful to catch those crabs unintentionally, if the crabs are immediately returned to the water.

101 Any person, firm or corporation harvesting or possessing peeler or buster crabs which are under the five (5) inch minimum size requirement, must after removing the crabs from the traps or pots place them into a separate container. Undersize peeler or buster crabs are allowed in a single cull box (not to exceed 32" long by 19" wide by 12" high).

Chapter 04 Area Closures

100 It shall be unlawful for any person, firm, or corporation to commercially take crabs from the marine waters north of the CSX Bridge in the three coastal counties of Mississippi.

Chapter 05 Incidental Catch

100 It shall be unlawful for any person, firm, or corporation in command of or control of any boat with a commercial shrimping license, fish net license or oyster license to fail to immediately return to the water any crabs caught in trawls regardless of the location unless the boat operating the trawl net or dredge shall have a valid commercial crab license as provided in § 49-15-86, of the Mississippi Code Ann. of 1972, as amended.

Chapter 06 Gear Regulations

100 All crab traps placed in or on the marine waters of the State of Mississippi shall utilize the following materials to permanently mark the crab trap for ownership: a corrosion resistant metal or plastic tag must be attached to the trap. The tag used to mark the traps must be legibly and permanently stamped with letters containing the applicable licensed crab fishermen's full name. The minimum height of the letters must be at least 3/16 of an inch. The tags shall be supplied by the crab fisherman.

101 Additionally, all crab traps or pots placed in the marine waters of the state of Mississippi must be marked with a float of at least six (6) inches in height, six (6) inches in length and six (6) inches in width and the float must have a highly visible color.

102 It shall be unlawful for any person, firm or corporation, fishing for crabs by means of crab traps to fail to mark each said trap float with the corresponding commercial or recreational crab license number in such a manner to be clearly visible to an inspecting officer. However, licensed commercial crab fisherman may obtain a registered color code design from the Mississippi Department of Marine Resources (MDMR), Marine Patrol Office. Once obtained, this color code must be placed on each buoy or float and painted or affixed to each side of the vessel used to harvest crabs from said traps or pots.

103 It shall be unlawful for any person fishing for crabs for personal use or consumption by means of crab traps or crab pots to use in excess of six (6) such traps or pots; and each said trap or pot shall be marked with the owner's name in such a manner to be clearly visible to an inspecting officer. In addition all crab traps or pots fished from a boat or vessel must also be marked with that boat or vessel's Mississippi registration identification.

104 All resident crab fishermen utilizing traps or pots must possess a valid recreational crab trap license for a fee of five dollars ($5.00) as provided for in § 49-15-86 of the Mississippi Code of 1972, as amended. This license requirement shall only apply to individuals between the ages of sixteen (16) and sixty-five (65). Any resident citizen who is blind, paraplegic, or a multiple amputee, or who has been adjudged by the Veterans Administration as having a total service-connected disability, or has been adjudged totally disabled by the Social Security Administration shall not be required to purchase or have in his possession a recreational crab license while engaged in such activities. Any resident exempt under this

chapter shall have on his person while crab trap fishing proof of residency and age or disability.

105 All non-resident recreational crab fishermen utilizing traps or pots must possess a valid recreational crab trap license for a fee of not less than five dollars ($5.00) nor more than the non-resident's state charges Mississippi residents to engage in the same activity, as provided for in § 49-15-30 (3) of the Mississippi Code Ann. of 1972, as amended.

106 This license shall be valid in all Mississippi waters South of Interstate 10.

107 Recreational crabbers may use no more than six (6) crab traps per household. It shall be unlawful to recreationally fish in excess of six (6) crab traps or pots per registered Mississippi boat or vessel.

108 It shall be unlawful for any person, firm, or corporation to place or cause to be placed any crab traps or pots north of the Interstate 10 (I-10) Highway in the three (3) coastal counties.

109 It shall be unlawful for any person, firm, or corporation to place or cause to be placed any crab trap or pot in any marked channel or fairway.

110 It shall be unlawful for any person, firm, or corporation to attach any buoy or float to any crab trap or pot with materials other than lines of nylon, hemp, cotton or woven synthetic materials which can easily be cut with a standard steel knife.

111 Buoys shall be attached to crab traps by use of a weighted line or non-floating line.

112 It shall further be unlawful for any person, firm or corporation to place or cause to be placed any crab trap or pot in any navigable waterway in such a manner that the trap line or float will interfere with normal boat traffic in said waterway and as such creating a hazard or nuisance to navigation.

113 It shall be unlawful for any person, firm or corporation to remove crabs from crab traps or pots that are not specifically licensed or permitted to said person, firm or corporation.

114 It shall be unlawful for any person, firm, or corporation to remove crab traps from the water or remove crabs from crab traps from thirty (30) minutes after legal sunset until thirty (30) minutes before legal sunrise the following day. It is not unlawful to possess crab traps if the crab traps are captured unintentionally during legal trawling or dredging operations, and if said crab traps are immediately returned to the water.

Chapter 07 Cat Island Sanctuary Closure

100 It shall be unlawful for any person, firm, or corporation to harvest or attempt to harvest or possess any crabs between January 1 and March 31 of each year within the area bounded by the following line: beginning at a point on the Louisiana-Mississippi border due south of the

"Intracoastal Waterway Grand Island Channel light 1", thence running due north to said "Light 1", thence running northeasterly along the "Intracoastal Waterway Marianne Channel" through "Buoy 22", "Light 18", "Buoy 12", to "Light 8", thence running northeasterly along the most direct line to "Lighted Buoy 7", thence running northeasterly along the most direct line to "Lighted Buoy 4", thence running southeasterly along the most direct line to "Cat Island West End Channel Light", thence running southwesterly along the most direct line to "Cat Island Channel Buoy E", thence running due south to a point on the Louisiana-Mississippi border; thence running westerly along the Louisiana-Mississippi border to the point due south of the "Intracoastal Waterway Grand Island Channel Light 1".

Chapter 08 Closed Seasons

100 The MCMR may establish a closed season or seasons for the use of crab traps in the public waters of this state. The MCMR may designate the closed season as not less than ten (10) days nor more than thirty (30) days per year. Any crab trap remaining in the public waters after the expiration to the seventh day of a closed season shall be considered abandoned and can be removed for proper disposal. The first seven days of the closed season shall be a period of time for crab fishermen to remove traps from the water; however, during this time harvest of crabs caught in traps is prohibited. The MCMR shall publish the season closure dates and areas in a closing order to the general public.

Chapter 09 Penalties

100 Any person, firm, or corporation convicted of violating any provisions of this Part shall be guilty of a misdemeanor, and shall be penalized in accordance with § 49-15-63 of the Mississippi Code of 1972, as amended. Violations of more than one chapter or chapters of this Part, or parts thereof shall be considered separate offenses and punished as such.

Chapter 10 Chapters and Subchapters Declared Separable

100 Each chapter and subchapter of this Part is hereby declared separable, and if any chapter or subchapter or part thereof shall be held invalid or unconstitutional, the balance of said Title 22 Part 04 shall remain in full force and effect.

101 Violations of more than one chapter or subchapter of this Part or part thereof shall be considered separate offenses and punished as such.

Chapter 11 Administrative Procedures Act

100 Pursuant to the amendments to the Administrative Procedures Act, § 25-43-1.101, *et seq.*, of the Mississippi Code Ann. of 1972, as amended, and the rules and regulations promulgated pursuant thereto by the Secretary of State; the former Ordinance 4.009 has been modified and the MCMR and MDMR have adopted the terminology and numbering system

developed by the Secretary of State. Therefore, references to "ordinance" or to "Part" appearing in these regulations or the underlying statutes are used interchangeably and refer to the same instrument.

TITLE 22 – MISSISSIPPI DEPARTMENT OF MARINE RESOURCES
PART 4 RULES AND REGULATIONS FOR THE TAKING OF CRABS IN THE STATE OF MISSISSIPPI, shall be in effect and be in force from and after the 1st day of January 2007.

Adopted this the 19th day of December 2006.

MISSISSIPPI COMMISSION ON MARINE RESOURCES

By: _____
Vernon Asper, Ph.D., Chairman

MISSISSIPPI DEPARTMENT OF MARINE RESOURCES

By: _____
William W. Walker, Ph.D., Executive Director

TITLE 22 - MISSISSIPPI DEPARTMENT OF MARINE RESOURCES

PART 5 RULES AND REGULATIONS THAT ESTABLISH RESTRICTIONS GOVERNING THE USE OF NETS, FISH TRAPS AND POTS WITHIN THE TERRITORIAL WATERS OF THE STATE OF MISSISSIPPI AND ESTABLISHING CERTAIN CATCH LIMITATIONS AND QUOTAS

Chapter 01 Introduction

Purpose

100 This Part provides regulations to establish restrictions governing the use of nets, fish traps and pots within the territorial waters of the state of Mississippi and establishing certain catch limitations and quotas.

Chapter 02 Justification and Authority

100 The Mississippi Commission on Marine Resources (MCMR) has determined that it is in the best interest of the fisheries of the State of Mississippi to regulate areas, methods, and gear types in the salt waters of the State of Mississippi.

101 The MCMR has further determined that catch limitations, minimum lengths, quotas and other regulations must be imposed in order to preserve fish populations.

101 The MCMR is authorized by § 49-15-15 of the Mississippi Code Ann. of 1972, as amended, to enact all regulations necessary for the protection, conservation or propagation of all commercial fish in the waters under the territorial jurisdiction of the State of Mississippi.

Chapter 03 Definitions

100 **MULLET FISHING** shall be defined as a fishing activity where the sole purpose is to catch mullet (*Mugil* sp.). It shall be unlawful for any person, firm, or corporation, while engaged in any mullet fishing activity or "set" to catch in excess of ten percent (10%) by weight of species other than mullet.

101 **KING MACKEREL FISHING** shall be defined as a fishing activity where the sole purpose is to catch king mackerel (*Scomberomorus cavalla*). It shall be unlawful for any person, firm, or corporation, while engaged in any net fishing activity or "set" to catch in excess of ten percent (10%) by weight of species other than king mackerel while king mackerel fishing.

102 **COMMERCIAL EEL FISHING** shall be defined as a fishing activity using traps or pots where the sole purpose is to catch American eels (*Anguilla rostrata*). It shall be unlawful for any person, firm, or corporation to retain any fish or shellfish other than adult eels while engaged in commercial eel fishing. An adult eel shall be defined as an eel at least six (6) inches in length.

103 **APPROVED DEGRADABLE MATERIAL** shall be defined as a material which after one (1) year of immersion in water loses at least fifty (50) percent of its tensile strength and for which a field test must be available to analyze the material for authenticity or the net must have a placard issued by the Mississippi Department of Marine Resources (MDMR) which will be permanently attached to the net certifying that the net is made of an approved degradable material. Any material previously approved by the MCMR under Title 22 Part 5 shall be deemed an "approved degradable material" for purposes of this Title 22 Part 5, regardless of whether the material meets the fifty (50) percent loss in tensile strength after one (1) year of immersion in water.

Chapter 04 Commercial Net Closure Areas and Gear Size Restrictions

100 It shall be unlawful for any person, firm, or corporation to catch, take, or carry away any saltwater fish by or with any gill nets, trammel nets, purse seines, seines, fish traps, except permitted eel traps, or any other like contrivances, in the territorial waters of the State of Mississippi within twelve hundred feet (1200) of any public pier or any pier owned and operated by hotels or motels for the use of their patrons and guests for swimming and fishing or any harbor or within twelve hundred (1200) feet of the shoreline of Deer Island.

101 It shall be unlawful for any person, firm, or corporation to catch, take or carry away any saltwater fish by or with any gill nets, trammel nets, purse seines, seines, fish traps, and other like contrivances except permitted eel traps in the following areas of the State of Mississippi:

101.01 Within any river, bayou, creek, canal, stream, tributary, lake, bay, or inlet, or other water source entering into areas defined as salt waters under the jurisdiction of the MCMR, except Pt. aux Chenes Bay, Middle Bay, Jose Bay, L'Isle Chaude, Heron Bay, Pascagoula Bay, south of a line beginning at a point on the shoreline at the southern terminus of range lines R7W and R6W near Camp Lamotte; thence southeasterly along the most direct line to the southernmost point of Twin Islands; thence easterly along the most direct line to the southern point of Rabbit Island; thence easterly along the most direct line to the beacon "Occ R 4 sec 100 ft" on the eastern side of Litton Shipbuilding; thence southeasterly following the shoreline to the southeasternmost point of Litton Shipbuilding; thence easterly along the most direct line to the southernmost point of land adjoining the entrance to Yazoo Lake) and South Rigolets and Biloxi Bay south of a line drawn between Marsh Point and Grand Bayou. These restrictions in subsection 101.01 shall not apply to mullet fishing in Pascagoula Bay south of the CSX Railroad bridge.

101.02 Within fifteen hundred (1500) feet from the shoreline between the U.S. Highway 90 bridge and the north shore of Bayou Caddy in Hancock County.

101.03 Within an area that would block the mouth of any river, bayou, creek, canal, stream, tributary, lake, bay, inlet, channel, or other water source entering into areas defined as salt waters under the jurisdiction of the MCMR. Areas defined as salt waters under the jurisdiction of the MCMR are specified by Mississippi Commission on Wildlife, Fisheries and Parks Public Notice Number 2276 in accordance with § 49-15-23 of the Mississippi Code Ann. of 1972, as amended.

101.04 Within an area formed by a line running one (1) mile from the shoreline of Cat, Ship, Horn, Petit Bois, and Round Island, or from the shoals of Telegraph Keys and Telegraph Reef (Merrill Coquille), during the period from May 15 to September 15 of each year.

101.05 Within twelve hundred (1,200) feet of any private piers which extend a distance of seventy-five (75) feet or more from the shoreline, except when mullet fishing.

101.06 Within three-hundred (300) feet of any private piers which extend a distance of seventy-five (75) feet or more from the shoreline when mullet fishing.

101.07 All of the aforementioned piers must be in usable condition with boards spaced in such a way that persons can walk the entire distance of the pier.

100.08 It shall be unlawful for any person, firm, or corporation to use at any time trammel nets, gill nets, seines, or any other like contrivances in excess of twelve-hundred (1200) feet in length. Except when fishing gill and trammel nets between October 15 through December 15 of each year, nets must be of a mesh size of one and one half (1-1/2) inch square, three (3) inch stretch or larger, and it shall be unlawful for any boat to use more than one (1) such net. Between October 15 through December 15 of each year, gill and trammel nets must be of a mesh size of one and three-fourths (1 3/4) inch square, three and one-half (3 ½) inch stretch or larger, and it shall be unlawful for any boat to use more than one (1) such net.

100.09 It shall be unlawful for any person, firm, or corporation other than licensed menhaden vessels engaged in menhaden fishing, to use or have in possession purse seine(s) in excess of fifteen hundred (1500) feet in length. Said nets must be of a mesh size of one-half (½) inch square, one (1) inch stretch or larger.

100.10 It shall be unlawful for any person, firm, or corporation to leave a gill net, trammel net, purse seine, seine or any other net like contrivance governed by the restrictions set forth in this Part unattended in the waters of this state, and at least one person shall be required to stand by, within one boat length of the boat using said net, at all times the net is in the water. It shall further be unlawful for any person, firm, or corporation to use or have in their possession a gill net, trammel net, seine or like contrivance on the waters of this state without a visible buoy attached every one hundred (100) feet clearly marked with the license number or owner's full name thereon.

Chapter 05 Additional Gill and Trammel Net Restrictions

100 Notwithstanding the provisions of Chapter 04 above, it shall be unlawful for any person, firm or corporation to set, use or possess a gill or trammel net in the marine waters of the State of Mississippi contrary to the following restrictions:

100.01 From 6:00 a.m. to 6:00 p.m. no gill and trammel nets shall be set or otherwise used for the taking of aquatic life within one-half (½) nautical mile of any manmade structure attached to the shoreline from Bayou Caddy in Hancock County to Marsh Point in Ocean Springs, Jackson County.

100.02 From 6:00 p.m. to 6:00 a.m. no gill and trammel nets shall be set or otherwise used for the taking of aquatic life within one-quarter (1/4) nautical mile of any manmade structure attached to the shoreline from Bayou Caddy in Hancock County to Marsh Point in Ocean Springs, Jackson County.

100.03 It shall be unlawful for any person, firm or corporation to possess fish in, or in contact with, any gill or trammel net in a boat in the marine waters of Mississippi in the St. Louis Bay north of the CSX Railroad Bridge; in Biloxi Bay north of a line drawn between Marsh Point and Grand Bayou; in Pascagoula Bay north of the CSX Railroad bridge.

100.04 It shall be unlawful for any person, firm or corporation to set or otherwise use a gill or trammel net in the marine waters of Mississippi or to possess fish in, or in contact with, a gill or trammel net in a boat in the marine waters of Mississippi between 6:00 a.m. on Saturday mornings and 6:00 p.m. on Sunday evenings.

100.05 It shall be unlawful for any person, firm or corporation to set or otherwise use a gill or trammel net in the marine waters of Mississippi or to possess fish in, or in contact with, a gill or trammel net in a boat in the marine waters of Mississippi between 6:00 a.m. and 6:00 p.m. on legal holidays established by the Mississippi Legislature and as set forth in Miss. Code Ann. § 3-3-7, as amended.

100.06 No gill or trammel net shall be set within one-quarter (1/4) nautical mile of another gill or trammel net.

100.07 Gill and trammel nets must be attended at all times from a distance of no greater than the length of the boat in use.

100.08 On and after January 1, 1997, all gill and trammel nets must be constructed of an approved degradable material. An approved degradable materials list will be on file with the Executive Director of the MDMR or his designee. Any material that has not been approved by the MCMR by the October 15, 1996 MCMR meeting must meet the requirements of the approved degradable materials definition.

Chapter 06 Eel Trap Regulations

100 It shall be unlawful for any person, firm, or corporation to engage in commercial eel fishing activities by trap or pot in all areas defined as salt waters under the jurisdiction of the MCMR by Public Notice No. 2276 in accordance with Miss. Code Ann. § 49-15-23, as amended, without first obtaining a commercial eel permit from the MDMR.

101 It shall be unlawful for any person, firm, or corporation to engage in commercial eel fishing as defined herein using:

101.01 Traps with a diameter in excess of two (2) feet or a length in excess of four (4) feet or a muzzle or throat with an opening in excess of two (2) inches, maximum measurement.

101.02 Traps with a mesh size smaller than one-half (½) inch by one (1) inch.

101.03 Pots larger than twenty four (24) inches by twenty four (24) inches by fifteen (15) inches or having a throat in excess of two (2) inches, maximum measurement.102

It shall be unlawful for any person, firm, or corporation to use or have in their possession in or on the waters of this state any fish traps, fish pots, eel traps, eel pots, or like contrivances that are not clearly marked with the owner's full name, permit, or license number. It shall further be unlawful for said person, firm, or corporation to fail to check and empty each trap, pot, or like contrivance at least once every forty-eight (48) hours.

Chapter 07 MCMR May Adopt Total Allowable Catch (TAC) For Seafood

100 The MCMR, in accordance with the provisions of a duly adopted Commission Management Plan, published and filed with the Secretary of State; or in accordance with a management plan developed by the Gulf of Mexico Fishery Management Council and approved by the United States Secretary of Commerce; may establish annual Total Allowable Catch (TAC) rates for commercial and recreational fishermen. Said catch rates may apply to red drum, spotted seatrout, mullet, brown shrimp, white shrimp, blue crabs, or any other species of fish or shellfish which the MCMR deems necessary or advisable. Furthermore, the MCMR may close a fishery or disallow the taking of any particular species of fish or shellfish by commercial fishermen, recreational fishermen or both commercial and recreational fishermen in response to catches meeting or exceeding a TAC established by order of the MCMR. It shall be unlawful for any person, firm, or corporation to violate any of the provisions of such management plans as approved by the MCMR or to exceed the TAC levels which may be established annually for any species of fish or shellfish.

Chapter 08 Regulations on Sale of Cobia and Finfish under Quotas

100 It shall further be unlawful for any person, firm or corporation to sell, offer for sale, barter, trade or purchase cobia landed in Mississippi. Cobia and any species of finfish that have an established annual quota and are landed legally elsewhere and/or transported into or within Mississippi for sale, must be accompanied by an affidavit or certificate from the regulating agency of the point of origin stating that the fish were legally landed or accompanied by a Bill of Lading if imported from a foreign country. Cobia and any species of finfish that have an established annual quota and are raised on permitted aquaculture facilities must be accompanied by a Bill of Lading with the permit number attached and may be sold below the prescribed minimum lengths.

Chapter 09 Exceptions to Net Regulations

100 The restrictions, with the exception of Chapter 07, outlined in this Part do not apply to brill nets, cast nets, drop nets for crabs, small mesh beach seines not exceeding one-hundred (100) feet in length, and having a mesh size not to exceed 1/4 inch bar-1/2 inch stretch, trawls, for the catching of shrimp, purse seines for the catching of menhaden, or nets, traps, or pots for experimental purposes approved and duly permitted by the MCMR.

Chapter 10 Penalties

100 Any unlawful act under this Part committed by any person, firm, or corporation shall be deemed a violation of the provisions of this Part and shall constitute a misdemeanor and upon conviction, said person shall be punished in accordance with Miss. Code Ann. § 49-15-63, as amended, unless a penalty is specifically provided elsewhere in the Mississippi Code Ann. of 1972, as amended.

Chapter 10 Chapters and Subchapters Declared Separable

100 Each chapter and subchapter of this Part is hereby declared separable, and if any chapter or subchapter or part thereof shall be held invalid or unconstitutional, the balance of said Title 22 Part 05 shall remain in full force and effect.

101 Violations of more than one chapter or subchapter of this Part or part thereof shall be considered separate offenses and punished as such.

Chapter 11 Administrative Procedures Act

100 Pursuant to the amendments to the Administrative Procedures Act, § 25-43-1.101, *et seq.*, of the Mississippi Code Ann. of 1972, as amended, and the rules and regulations promulgated pursuant thereto by the Secretary of State; the former Ordinance 5.013 has been modified and the MCMR and MDMR have adopted the terminology and numbering system developed by the Secretary of State. Therefore, references to "ordinance" or to "Part" appearing in these regulations or the underlying statutes are used interchangeably and refer to the same instrument.

TITLE 22 MISSISSIPPI DEPARTMENT OF MARINE RESOURCES PART 5 RULES AND REGULATIONS THAT ESTABLISH RESTRICTIONS GOVERNING THE USE OF NETS, FISH TRAPS AND POTS WITHIN THE TERRITORIAL WATERS OF THE STATE OF MISSISSIPPI AND ESTABLISHING CERTAIN CATCH LIMITATIONS AND QUOTAS, shall be in effect and be in force from and after the 1st day of January 2007.

Adopted this the 19th day of December 2006.

MISSISSIPPI COMMISSION ON MARINE RESOURCES

By: _____
Vernon Asper, Ph.D., Chairman

MISSISSIPPI DEPARTMENT OF MARINE RESOURCES

By: _____
William W. Walker, Ph.D., Executive Director

TITLE 22 – MISSISSIPPI DEPARTMENT OF MARINE RESOURCES

PART 6 RULES AND REGULATIONS FOR LIVE-BAIT SHRIMPING IN THE STATE OF MISSISSIPPI

Chapter 01 Introduction

Purpose

100 This part provides for the regulations for live-bait fishing.

Chapter 02 Justification and Authority

100 The Mississippi Commission on Marine Resources (MCMR) views the live bait fishery as a service to the recreational fisherman and tourist industry of Mississippi.

101 The MCMR has determined that regulations are necessary to assure that this service may be performed with minimal impact on shrimp and fish populations.

102 The MCMR has determined that in order to protect the valuable shrimp fishery of the State of Mississippi, no more than that amount of bait shrimp necessary to service the recreational fishermen of Mississippi should be harvested from those waters of the state that are closed to commercial shrimping activities, except for live bait shrimping.

103 The MCMR is authorized by § 49-15-64.3 (2) of the Mississippi Code Ann. of 1972, as amended, to adopt rules, regulations, guidelines and other operation criteria in conjunction with licensing live bait dealers and live bait catcher boats as it deems appropriate to insure that only bona fide operations will be licensed.

104 The MCMR has determined that, in order for live bait dealers to operate live bait shrimp transport vehicles and to ensure that only bona fide operations will be licensed, said vehicles should be properly regulated.

105 The MCMR is vested with the jurisdiction and authority over all marine aquatic life in accordance with § 49-15-15 of the Mississippi Code Ann. of 1972, as amended.

Chapter 03 Definitions

100 **BAIT SHRIMP** shall mean saltwater shrimp that count one hundred (100) or fewer shrimp per pound, and are intended solely for use as bait to be sold or dispensed alive or dead with heads attached to recreational fishermen, or licensed live bait dealers as permitted within the State of Mississippi.

101 **BULK SALES** shall mean any sale, barter, trade, exchange or otherwise dispensing of dead shrimp consisting of more than five (5) pounds per person per day; or any sale, barter, trade, exchange or otherwise dispensing of live shrimp of more than five hundred (500) live bait shrimp per person per day.

102 **CAST NET** shall mean any cast net or brille net or any circular or conical weighted net designed to be thrown downward by hand and withdrawn by lines attached to its margin.

103 **CHUM** shall mean fish or invertebrates (excluding all species of marine shrimp and crabs) which are intended solely for use as a fish attractant to be sold or dispensed to recreational fishermen within the State of Mississippi.

104 **COMMISSION** shall mean the Mississippi Commission on Marine Resources (MCMR).

105 **EXECUTIVE DIRECTOR** shall mean the Executive Director of Mississippi Department of Marine Resources (MDMR) or his designee.

106 **FOOTROPE** shall mean leadline, footline, groundrope or that lower part of the trawl that the webbing is first attached, that also provides for the weighing down of the trawl by means of lead weights, chain or other means.

107 **HEADROPE** shall mean corkline, headline, floatline or that upper part of the trawl that the webbing is first attached, that also provides flotation by means of corks, floats or other means.

108 **INTEREST IN COMMERCIAL SHRIMP OPERATION** shall mean having any direct or indirect pecuniary or financial interest in any commercial shrimp vessel, shrimp processing facility or sale of shrimp for human consumption.

109 **INTEREST IN LIVE BAIT OPERATIONS** shall mean having any direct or indirect pecuniary or financial interest in any live bait catcher boat, live bait shrimp transport vehicle or live bait camp.

110 **LIVE BAIT DEALER** shall mean "live shrimp dealer" or any person, firm or corporation who engages in the sale, exchange, barter or dispensing of shrimp, in a live condition or dead with heads attached, solely as bait only to recreational fishermen within the State of Mississippi, or other licensed live bait dealers as permitted; and has been duly inspected and permitted as a "licensed live bait dealer" by the MCMR. Said dealer must also actively pursue the business of supplying the needs of sports fishermen in the State of Mississippi with bait, tackle and other recreational fishing needs.

111 **LIVE BAIT CAMP** shall mean any business of a live bait dealer that deals in the selling of live and dead shrimp to recreational fishermen within the State of Mississippi for bait use and has been duly inspected and permitted as a "live bait camp" by the MDMR.

112 **LIVE BAIT CATCHER BOAT** shall mean any watercraft having suitable equipment aboard to properly harvest and retain aboard, in a live condition, shrimp which are intended solely for use as live bait to be sold or dispensed to recreational fishermen within the State of Mississippi and said boat having been duly inspected, permitted and licensed by the MCMR as a "live bait catcher boat" to a particular live bait camp.

113 **LIVE BAIT SHRIMP TRANSPORT VEHICLE** shall mean any motorized vehicle having suitable equipment to properly transport, in a live condition, shrimp which are intended solely for use as live bait to be sold or dispensed to recreational fishermen and said vehicle having been duly inspected and permitted as a "live bait shrimp transport vehicle" by the MDMR.

Chapter 04 Closure Areas

100 It shall be unlawful for any person, firm, or corporation to take, catch, or carry away any saltwater shrimp, for any purpose at any time from any bayou, bay, lake, canal, stream, creek, river or other tributary to the Mississippi Sound or Lake Borgne in the three Coastal Counties. However, live bait shrimping by live bait catcher boats is permitted year-round in Middle Bay; Point Aux Chenes Bay; Jose Bay; Pascagoula Bay; East, West and Middle Pascagoula Rivers south of the CSX Railroad bridges; Biloxi Bay and Bay of St. Louis south of the CSX Railroad bridge and Heron Bay.

101 Nothing in this chapter shall be construed to limit the use at any time of cast nets or brille nets not exceeding twelve (12) feet (maximum radius or length) used for catching saltwater shrimp. Any person, licensed live bait dealers, licensed live bait shrimpers and licensed commercial shrimpers shall be allowed to take shrimp in the bays of Bay St. Louis, Biloxi and Pascagoula with a cast net or brille net, but shall not take more than fifty (50) pounds (heads-on) of shrimp per person per day. It shall be unlawful for any persons using said nets to remove the heads of the shrimp on site.

Chapter 05 Gear Regulations

100 It shall be unlawful for any person, firm or corporation to engage in live bait shrimping operations or to operate a live bait catcher boat without complying with the following:

100.01 A live bait catcher boat shall be licensed to catch live bait shrimp for only one live bait dealer, unless specifically permitted to do so as provided for in this Part. Once a live bait boat has been inspected and licensed to catch shrimp for a specific licensed live bait dealer that boat and captain must continue to work for that dealer until the following license period. The only exception to this is when a dealer has their license revoked as provided for in § 49-15-64.3, as amended, or is otherwise out of business. The captain and live bait catcher boat may transfer to work for another live bait camp with the prior approval of the Executive Director or his designee and if they were not convicted of any violations that resulted in or

contributed to the revocation of the live bait camp license. These are the only circumstances in which a live bait captain and catcher boat will be allowed to change camps during the course of the season and begin to work for another camp.

100.02 It shall be unlawful for any live bait catcher boat to tow a net in excess of twenty-five (25) minutes, including the time it takes to put out or pick up a trawl.

100.03 It shall be unlawful for live bait catcher boats east of Bayou Caddy to pull or have on board a trawl with measurements in excess of sixteen (16) feet along the headrope; or to pull or have on board a trawl with measurements in excess of sixteen (16) feet along the headrope or in excess of twenty-two (22) feet along the footrope for the purpose of catching bait shrimp in Mississippi waters. It shall further be unlawful for live bait catcher boats working in Hancock County south and west of Bayou Caddy to pull or have on board a trawl with measurements in excess of twenty-five (25) feet along the headrope or in excess of thirty-two (32) feet along the footrope for the purpose of catching bait shrimp in Mississippi waters.

100.04 It shall be unlawful for live bait catcher boats to use boards greater than four (4) feet in length.

100.05 Live bait catcher boats must be clearly marked by displaying in an easily visible position, on both port and starboard sides, in block letters at least six (6) inches high by at least one-half (1/2) inch wide and of a contrasting color to that of the vessel, the words: "LIVE BAIT" and the name of the camp similarly displayed.

100.06 It shall be unlawful for any live bait catcher boat to use in excess of one (1) trawl. It shall be further unlawful for any live bait catcher boat to use any test or try trawl.

100.07 Live bait catcher boats shall be equipped with shaded holding tanks with aeration capabilities and a water circulating system aboard. Said holding tanks aboard the live bait catcher boat must be of either circular or raceway type with adequate water flow, provided, however, that rectangular shaped tanks already in use may continue to be used when boards are placed in the corners to prevent live shrimp from congregating. Provisions for aerating said holding tanks shall be provided to insure optimal survival of the bait shrimp. A pump capable of drawing water from near the bottom where the shrimp are caught shall also be on board. A "wet" or recirculating sorting tank shall be required to separate shrimp from incidental catch. Other types of on-board holding tanks or systems may be permitted if it can be shown that they are at least as adequate as those described above. The Executive Director or his designee shall determine the capability of such holding tanks aboard to hold shrimp or fish in a live condition, as well as the capability of any pumps or aeration systems prior to the issuance of a permit for their operation.

100.08 It shall be unlawful for any live bait catcher boat to have in excess of thirty (30) pounds of dead shrimp on board at any time.

100.09 The designated captain of the live bait catcher boat may not operate said boat without having in his immediate possession a valid live bait catcher boat license issued by the Executive Director or his designee and his Captains' license issued by the MCMR.

100.10 Trawling hours for live bait catcher boats shall begin no earlier than thirty (30) minutes before official sunrise and end no later than official sunset each day, unless otherwise specified by the MCMR or State Statute. Schedules of trawling times will be provided upon issuance of license.

100.11 Live bait catcher boat operators may retain other fish caught incidental to catching bait shrimp, and such fish may be sold as chum or bait provided they meet all minimum commercial size requirements as established by Mississippi Statute and Parts as well as all other applicable regulations as established by the MCMR and State Statute. If the live bait camp desires to sell crabs caught while engaged in fishing for live bait, the live bait dealer must possess a valid crab license issued by the MCMR and abide by all crabbing regulations as established by the MCMR and State Statute. All other incidental catch not intended for sale as bait or chum must be returned to the water as soon as possible in order to ensure survival.

100.12 It shall be unlawful for a live bait dealer or live bait catcher boat captain or operator to refuse to sell any shrimp legally caught or possessed for bait use.

100.13 It shall be unlawful for any person, firm or corporation to sell, offer for sale, barter, trade, dispense or otherwise dispose of live bait shrimp from a live bait catcher boat, other than for use as bait, to recreational fishermen or to the live bait camp or camps for which it is permitted. It shall further be unlawful for any person, firm or corporation to sell, offer for sale, barter, trade, dispense or otherwise dispose of live bait shrimp from a live bait catcher boat to recreational fishermen in amounts exceeding five hundred (500) live bait shrimp per person per day. Dead bait shrimp may be sold, only with their heads attached, in containers holding no more than sixteen (16) ounces. No bulk sales are permitted other than to another live bait dealer as provided for in this Part.

100.14 It shall be unlawful for any person, firm or corporation to wash, pull, or have any part of a trawl in waters of the State of Mississippi that are closed to live bait shrimping or closed to that particular type or size of trawl.

Chapter 06 License Regulations

100 It shall be unlawful for any person, firm or corporation to operate a live bait camp, engage in live bait shrimping or to conduct live bait shrimp operations without complying with the following:

100.01 Before any person, firm, or corporation receives a live bait dealer's license, written application must first be made to the MCMR between January 1 and April 30 preceding the license year. All requests for licenses received after April 30 proceeding the license year will be denied. Applications for a live bait dealer's license must include the following:

100.10.01 A sworn statement that dead shrimp will not be sold in containers having a volume in excess of sixteen (16) ounces.

100.10.02 A State of Mississippi sales tax number.

100.10.03 A statement of the operating hours, at least eight (8) hours per twenty-four (24) hour period.

100.10.04 The location of the camp; the camp must be accessible to the general public by public road within 100 yards of a navigable waterway.

100.10.05 The registration number and name of the live bait catcher boat.

100.10.06 The name of the live bait catcher boat Captain.

100.10.07 The Mississippi vehicle tag number of the live bait transport vehicle (if applicable).

100.10.08 Lists of what types of licenses or permits are being requested (e.g. "live bait dealer", "live bait catcher boat", "live bait shrimp transport vehicle").

101 Additionally, all live bait dealers shall have privilege tax permits and licenses as required for conducting business in the state, as well as for the county and/or municipality in which the bait camp is located. The Executive Director or his designee will determine if the business serves the public interest and recreational fishing in Mississippi. The Executive Director or his designee will notify respective applicants of an inspection date and the Executive Director or his designee will inspect each camp prior to the issuance of a live bait dealer's license. License renewals will be issued only upon compliance of the live bait dealer with record keeping procedures for the immediately preceding license year as set forth in this Part or other parts or regulations as adopted by the MCMR, together with all applicable laws and regulations of the State of Mississippi. Any live bait dealer who failed to keep or to submit said records in a timely manner as required, must first obtain MCMR approval prior to license renewal.

102 It shall be unlawful for any live bait dealer to fail to submit their monthly Live Bait Dealer Report to the MDMR, as required by rules an regulations of the MCMR. Said reports shall be postmarked no later than the fifteenth day of the month following the monthly reporting period. Live bait shrimp caught and sold shall be reported in numbers of shrimp, not in number of pounds.

103 Live bait dealer's licenses will be issued only by the Executive Director or his designee, and only at the time of inspection of the live bait camp. Inspections shall be completed by May 31.

104 The live bait dealer's license shall identify one individual who shall be responsible for operation of the bait camp and its designated live bait catcher boat and the live bait shrimp transport vehicle in accordance with all applicable laws, regulations and fees. The live bait catcher boat captain's license shall be purchased at the same time the vessel license is purchased. It shall be unlawful to substitute captains or operate a live bait catcher boat without the designated captain aboard prior to receiving written approval from the Executive Director or his designee. Requests to substitute captains must be submitted in writing in advance of such substitutions to the Executive Director for his approval. Each live bait captain is allowed one alternate live bait captain per live bait boat license. If a change of personnel occurs on said license (including the captain or the alternate captain) a new captain's license must be purchased.

105 Any live bait camp may submit a request in writing for not more than two live bait catcher boats to the Executive Director. In the event of mechanical failure or other difficulties, the license of a live bait catcher boat may be temporarily transferred, for a period not to exceed thirty (30) days, to another live bait catcher boat after approval from the Executive Director or his designee. Requests to transfer the license to a new vessel on a permanent basis must be submitted in writing to the Executive Director or his designee for their inspection and approval. This permanent type of transfer may occur only once per license year.

106 No person, firm, or corporation may operate as a live bait dealer without first having a valid place of business in the State of Mississippi which has been inspected by the Executive Director or his designee and only after receiving a license to operate issued by the Executive Director or his designee. Live bait camps shall display in an easily visible position from the nearest public roadway a sign using block letters at least six (6) inches high and at least one-half (1/2) inch wide the words "LIVE BAIT" and the name of the live bait camp. Camps are also required to have a facility adequate for safely serving the public and must meet the requirements necessary to operate a business where the camp is located.

107 Holding tanks for live bait in the live bait camp must be either circular or raceway type with adequate water flow, provided, however, that rectangular shaped tanks already in use may continue to be used when boards are placed in corners to prevent live shrimp from congregating in corners. Provisions for aerating the holding tanks shall be provided to insure optimal survival of the bait shrimp. Other types of holding tanks may be permitted if it can be shown that they are at least as adequate as those described above. The Executive Director or his designee shall determine the capability of such tanks prior to the Executive Director or his designee issuing a permit for their operation.

108 Dead bait shrimp may be sold, only with their heads attached, in containers holding no more than sixteen (16) ounces. No bulk sales are permitted other than to another live bait dealer as provided for in this Part, however, the selling in excess of five hundred (500) live bait shrimp from the live bait camp to an individual may be permitted by the Executive Director after request of the sale by the live bait dealer.

109 Holding tanks must be cleaned of dead shrimp at least every twelve (12) hours.

110 Live bait camps must be open from May 31 through December 1, a minimum of five (5) days per week. There must be someone available to sell or dispense bait to customers on a regular basis during at least eight (8) of the daylight hours. Operating hours for the period from May 31 to December 1 must be designated in writing at the time of license issuance. On any day that a live bait camp's live bait catcher boat operates, the live bait camp must open the following day and remain open as provided in its designated hours of operation, or for a minimum of eight (8) hours. The Executive Director must be notified in writing by each live bait dealer when they are unable to keep their live bait camps open for a period of five (5) or more consecutive days, and also be notified prior to the camp's reopening. Live bait dealers who fail to keep their live bait camps open during their designated times, and do not notify the Executive Director in writing of such closure, will not be permitted to renew their live bait licenses for the following year.

111 Should the designated live bait catcher boat of a particular live bait dealer become inoperable, the live bait dealer, with prior permission of the Executive Director or his designee, may purchase shrimp from another live bait dealer for the period required to make necessary repairs or to acquire another live bait catcher boat for this live bait camp. Said temporary operation shall not exceed thirty (30) days. If after thirty days the live bait dealer is unable to make repairs, the Executive Director or his designee may extend the period of temporary operations. Subject to prior approval live bait dealers unable to secure a live bait catcher boat or experiencing difficulty obtaining live bait shrimp may buy from other licensed live bait camps or commercial shrimpers. Licensed live bait dealers buying live shrimp from other licensed live bait dealers must make application for permission to the Executive Director or his designee in writing. Application must identify licensed live bait dealers they are buying shrimp from and the number of shrimp purchased on the confidential live dealer reports.

112 It shall be unlawful for any live bait dealer, or person, firm, or corporation with an interest in live bait catcher boats or live bait businesses to have any interest in commercial shrimp operations. Licensed live bait dealers and licensed commercial shrimp operations are prohibited from sharing facilities or premises.

113 It shall be unlawful for any live bait dealer to sell, exchange, barter or otherwise dispense of shrimp, fish, crabs or chum to any person, firm or corporation other than to recreational fishermen or other licensed live bait dealers as permitted. Licensed live bait dealers providing prepared shrimp food items to the public must retain invoices documenting the purchase of shrimp products from a properly licensed commercial supplier and sale to the public.

114 MDMR can provide for the transfer of the following live bait licenses/permits; dealer license, boat license and truck permit to a new camp owner during the license year provided that the sale of the camp is finalized and notarized documentation of the sale is provided to the MDMR. The license transfer must be completed by the Executive Director or his designee and the MDMR licensing office. Each license can only be changed once per license year. This transfer may only take place provided that all reporting requirements have been met as set in this Part and there are no previous live bait violations on record.

Additionally if a licensed live bait boat or captain wants to change to a commercial shrimper the live bait boat and captain's license must be surrendered to the Executive Director or his designee. Surrendered licenses may not be reacquired.

Chapter 07 Transport Vehicle Regulations

100 It shall be unlawful for any person, firm or corporation to conduct live bait shrimp operations or to operate a live bait shrimp transport vehicle without complying with the following:

100.01 Live bait shrimp transport vehicles must be clearly and permanently marked by displaying in an easily visible position, on both left and right sides of said transport vehicle and or live bait holding tank in block letters at least four (4) inches high and at least three-eighths (3/8) inch wide and of a contrasting color to that of the vehicle, the words: "LIVE BAIT" and the name of the camp similarly displayed.

100.02 Live bait shrimp transport vehicles shall be equipped with shaded holding tanks with aeration capabilities and a water circulating system. Said holding tanks on the live bait shrimp transport vehicle must be of a circular type with adequate water flow, provided, however, that rectangular shaped tanks already in use may continue to be used when boards are placed in the corners to prevent live shrimp from congregating. Provisions for aerating the holding tanks shall be provided to insure optimal survival of the bait shrimp. Other types of holding tanks or systems may be permitted if it can be shown that they are at least as adequate as those described above. The Executive Director or his designee shall determine the capability of such tanks to hold shrimp or fish in a live condition, as well as the capability of any pumps or aeration systems.

100.03 It shall be unlawful for any live bait shrimp transport vehicle to have in excess of forty (40) pounds in total of dead shrimp on board at any time, except, however, when dead shrimp are to be purchased from a licensed seafood dealer for use as bait, such shrimp may be transported frozen or on ice, and must be accompanied by a bill of sale from the seafood dealer that includes the seafood dealers signature and the time and date of the sale. It shall further be unlawful to transport live shrimp while in the process of purchasing, attempting to purchase or transport dead shrimp from a seafood dealer. The additional ten (10) pounds of dead shrimp allowed within a transport vehicle tank (30 pounds of dead shrimp in the boat tank) is to allow for any mortality which may occur during the transport of the live shrimp to the final destination.

100.04 The driver of the live bait shrimp transport vehicle may not transport live shrimp by said vehicle without having in his immediate possession a valid "live bait shrimp transport vehicle permit" issued by the Executive Director or his designee. Only licensed commercial shrimpers (resident or non-resident) may transport shrimp across state lines for the purpose of selling or delivering live bait to another state (§49-15-64.4 and §49-15-34, as amended).

101 It shall be unlawful for any person, firm or corporation to sell, offer for sale, barter, trade, dispense or otherwise dispose of any shrimp, fish, crabs or chum directly from a live bait shrimp transport vehicle other than to the live bait camp or camps for which it is permitted.

Chapter 08 Aquaculture

100 Live bait shrimp may be raised in aquaculture facilities, however only native (*Penaeid*) marine species of shrimp may be used as bait. Non-native species of shrimp are strictly prohibited from being used as live bait in the marine waters of the State of Mississippi.

Chapter 09 Penalties

100 Failure to comply with any of the requirements listed in Chapter 4, 5, 6 or 7 of this Part for live bait catcher boats, boat operators or captains, live bait dealers, live bait shrimp camps and live bait shrimp transport vehicles, shall result in revocation of the license by the MCMR in accordance with the provisions of § 49-15-64.3 of the Mississippi Code Ann. of 1972, as amended. Upon the revocation of such license, the posting of a cash performance bond of One Thousand Dollars ($1,000.00) will be required before the reissuance of the license previously revoked. Furthermore, subsequent violations of this Part or Mississippi Statutes concerning live bait shall result in the forfeiture of any applicable bonds and fees. Furthermore, any breach of this Part or Mississippi Statutes concerning live bait dealers, live bait catcher boats or live bait shrimp transport vehicles may result in non-renewal of the licenses or permits of the live bait dealer, live bait catcher boat or live bait shrimp transport vehicle by the MCMR.

Chapter 10 Chapters and Subchapters Declared Separable

102 Each chapter and subchapter of this Part is hereby declared separable, and if any chapter or subchapter or part thereof shall be held invalid or unconstitutional, the balance of said Title 22 Part 06 shall remain in full force and effect.

103 Violations of more than one chapter or subchapter of this Part or part thereof shall be considered separate and punished as such.

Chapter 12 Administrative Procedures Act

100 Pursuant to the amendments to the Administrative Procedures Act, § 25-43-1.101, *et seq.*, of the Mississippi Code Ann. of 1972, as amended, and the rules and regulations promulgated pursuant thereto by the Secretary of State; the former Ordinance 6.006 has been modified and the MCMR and MDMR have adopted the terminology and numbering system developed by the Secretary of State. Therefore, references to "ordinance" or to "Part"

appearing in these regulations or the underlying statutes are used interchangeably and refer to the same instrument.

TITLE 22 – MISSISSIPPI DEPARTMENT OF MARINE RESOURCES
PART 6 RULES AND REGULATIONS FOR LIVE-BAIT SHRIMPING
IN THE STATE OF MISSISSIPPI, shall be in effect and be in force from and after the 1st day of January 2007.

Adopted this the 19th day of December 2006.

MISSISSIPPI COMMISSION ON MARINE RESOURCES

By: _____
Vernon Asper, Ph.D., Chairman

MISSISSIPPI DEPARTMENT OF MARINE RESOURCES

By: _____
William W. Walker, Ph.D., Executive Director

TITLE 22 – MISSISSIPPI DEPARTMENT OF MARINE RESOURCES
PART 7 REGULATIONS TO PROVIDE SIZE LIMITS AND BAG LIMITS ON CERTAIN FISH SPECIES AND TO PREVENT SALE OF SEAFOOD BY RECREATIONAL FISHERMEN

Chapter 01 Introduction

Purpose

100 This Part provides for the regulations of commercial and recreational fishermen through size limits, bag limits and gear restriction.

Chapter 02 Justification and Authority

100 The Mississippi Commission on Marine Resources has determined that the regulation of all user groups is necessary for the conservation, protection, or propagation of certain fish species.

101 The Mississippi Commission on Marine Resources has determined that regulations must be imposed on minimum lengths and bag limits of certain commercially and recreationally important fish species in order to insure the proper conservation, protection or spawning of stocks.

102 The Mississippi Commission on Marine Resources has determined that there is a need to support the decision of the United States Congress which authorized the United States Secretary of Commerce, the National Oceanic and Atmospheric Administration (NOAA) Assistant Administrator, for fisheries to adopt conservation measures for Atlantic bluefin tuna (*Thunnus thynnus*) as recommended by the International Commission for the Conservation of Atlantic Tunas (ICCAT), which was established by the International Convention for the Conservation of Atlantic Tunas, a treaty to which the United States and eighteen other countries are parties.

103 The Mississippi Commission on Marine Resources has determined a need to restrict the incidental catch of Atlantic bluefin tuna in accordance with Federal Regulations.

104 The Mississippi Commission on Marine Resources has determined that the ICCAT recommendation to prohibit a directed fishery on the Atlantic bluefin tuna spawning stocks in the Gulf of Mexico is a valid and necessary measure for the proper conservation of Atlantic bluefin tuna stocks.

105 The Mississippi Commission on Marine Resources is vested with the jurisdiction and authority over all marine aquatic life and is authorized to enact all regulations necessary for the protection, conservation or propagation of all shrimp, oysters, commercial fish and crabs

in the waters under the territorial jurisdiction of the State of Mississippi, as provided for in Section 49-15-15 of the Mississippi Code of 1972, Annotated.

106 Section 49-15-63 of the Mississippi Code of 1972, Annotated, provides, in part, that any person, firm or corporation violating any of the provisions of any Title and Part adopted by the commission shall be guilty of a misdemeanor.

107 Section 49-15-96 of the Mississippi Code of 1972, Annotated; allows for the cleaning (filleting) of certain types of fish for personal consumption by licensed commercial shrimpers.

108 Section 49-15-317 of the Mississippi Code of 1972, Annotated; allows any charter or recreational fishing boat fishing outside the state's waters in the Gulf of Mexico over twenty-four (24) hours before returning to land and filing a float plan with the Department of Marine Resources may possess filleted fish in Mississippi waters.

Chapter 03 Definitions

100 **FINAL DESTINATION** shall be defined as a place on the mainland or a barrier island, not including piers or jetties, where the fishermen finally lands his catch and does not further transport the fish by boat.

101 **RECREATIONAL FISHERMAN** shall be defined as those individuals taking and/or catching seafood for recreation or personal consumption.

102 **BAG LIMIT** shall mean the total number of a particular species that a recreational fisherman can retain for a single day's catch.

103 **TROTLINE** shall be defined as a stationary anchored line with more than three (3) baited hooks.

104 **SET POLE and LINE** shall be defined as a line attached to a pole, suspended over water, located along a shoreline. This gear does not include rods with an attached reel or cane poles actively attended on-site by a fishermen engaged in fishing from the adjacent shoreline.

Chapter 04 Commercial Closure Area

100 It shall be unlawful for any person, firm, or corporation to commercially take finfish from the marine waters north of the CSX bridges in the three (3) coastal counties of Mississippi, except for any euryhaline species of minnow in the Pascagoula river system.

Chapter 05 Filet Regulations

100 It shall be unlawful for commercial or recreational fishermen to possess fish with heads, tails or flesh removed until delivered to the final destination; however, fish may be eviscerated, scaled or have gills removed. Any charter or recreational fishing boat fishing outside the state's waters in the Gulf of Mexico over twenty-four (24) hours before returning to land and filing a float plan with the Department of Marine Resources may possess filleted fish in Mississippi waters. Said float plan must be received and filed with the Department of Marine Resources prior to departure and during the regular operating hours between 8:00 a.m. and 5:00 p.m., Monday through Friday, and a copy of which must be on board said vessel for the duration of the trip. Said float plan must be submitted on forms provided by the Department of Marine Resources signed by the applicant and official accepting the float plan; and will contain the following information:

100.01 Name of the applicant
100.02 Owner of the vessel
100.03 Name of the vessel captain
100.04 Official vessel registration number
100.05 Description of the vessel
100.06 Date, time and location of departure
100.07 Destination(s)
100.08 Anticipated date, time, and location of return

Chapter 06 Fish Allowed to Keep for Personal Consumption

100 Licensed commercial shrimp fishermen may keep in whole for personal consumption only, the following fish which are caught in shrimp nets or trawls of the vessel: white trout, croaker, black drum, and ground mullet (Family Sciaenidae); sheepshead (Family Sparidae); gafftopsail catfish (Family Ariidae); and flounders in the families Pleuronectidae and Bothidae. The cumulative total weight of fish shall not exceed twenty-five (25) pounds. These exemptions for personal consumption does not apply to fish that are otherwise illegal to possess.

Chapter 07 Charter Boat Exemption from Certain Bag Limits

100 Persons on a licensed charter boat or headboat may possess a two-day (2) bag limit only when complying with the following conditions and only for the species listed in 100.06 of this chapter.

100.01 Charter boats must be less than one hundred (100) gross tons and meet Coast Guard requirements to carry six or fewer passengers.
100.02 Headboats must hold a valid certificate of inspection issued by the Coast Guard.
100.03 The charter boat or headboat must possess a reef fish permit if fishing for reef fish or in possession of reef fish in the EEZ.

100.04 The charter boat or headboat must have two (2) coast guard certified captains aboard (as required by Coast Guard regulations for trips over twelve (12) hours).

100.05 Each person aboard the charter boat or headboat must possess a certificate, issued in the name of the chartering company, stating the time and date the charter left the dock and the trip must be in excess of twenty-four (24) hours.

100.06 King and Spanish Mackerel, Snappers (red, vermillion, lane, gray, mutton, yellowtail, schoolmaster, cubera, dog, mahogany, queen, blackfin, silk, and wenchman), Groupers (misty, snowy, yellowedge, warsaw, speckled hind, red, yellowfin, black, gag, scamp, yellowmouth, rock hind, and red hind), hogfish, gray triggerfish, lesser amberjack, banded rudderfish, almaco jack, goldface tilefish, anchor tilefish, tilefish, blackline tilefish, blueline tilefish, and greater amberjack.

100.07 Charter vessel captain and crew are prohibited from keeping a recreational bag limit of red snapper and greater amberjack.

Chapter 08 Recreational Bag, Possession and Size Limits

100 It shall be unlawful for a recreational fisherman to possess any fish in excess of a one (1) day bag limit of the following named species as prescribed:

100.01 Fifteen (15) spotted seatrout (*Cynoscion nebulosus*)
100.02 Three (3) red drum (*Sciaenops ocellatus*)
100.03 Two (2) cobia (*Rachycentron canadum*)
100.04 Two (2) king mackerel (*Scomberomorus cavalla*)
100.05 One (1) greater amberjack (*Seriola dumerili*)
100.06 Two (2) red snapper (*Lutjanus campechanus*)
100.07 Fifteen (15) Spanish mackerel (*Scomberomorus maculatus*)
100.08 Fifteen (15) flounder (*Paralichthys sp.*)
100.09 Five (5) hogfish *(Lachnolaimus maximus)*
100.10 Three (3) tripletail (*Lobotes surinamensis*)
100.11 Ten (10) in aggregate:
100.11.01 gray snapper (*Lutjanus griseus*)
100.11.02 mutton snapper (*Lutjanus analis*)
100.11.03 yellowtail snapper (*Ocyurus chrysurus*)
100.11.04 schoolmaster *(Lutjanus apodus)*
100.11.05 cubera *(Lutjanus cyanopterus)*
100.11.06 dog *(Lutjanus jocu)*
100.11.07 mahogany *(Lutjanus mahogany)*
100.11.08 queen *(Etelis oculatus)*
100.11.09 blackfin *(Lutjanus buccanella)*
100.11.10 silk *(Lutjanus vivamus)*
100.11.11 wenchman *(Pristipomoides aquilonaris)*

100.12 Five (5) in aggregate:
100.12.01 misty grouper (*Epinephelus mystacinus*)
100.12.02 snowy grouper (*Epinephelus niveatus*)

100.12.03 yellowedge grouper (*Epinephelus flavolimbatus*)
100.12.04 red grouper (*Epinephelus morio*)
100.12.05 yellowfin grouper (*Mycteroperca venenosa*)
100.12.06 black grouper (*Mycteroperca bonaci*)
100.12.07 gag grouper (*Mycteroperca microlepis*)
100.12.08 scamp (*Mycteroperca phenax*)
100.12.09 yellowmouth *(Mycteroperca interstitialis)*
100.12.10 rock hind *(Epinephalus adscensionis)*
100.12.11 red hind *(Epinephalus guttatus)*

100.13 Twenty (20) in aggregate:
100.13.01 gray triggerfish (*Balistes capriscus*)
100.13.02 vermillion snapper (*Rhomboplites aurorubens*)
100.13.03 lane snapper (*Lutjanus synagris*)
100.13.04 almaco jack (*Seriola rivoliana*)
100.13.05 goldface tilefish *(Caulolatilus chrysops)*
100.13.06 anchor tilefish *(Caulolatilus intermedius)*
100.13.07 tilefish *(Lopholatilus chamaeleonticeps)*
100.13.08 blacklined tilefish *(Caulolatilus cyanops)*
100.13.09 bluelined tilefish *(Caulolatilus microps)*

100.14 Five (5) in aggregate:
100.14.01 lesser amberjack (*Seriola fasciata*)
100.14.02 banded rudderfish (*Seriola zonata*)

100.15 Three (3) - yellowfin tuna (*Thunnus albacares*)

100.16 One (1) per vessel:
100.16.01 speckled hind (*Epinephelus drummondhayi*)
100.16.02 Warsaw grouper (*Epinephelus nigritus*)

100.17 It shall be unlawful for recreational fishermen to possess more than four (4) of the following shark species in aggregate per person per day (small coastal sharks):
100. 17.01 Atlantic sharpnose (*Rhizoprionodon terraenovae*)
100. 17.02 finetooth (*Carcharhinus isodon*)
100. 17.03 blacknose (*Carcharhinus acronotus*)
100. 17.04 bonnethead (*Sphyrna tiburo*)

100. 18 It shall be unlawful for recreational fishermen to possess more than one (1) of the following shark species per person per day and no more than three (3) of the following shark species in aggregate per vessel per day (large coastal andpelagic sharks):
100.18.01 blacktip (*Carcharhinus limbatus*)
100.18.02 spinner (*Carcharhinus brevipinna*)
100.18.03 bull (*Carcharhinus leucas*)

100.18.04 tiger (*Galeocerdo cuvieri*)
100.18.05 lemon (*Negaprion brevirostris*)
100.18.06 nurse (*Ginglymostoma cirratum*)
100.18.07 scalloped hammerhead (*Sphyrna lewini*)
100.18.08 great hammerhead (*Sphyrna mokarran*)
100.18.09 smooth hammerhead (*Sphyrna zygaena*)
100.18.10 shortfin mako (*Isurus oxyrinchus*)
100.18.11 porbeagle (*Lamna nasus*)
100.18.12 thresher (*Alopias vulpinus*)
100.18.13 blue (*Prionace glauca*)
100.18.14 oceanic whitetip (*Carcharhinus longimanus*)

100.19 It shall be unlawful for recreational fishermen to possess any of the following species of sharks (protected Species of Sharks):
100.19.01 sand tiger (*Odontaspis taurus*)
100.19.02 bigeye sand tiger (*Odontaspis noronhai*)
100.19.03 whale (*Rhincodon typus*)
100.19.04 basking (*Cetorhinus maximus*)
100.19.05 white (*Carcharodon carcharias*)
100.19.06 dusky (*Carcharhinus obscurus*)
100.19.07 bignose (*Carcharhinus altimus*)
100.19.08 Galapagos (*Carcharhinus galapagensis*)
100.19.09 night (*Carcharhinus signatus*)
100.19.10 Caribbean reef (*Carcharhinus perezi*)
100.19.11 narrowtooth (*Carcharhinus brachyurus*)
100.19.12 Caribbean sharpnose (*Rhizorionodon porosus*)
100.19.13 smalltail (*Carcharhinus porosus*)
100.19.14 Atlantic angel (*Squatina dumerili*)
100.19.15 longfin mako (*Isurus paucus*)
100.19.16 bigeye thresher (*Alopias superciliousus*)
100.19.17 sevengill (*Heptranchias perlo*)
100.19.18 sixgill (*Hexanchus griseus*)
100.19.19 bigeye sixgill (*Hexanchus vitulus*)
100.19.20 sandbar (*Carcharhinus plumbeus*)
100.19.21 silky (*Carcharhinus falciformis*)

101 The practice of "finning", that is, removing only the fins and returning the remainder of the shark to the sea is unlawful.

102 It shall be unlawful for recreational fishermen to possess any of the following named species of fish under the lengths prescribed:

102.01 spotted seatrout – Thirteen (13) inches (total length).
102.02 red drum – eighteen (18) inches (total length).
102.03 cobia – thirty-three (33) inches (fork length).
102.04 greater amberjack – thirty (30) inches (fork length).

102.05 red and mutton snapper – sixteen (16) inches (total length).
102.06 vermillion snapper – ten (10) inches (total length).
102.07 lane snapper – eight (8) inches (total length).
102.08 gray, schoolmaster, cubera, dog, mahogany, and yellowtail snapper –twelve (12) inches (total length).
102.09 red and yellowfin grouper – twenty (20) inches (total length).
102.10 gag and black grouper – twenty-two (22) inches (total length).
102.11 scamp – sixteen (16) inches (total length).
102.12 gray triggerfish – fourteen (14) inches (fork length).
102.13 king mackerel – twenty-four (24) inches (fork length).
102.14 flounder *(Paralicthys sp.)* – twelve (12) inches (total length).
102.15 small coastal sharks – twenty-five (25) inches total length.
102.16 large coastal sharks – thirty-seven (37) inches total length.
102.17 lesser amberjack and banded rudderfish – may possess fish between fourteen (14) inches (fork length) to twenty-two (22) inches fork length.
102.18 bigeye tuna (*Thunnus obesus*) – twenty-seven (27) inches as measured from the tip of the upper jaw to the fork of the tail along the contour of the middle of the body (curved fork length).
102.19 yellowfin tuna (*Thunnus albacares*) – twenty-seven (27) inches as measured from the tip of the upper jaw to the fork of the tail along the contour of the middle of the body (curved fork length).
102.20 blue marlin (*Makaira nigricans*) – ninety-nine (99) inches as measured from the tip of the lower jaw to the fork of the tail (lower jaw fork length).
102.21 white marlin (*Tetrapturus albidus*) – sixty-six (66) inches as measured from the tip of the lower jaw to the fork of the tail (lower jaw fork length).
102.22 sailfish (*Istiophorus platypterus*) – sixty-three (63) inches as measured from the tip of the lower jaw to the fork of the tail (lower jaw fork length).
102.23 Hogfish – twelve (12) inches (fork length)
102.24 tripletail (*Lobotes surinamensis*) eighteen (18) inches total length

103 However, recreational fishermen not fishing in Mississippi waters may transport and land fish that meet the minimum size and creel limits of the waters in which they were legally caught. Said recreational fishermen must possess a valid saltwater sportfishing license as may be required in the waters where the fish were caught. In the absence of minimum size or creel limits in another jurisdiction, Mississippi law will prevail.

104 It shall be unlawful for saltwater commercial or recreational fishermen to possess more than one (1) red drum exceeding thirty (30) inches total length for a single day's catch.

Chapter 09 Commercial Size, Possession and Catch Limits

100 It shall be unlawful for any person, firm, or corporation, to barter, sell, offer for sale or transport for sale or possess for sale in or from the State of Mississippi the following named species of fish under the lengths prescribed:

100.01 red drum – eighteen (18) inches (total length).
100.02 spotted seatrout – fourteen (14) inches (total length).
100.03 mullet *(Mugil sp.)* – ten (10) inches (total length).
100.04 Spanish mackerel (*Scomberomorus maculates)* – fourteen (14) inches (fork length).
100.05 king mackerel – twenty-four (24) inches (fork length).
100.06 greater amberjack – thirty-six (36) inches (fork length).
100.07 red snapper – fifteen (15) inches (total length).
100.08 vermillion snapper – ten (10) inches (total length).
100.09 lane snapper – eight (8) inches (total length).
100.10 gray, mahogany, schoolmaster, dog, cubera, and yellowtail snapper – twelve (12) inches (total length).
100.11 Mutton snapper – sixteen (16) inches (total length)
100.12 red and yellowfin grouper – twenty (20) inches (total length).
100.13 gag and black grouper – twenty-four (24) inches (total length).
100.14 scamp – sixteen (16) inches (total length).
100.15 gray triggerfish – fourteen (14) inches (fork length).
100.16 flounder (*Paralicthys sp.*) – twelve (12) inches (total Length).
100.17 lesser amberjack and banded rudderfish – may possess fish between fourteen (14) inches (fork length) to twenty-two (22) inches fork length.
100.18 bigeye tuna (*Thunnus obesus*) – twenty-seven (27) inches as measured from the tip of the upper jaw to the fork of the tail along the contour of the middle of the body (curved fork length).
100.19 yellowfin tuna (*Thunnus albacares*) – twenty-seven (27) inches as measured from the tip of the upper jaw to the fork of the tail along the contour of the middle of the body (curved fork length).
100.20 Hogfish – twelve (12) inches (fork length).
100.21 tripletail (*Lobotes surinamensis*) eighteen (18) inches total length.

101 It shall be unlawful for commercial fishermen to possess any of the following species of sharks:

101.01 sand tiger (*Odontaspis taurus*)
101.02 bigeye sand tiger (*Odontaspis noronhai*)
101.03 whale (*Rhincodon typus*)
101.04 basking (*Cetorhinus maximus*)
101.05 white (*Carcharodon carcharias*)
101.06 dusky (*Carcharhinus obscurus*)
101.07 bignose (*Carcharhinus altimus*)
101.08 Galapagos (*Carcharhinus galapagensis*)
101.09 night (*Carcharhinus signatus*)
101.10 Caribbean reef (*Carcharhinus perezi*)
101.11 narrowtooth (*Carcharhinus brachyurus*)
101.12 Caribbean sharpnose (*Rhizorionodon porosus*)

101.13 smalltail (*Carcharhinus porosus*)
101.14 Atlantic angel (*Squatina dumerili*)
101.15 longfin mako (*Isurus paucus*)
101.16 bigeye thresher (*Alopias superciliousus*)
101.17 sevengill (*Heptranchias perlo*)
101.18 sixgill (*Hexanchus griseus*)
101.19 bigeye sixgill (*Hexanchus vitulus*)
101.20 sandbar (*Carcharhinus plumbeus*) sharks may only be possessed by fishermen possessing a research fishery permit issued by the National Marine Fisheries Service.
101.21 silky (*Carcharhinus falciformis*)

102 The practice of "finning", that is, removing only the fins and returning the remainder of the shark to the sea is unlawful.

103 It shall be unlawful for any commercial fishermen to possess any cobia smaller than thirty-three (33) inches fork length or to possess more than a daily bag limit of two (2) cobia per person.

104 It shall be unlawful for any commercial fisherman, person, firm or corporation, to possess or harvest from Mississippi territorial waters, in excess of two hundred (200) pounds of red snapper, per vessel, per trip, per day; however the state possession restriction and minimum size limit shall not apply to federally permitted red snapper fishermen or dealers legally harvesting and/or selling red snapper only from federal waters.

105 It shall be unlawful for any commercial fisherman, person, firm or corporation, to possess or harvest from Mississippi territorial waters, in excess of three thousand pounds (3,000) of king mackerel, per vessel, per trip, per day.

106 It shall be unlawful for person, firm, or corporation to sell or purchase the following species of billfish without the proper federal documentation: blue marlin *(Makaira nigricans)*, white marlin *(Tetrapturus albidus)*, and sailfish *(Istiophorus platypterus)*.

107 From and after January 1, 2012 the annual Total Allowable Catch (TAC) for commercial landings of flounder *(Paralicthys sp.)* will be set at seventy-four thousand (74,000) pounds. The 2012 commercial fishing season for landing flounder shall commence on January 1, 2012 and end December 31, 2012. Thereafter, the TAC shall commence on January 1 and end on December 31 of each subsequent year. The commercial fishing season for the current season will run from October 1, 2010 to December 31, 2011 and the TAC will be set at ninety-two thousand five hundred (92,500) pounds.

108 From and after January 1, 2012 the annual Total Allowable Catch (TAC) for commercial landings of red drum *(Sciaenops ocellatus)* will be set at thirty-five thousand (35,000) pounds. The 2012 commercial fishing season for landing red drum shall commence on January 1, 2012 and end December 31, 2012. Thereafter, the TAC shall commence on January 1 and end on December 31 of each subsequent year. The commercial fishing season

for the current season will run from October 1, 2010 to December 31, 2011 and the TAC will be set at forty-three thousand seven hundred and fifty (43,750) pounds.

109 From and after January 1, 2012 the annual Total Allowable Catch (TAC) for commercial landings of spotted seatrout *(Cynoscion nebulosus)* will be set at forty thousand (40,000) pounds. The 2012 commercial fishing season for landing spotted seatrout shall commence on January 1, 2012 and end December 31, 2012. Thereafter, the TAC shall commence on January 1 and end on December 31 of each subsequent year. The commercial fishing season for the current season will run from October 1, 2010 to December 31, 2011 and the TAC will be set at fifty thousand (50,000) pounds.

110 It shall be unlawful for any commercial fisherman to possess a daily bag limit of more than three (3) tripletail per person.

111 If any person, firm, or corporation, barters, sells, offers to sale or transports for sale or possesses for sale in the State of Mississippi any species of fish under the lengths or for which the fishing season is closed as prescribed in Title 22 Part 7 said person, firm or corporation shall possess valid documentation from the state or country of origin evidencing that the fish were legally harvested.

Chapter 10 Unlawful to Sell or Buy Recreational Caught Fish

100 It shall be unlawful for recreational fishermen to sell or offer for sale any seafood caught in or landed in the State of Mississippi and only licensed commercial fishermen may catch and sell seafood. Furthermore, it shall be unlawful for any person, firm or corporation to purchase, buy, barter for, or trade for any seafood caught in or landed in the State of Mississippi that was caught or landed by a recreational fisherman, or that was transported into the State of Mississippi by a recreational fisherman.

101 It shall be unlawful for any person, firm or corporation to transport or deliver any recreationally caught finfish into a building or structure used by any commercial business or establishment that buys, sells or processes finfish. Furthermore, it shall be unlawful for any commercial business or establishment that buys, sells or processes finfish to receive or possess recreationally caught finfish.

102 The commission may issue special permits, for the purpose of possessing recreationally caught mullet (*Mugil sp.*) in a building or structure used by any commercial business or establishment that buys, sells or processes seafood, to those nonprofit organizations that are tax exempt under Section 501 (c) of the United States Internal Revenue Code and which have on file with the State Tax Commission a tax exemption letter issued by the United States Internal Revenue Service. A copy of this permit must be possessed by the commercial business or establishment.

Chapter 11 Bluefin Tuna Possession Restrictions

100 It shall be unlawful for any person, firm, or corporation to take, catch, or have in possession any Atlantic bluefin tuna in the waters of the State of Mississippi except for incidental catches by recreational fishermen.

101 It is unlawful for landings of incidental catches of Atlantic bluefin tuna by recreational fishermen to exceed one (1) fish per boat per week, and landings must be reported to the Mississippi Department of Marine Resources.

Chapter 12 Fish Unlawful to Possess

100 It shall be unlawful for any person, firm, or corporation to take, catch, or have in possession any goliath grouper (*Epinephelus itajara*), Nassau grouper (*Epinephelus striatus*), longbill spearfish (*Tetrapturus pfluegeri*), smalltooth sawfish (Pristis pectinata), or largetooth sawfish (Pristis perotteti) in the waters of the State of Mississippi.

Chapter 13 Trotline Regulations

100 Anyone trot line fishing south of Interstate 10 shall be registered with the DMR and be issued a unique number that is to be attached along with the fisherman's name to both ends of the trot line in indelible ink on metal tags so that it is readable by DMR personnel. If name and number is not attached to both ends and readable by DMR personnel and tending the bottom the line will be deemed illegal and may be confiscated by DMR personnel. Additionally, a Marine Patrol Officer will issue a ticket to anyone operating an illegal trot line.

Chapter 14 Set Pole and Line Regulations

100 Anyone set pole and line fishing must be on-site and attending their gear from a distance of no greater than fifty (50) feet and be available to move gear to allow for safe navigation.

101 Illegal to use a set pole and line with more than one (1) hook.

102 Illegal for any individual to use more than ten (10) set poles and lines in any marine waters south of Interstate 10.

Chapter 15 Gear Restriction in Reef Areas

100 In the permitted reef areas bounded by the below coordinates it shall be illegal to fish with more than three (3) hooks per line or to use spear fishing gear equipped with power heads.

100.01 FH 4 - 3010.600/-8854.100,3010.245/-8854.100, 3010.600/-8853.600, 3010.395/-8853.600
100.02 FH 8 3016.100/-8857.600,3015.900/-8857.600, 3016.100/8857.800,3015.900/8857.800
100.03 FH 9/11 – 3016.000/-8853.600, 3015.300/-8853.600, 3016.000/-8854.300, 3015.300/-8854.300
100.04 FH 10 - 3016.00/-8838.900,3015.860/-8838.900, 3016.000/-8839.000, 3015.860/-8839.000
100.05 FH 14 - 3012.440/-8849.499, 3012.200/-8849.499, 3012.440/-8849.720, 3012.200/-8849.720
100.06 Cat Island Reef - 3012.282/-8904.899, 3012.053/-8905.068, 3012.152/-8904.631, 3011.929/-8904.790

Chapter 16 Penalties

100 Any person, firm, or corporation violating any of the provisions of Title 22 Part 7 shall be guilty of a misdemeanor and on conviction shall be penalized as provided by law. Violations of more than one (1) section or subsection of this Title 22 Part 7, or part thereof, shall be considered separate offenses and punished as such.

Chapter 17 Sections and Subsections Declared Separable

100 Each section and subsection of Title 22 Part 7 shall be declared separable, and if any section or subsection or part thereof shall be held invalid or unconstitutional, the balance of said Title 22 Part 7 shall remain in full force and effect.

Chapter 18 Administrative Procedures Act

100 Pursuant to the amendments to the Administrative Procedures Act, Section 25 43-101.1, et seq., of the Mississippi Code of 1972, and the rules and regulations promulgated pursuant thereto by the Secretary of State; the former Ordinance 7.0029 has been modified and the commission and department have adopted the terminology and numbering system developed by the Secretary of State. Therefore, references to "ordinance" or to "Part" appearing in these regulations or the underlying statutes are used interchangeably and refer to the same instrument.

Title 22 MISSISSIPPI DEPARTMENT OF MARINE RESOURCES, Part 7 REGULATIONS TO PROVIDE SIZE LIMITS AND BAG LIMITS ON CERTAIN FISH SPECIES AND TO PREVENT SALE OF SEAFOOD BY RECREATIONAL FISHERMEN, shall be in effect and be in force from and after the 17th day of June 2011.

Adopted this the 17th day of May 2011.

MISSISSIPPI COMMISSION ON MARINE RESOURCES

By: _____
Vernon Asper, Ph.D., Chairman

MISSISSIPPI DEPARTMENT OF MARINE RESOURCES

By: _____
William W. Walker, Ph.D., Executive Director

Source: Miss. Code Ann § 49-15-15 (Rev. July 1, 2009)

TITLE 22 – MISSISSIPPI DEPARTMENT OF MARINE RESOURCES

PART 8 RULES AND REGULATIONS FOR OFFICIAL STANDARDS OF MEASURE AND DEFINITIONS FOR MARINE FISHERIES IN THE STATE OF MISSISSIPPI

Chapter 01 Introduction

Purpose

100 The measures and definitions described in this Part shall be utilized by the Mississippi Commission on Marine Resources (MCMR), their inspectors, enforcement officers, employees, and all other persons connected therewith. These measures and definitions shall apply generally to all Parts, rules and regulations of the MCMR. However, the specific measures or definitions found in any particular Part shall be controlling in the event of the absence or material conflict of the same specific measure or definition in this Part.

Chapter 02 Justification and Authority

100 The MCMR is authorized to set standards of measure; as provided for in § 49-15-15 of the Mississippi Code Ann. of 1972, as amended; and such standards of measure are necessary to properly carry out the duties and regulations of the MCMR.

101 The MCMR is authorized by § 49-15-15 of the Mississippi Code Ann. of 1972, as amended, to enact all regulations necessary for the protection, conservation or propagation of all seafood in the waters under the territorial jurisdiction of the State of Mississippi.

Chapter 03 Measures

100 Barrel Shrimp: Two hundred ten (210) pounds of raw whole shrimp shall be one (1) barrel. One hundred thirty-two (132) pounds of raw headless shrimp shall be one (1) barrel.

101 Barrel Oysters: 5.96 cubic feet (10,306.2 cubic inches) of whole oysters in Mississippi shall be one (1) barrel.

102 Sack Oysters: 1.98 cubic feet (3435.4 cubic inches) of whole oysters in Mississippi shall be one (1) sack and the standard measure for said sack shall consist of a tub or other round vessel of the following dimensions. It shall measure 18 inches in diameter inside at the top, and 14 inches in diameter inside at the bottom, and 17 inches from bottom to top, the unit of such tub or sack measure to be in the shape of a frustum of a cone, the volume of which is determined by the formula: $V = 1/3\ Bh(r_t^2 + r_b^2 + r_t r_b)$ where V = Volume, B = 3.14, h = height, r_t = top radius, r_b = bottom radius. One (1) of these measures filled level to the top shall make one (1) sack.

Chapter 04 Definitions

100 **ADULTERATED** - Shellfish shall be deemed to be adulterated if any foreign substance has been added to the shellfish, or has been mixed or packed therewith so as to increase its bulk or weight, or reduce its quality or strength, or make it appear better or of greater value than it is.

101 **APPROVED AREA** - Waters where the growing and harvesting of shellfish for direct marketing is allowed by the authority of the MCMR or as hereby authorized the Mississippi Department of Marine Resources (MDMR) its Executive Director, Deputy Director, Director of Marine Fisheries or Shellfish Program Coordinator; where pathogenic micro-organisms, poisonous and deleterious substances are not present in the area in dangerous concentrations and; where bacteriological quality of the water of every sampling station does not exceed a fecal coliform median or geometric mean MPN of 14 per 100 ml, and not more than 10 percent of the samples exceed an MPN of 43 for a 5-tube decimal dilution test or an MPN of 49 per 100 ml. for a 3-tube decimal dilution test. An approved area may be temporarily closed when a public health emergency resulting from, for example, a hurricane, flooding, chemical spill, hazardous waste or raw sewage discharge, sinking or grounding of vessels carrying hazardous cargoes, evidence of the existence of marine biotoxins, or any other public health emergency as declared by the MCMR or as hereby authorized the MDMR, its Executive Director, Deputy Director, Director of Marine Fisheries or Biological Program Coordinator thereof.

102 **APPROVED DEGRADABLE MATERIAL** - shall be defined as a material which after one (1) year of immersion in water loses at least fifty (50) percent of its tensile strength and for which a field test must be available to analyze the material for authenticity or the net must have a placard issued by the MDMR which will be permanently attached to the net certifying that the net is made of an approved degradable material. Any material previously approved by the MCMR under Part 5 shall be deemed an "approved degradable material" for purposes of this Part, regardless of whether the material meets the fifty (50) percent loss in tensile strength after one (1) year of immersion in water.

103 **BAG LIMIT** - shall mean the total number of a particular species, or species in aggregate, that a fisherman can retain for a single day's catch.

104 **BAIT SHRIMP** - shall mean saltwater shrimp that count one hundred (100) or fewer shrimp per pound, and are intended solely for use as bait to be sold or dispensed alive or dead with heads attached to recreational fishermen, or licensed live bait dealers as permitted within the State of Mississippi.

105 **BIB** or **TONGUE** - shall mean an extension of the middle section of the upper part of the net with a triangular piece of webbing. The bib or tongue requires additional line(s), other than the lines attached to the trawl boards, which run from the bridle or boat to the bib or tongue.

106 **BULK SALES** - shall mean any sale, barter, trade, exchange or otherwise dispensing of dead shrimp consisting of more than five (5) pounds per person per day; or any sale, barter, trade, exchange or otherwise dispensing of live shrimp of more than five hundred (500) live bait shrimp per person per day.

107 **CAST NET** - shall mean any cast net or brille net or any circular or conical weighted net designed to be thrown downward by hand and withdrawn by an attached line.

108 **CERTIFIED INTERSTATE SHELLFISH SHIPPER** - An individual, firm or corporation who has been issued a numbered permit by the MCMR or as hereby authorized the MDMR, its Executive Director, Deputy Director, Director of Marine Fisheries or Biological Program Coordinator, or a non-resident individual, firm or corporation who has been issued a numbered license or permit by the non-resident's appropriate State Shellfish Control Agency indicating that the individual, firm or corporation operates in compliance with the sanitation and program regulations of the National Shellfish Sanitation Program, and is therefore eligible to participate in the interstate shipment of shellfish.

109 **CERTIFIED SHELLFISH PLANT** - A certified shellfish plant is defined as a shellfish plant which complies with the provisions of this Part and which possesses a valid shellfish processing plant permit from the MCMR or as hereby authorized the MDMR, its Executive Director, Deputy Director, Director of Marine Fisheries or Biological Program Coordinator. A certified shellfish plant is recognized as a Certified Interstate Shellfish Shipper. A certified shellfish plant is designated as either a: Shellstock Shipper (SS), Shucker-Packer (SP), Repacker on (RP) or Reshipper (RS).

110 **CHIEF INSPECTOR** - shall mean the highest-ranking marine enforcement supervisor of the MDMR.

111 **CHUM** - shall mean any biological or chemical product which is intended solely for use as a fish attractant to be sold or dispensed to recreational fishermen within the State of Mississippi.

112 **COMMISSION** - shall mean the Mississippi Commission on Marine Resources (MCMR).

113 **COMMERCIAL EEL FISHING** - shall be defined as a fishing activity using traps or pots where the sole purpose is to catch American eels (*Anguilla rostrata*). It shall be unlawful for any person, firm, or corporation to retain any fish or shellfish other than adult eels while engaged in commercial eel fishing. An adult eel shall be defined as an eel at least six (6) inches in length.

114 **COMMERCIAL FISHERMEN** - Anyone who sells, trades, barters or otherwise exchanges or offers to exchange any part of his catch for monetary or personal gain.

115 **CONDITIONALLY APPROVED AREA** - Waters that meet approved area criteria for a predictable period. The period is conditional upon established performance standards specified in a management plan. A conditionally approved shellfish growing area is a closed area when the area does not meet the approved growing area criteria and is temporarily closed by the MCMR or as hereby authorized the MDMR its Executive Director, Deputy Director, Director of Marine or Biological Program Coordinator.

116 **EXECUTIVE DIRECTOR** - shall mean the Executive Director of MDMR.

117 **FIELD TEST** - Shall mean (1) a test used to determine whether materials used in a gill or trammel net meet the definition of approved degradable material or are manufactured of cotton or linen, or (2) a test accepted by the MDMR as a scientifically valid test of degradability, devised by manufacturers of degradable gill or trammel net materials. Where the MDMR has accepted a manufacturer's test and results thereon with regard to degradable materials, the MDMR must receive from any such manufacturer a certification by the manufacturer that the material constructed by it meets the definition of an approved degradable materials as well as a copy of the manufacturers test. Any gill or trammel net to be used in the marine waters of the State of Mississippi, manufactured from any approved degradable material or cotton or linen shall be certified by the MDMR where:

117.01 The material used in the net has been shown to be constructed of such materials by either form of field test described herein and that the MCMR has previously approved the material; and

117.02 The net and a certificate by the net manufacturer demonstrating that the materials were used in the manufacture or construction of the net were of those approved by the MCMR are presented to the MDMR for inspection.

Upon such proof, the MDMR shall permanently affix an identifying placard or other marker of the net.

118 **FINAL DESTINATION** - shall be defined as a place on the mainland or a barrier island, not including piers or jetties, where the fishermen finally lands his catch and does not further transport the fish by boat.

119 **FOOTROPE** - shall mean leadline, footline, groundrope or that lower part of the trawl that the webbing is first attached, that also provides for the weighing down of the trawl by means of lead weights, chain or other means.

120 **GIG** – shall be defined as any hand held shaft with one or more points which may or may not be barbed.

121 **GILL NET** - shall be defined as any net, of one or more layers, not customarily used for shrimp or menhaden fishing, with a mesh of such size and design as to be used primarily to catch or entangle fish by the gills or other boney projections.

122 **HEADROPE** - shall mean corkline, headline, floatline or that upper part of the trawl that the webbing is first attached, that also provides flotation by means of corks, floats or other means.

123 **INTEREST IN COMMERCIAL SHRIMP OPERATION** - shall mean having any direct or indirect pecuniary or financial interest in any commercial shrimp vessel, shrimp processing facility or sale of shrimp for human consumption.

124 **INTEREST IN LIVE BAIT OPERATIONS** - shall mean having any direct or indirect pecuniary or financial interest in any live bait catcher boat, live bait shrimp transport vehicle or live bait camp.

125 **KING MACKEREL FISHING** - shall be defined as a fishing activity where the sole purpose is to catch king mackerel (*Scomberomorus cavalla*). It shall be unlawful for any person, firm, or corporation, while engaged in any net fishing activity or "set" to catch in excess of ten percent (10%) by weight of species other than king mackerel while king mackerel fishing.

126 **LANDED** – When seafood is first brought to a point of land after being harvested and is no longer transported by boat or vessel.

127 **LIVE BAIT CAMP** - shall mean any business of a live bait dealer that deals in the selling of live and dead shrimp to recreational fishermen within the State of Mississippi for bait use and has been duly inspected and permitted as a "live bait camp" by the MDMR.

128 **LIVE BAIT CATCHER BOAT** - shall mean any watercraft having suitable equipment aboard to properly harvest and retain aboard, in a live condition, shrimp which are intended solely for use as live bait to be sold or dispensed to recreational fishermen within the State of Mississippi and said boat having been duly inspected, permitted and licensed by the MCMR as a "live bait catcher boat" to a particular live bait camp.

128 **LIVE BAIT SHRIMP TRANSPORT VEHICLE** - shall mean any motorized vehicle having suitable equipment to properly transport, in a live condition, shrimp which are intended solely for use as live bait to be sold or dispensed to recreational fishermen and said vehicle having been duly inspected and permitted as a "live bait shrimp transport vehicle" by the MDMR.

129 **MISBRANDED** - Shucked shellfish shall be deemed to be misbranded if its labeling is false or misleading in any way, or if it does not bear a label containing (1) the name and place of business of the processor or packer (2) an accurate statement of the quantity of the contents in terms of weight, measure, numerical count or size of container, (3) the permit number of the processor or packer (4) net drained weight when packed (5) on packages of sixty-four (64) fluid ounces or more of fresh product, labeled with the date shucked with the wording "DATE SHUCKED" followed by the date expressed as the month, day, and year, or (6) on packages of less than sixty-four (64) fluid ounces of fresh product labeled with the wording "SELL BY" followed by a date expressed as a month, day and year, not to exceed fourteen (14) days from the date shucked. (7) Containers of frozen shucked shellfish shall show the date the product was shucked and the date frozen, labeled as "DATE SHUCKED" and "DATE FROZEN" followed by the date expressed as the month, day, and year. Shucked product previously frozen must be labeled with the wording "PREVIOUSLY FROZEN"

130 **MULLET FISHING** - shall be defined as a fishing activity where the sole purpose is to catch mullet (*Mugil* sp.). It shall be unlawful for any person, firm, or corporation, while engaged in any mullet fishing activity or "set" to catch in excess of ten percent (10%) by weight of species other than mullet.

131 **PLACARD** - Marking or identification permanently attached to nets or fishing devices that verifies that they meet specified requirements such as an approved degradable material.

132 **PROHIBITED AREA** - Waters that are prohibited for the harvest of shellfish for any purpose except depletion. A prohibited shellfish growing area is a closed area for the harvesting of shellfish at all times.

133 **PURSE SEINE** - shall be defined as any net or device commonly known as a purse seine and/or ring net that can be pursed or closed by means of a drawstring or other device that can be drawn to close the bottom of the net, or the top of the net, or both. Such nets are constructed of mesh of such size and design as not to be used primarily to entangle commercial size fish by the gills or other boney projections.

134 **PUSH TRAWL** - shall mean a trawl that is spread by poles suspended in a "V" configuration from the bow of the trawler.

135 **RECREATIONAL FISHERMAN** - shall be defined as those individuals taking and/or catching seafood for recreational or personal consumption, and who does not sell, trade, barter or otherwise exchange or offer to exchange any part of his catch for monetary or personal gain.

136 **REPACKER –RP**—A person other than the original certified shucker-packer who repacks shucked shellfish into other containers. A repacker may also repack and ship shellstock. A repacker shall not shuck shellfish.

137 **RESHIPPER -RS-** A person who purchases shucked shellfish or shellstock from other certified shippers and sells the product without repacking or relabeling to other certified shippers, wholesalers, or retailers.

138 **RESTRICTED AREA** - Closed area waters from which shellfish may be harvested only if permitted and subjected to a suitable and effective purification process as determined and permitted by the MCMR.

139 **ROE MULLET SEASON** - shall be defined as occurring on and between October 15 through December 15 of each year.

140 **SALTBOX** - shall mean any container or similar device in which the salinity is greater than one hundred (100) parts per thousand and is used to aid in separating the shrimp from the bycatch.

141 **SANITARY SURVEY** – The evaluation of all actual and potential pollution sources and environmental factors having a bearing on shellfish growing area water quality.

142 **SEAFOOD PRIVILEGE TAX LICENSE DECAL** - A decal issued to a commercial harvester at the time the fisherman purchases a license for the vessel to harvest seafood.

143 **SEINE** - shall be defined as any net used to enclose or entrap fish either in a bag or where its ends are pulled together on a vessel or a shore and constructed with a mesh of such size and design as not to be used primarily to ensnare or entangle commercial size fish by the gills or other boney projections.

144 **SHELLFISH** - All edible species of oysters, clams, mussels, or scallops; either shucked or in the shell; fresh or frozen; whole or in part.

145 **SHELLSTOCK** - Shellfish in the shell.

146 **SHELL STOCK SHIPPER –SS** – A person who grows, harvests, buys, or repacks and sells shellstock. They are not authorized to shuck shellfish or to repack shucked shellfish. A shellstock shipper may also ship shucked shellfish.

147 **SHUCKER-PACKER –SP** – A person who shucks and packs shellfish. A shucker-packer may act as a shellstock shipper or reshipper or may repack shellfish originating from other certified dealers.

148 **SIAMESE TRAWL** - shall mean a trawl that has two tongues one on the headrope and one on the footrope at or near the center of the net which requires additional line(s), other than the lines attached to the trawl boards, which run from the bridle, outrigger or boat to the tongues.

149 **SKIMMER TRAWL** - shall mean a trawl that extends from the outrigger of a vessel with a cable and a lead weight holding the trawl mouth open.

150 **TRAMMEL NET** - shall be defined as any device composed of layers of netting material attached to one or more float lines or one or more weighted bottom lines, with the layers of netting being constructed of fine mesh and of larger mesh so that a fish attempting to pass through the device pushes the smaller mesh through the larger mesh creating a pocket or compartment in which the fish is entrapped, entangled, or restricted.

151 **UNCLASSIFIED AREA** - Waters that are presently unclassified and from which the harvest of shellfish is prohibited pending classification of the area as prohibited, restricted, conditionally approved, or approved based on a sanitary survey of the area and granting of permission to harvest shellfish in accordance with the respective classification by the MCMR or as hereby authorized the MDMR, its Executive Director, Deputy Director, Director of Marine Fisheries or Biological Program Coordinator.

152 **WING NET** - (Butterfly trawl) shall mean a trawl with a rigid frame holding open the trawl mouth rather than using trawl doors.

Chapter 05 Seafood Privilege Tax

100 The seafood privilege tax license decal must be displayed on each vessel engaged in commercial fishing activities but will not be valid without the proper commercial harvesters license. The decal must be displayed next to the state registration number or federal documentation number.

Chapter 06 Penalties

100 Any unlawful act under this Part committed by any person, firm, or corporation shall be deemed a violation of the provisions of this Part and shall constitute a misdemeanor and upon conviction, said person shall be punished in accordance with Miss. Code Ann. §

49-15-63, as amended, unless a penalty is specifically provided elsewhere in the Mississippi Code Ann. of 1972, as amended.

Chapter 07 Chapters and Subchapters Declared Separable

104 Each chapter and subchapter of this Part is hereby declared separable, and if any chapter or subchapter or part thereof shall be held invalid or unconstitutional, the balance of said Title 22 Part 08 shall remain in full force and effect.

105 Violations of more than one chapter or subchapter of this Part or part thereof shall be considered separate and punished as such.

Chapter 08 Administrative Procedures Act

100 Pursuant to the amendments to the Administrative Procedures Act, § 25-43-1.101, *et seq.*, of the Mississippi Code Ann. of 1972, as amended, and the rules and regulations promulgated pursuant thereto by the Secretary of State; the former Ordinance 8.004 has been modified and the MCMR and MDMR have adopted the terminology and numbering system developed by the Secretary of State. Therefore, references to "ordinance" or to "Part" appearing in these regulations or the underlying statutes are used interchangeably and refer to the same instrument.

TITLE 22 – MISSISSIPPI DEPARTMENT OF MARINE RESOURCES
PART 8 RULES AND REGULATIONS FOR OFFICIAL STANDARDS OF MEASURE AND DEFINITIONS FOR MARINE FISHERIES IN THE STATE OF MISSISSIPPI,
shall take effect and be in force from and after the 1st day of January 2007

Adopted this the 19th day of December 2006

MISSISSIPPI COMMISSION ON MARINE RESOURCES

By: _____
Vernon Asper, Ph.D., Chairman

MISSISSIPPI DEPARTMENT OF MARINE RESOURCES

By: _____
William W. Walker, Ph.D., Executive Director

TITLE 22 – MISSISSIPPI DEPARTMENT OF MARINE RESOURCES

PART 9 RULES AND REGULATIONS FOR STATISTICAL REPORTING AND CONFIDENTIALITY OF STATISTICAL DATA FOR MARINE FISHERIES IN THE STATE OF MISSISSIPPI

Chapter 01 Introduction

Purpose

100 This Part provides regulations for the recording, reporting, and confidentiality of Mississippi seafood landings.

Chapter 02 Justification and Authority

100 The Mississippi Commission on Marine Resources (MCMR) has determined, that in order to properly and effectively manage the marine fisheries resources of the State of Mississippi and to monitor and assess the effectiveness of regulations set for the by the MCMR for the protection, conservation, or propagation of all shrimp, oysters, commercial fish, and crabs in the waters under the territorial jurisdiction of the State of Mississippi, it is necessary to obtain information on marine fish and shellfish landed or processed in the State of Mississippi.

101 The MCMR is aware that information gathered under its authority may often be of a confidential nature, the unauthorized disclosure of which could be prejudicial or harmful.

102 Mississippi Code Ann. § 79-23-1 (1), as amended, exempts from the Public Records Act of 1983 proprietary information required to be submitted to the Mississippi Department of Marine Resources (MDMR).

103 The MCMR is authorized to enact all regulations necessary for the protection, conservation, or propagation of all seafood in the waters under the territorial jurisdiction of the State of Mississippi, as provided for in Mississippi Code Ann. § 49-15-15, as amended.

Chapter 03 Confidentiality

100 All data collected or otherwise obtained by statistical personnel in the course of their duties and other landings data collected by information confidentiality officers of the MDMR are confidential, and unless specific authorization is given, are not to be divulged, except in aggregate form, to any person except employees of the MDMR designated as information confidentiality officers, the National Oceanic and Atmospheric

Administration, National Marine Fisheries Service (NOAA/NMFS), or agencies of other states that have executed a memorandum of understanding for the sharing of statistical information with the MDMR and the NMFS; whose duties require this information, and have provisions at least as protective for maintaining the confidentiality of such information, except as permitted by law or court order. Information confidentiality officers for the MDMR shall be designated as such in writing by the MDMR Director of Marine Fisheries Office. Aggregate form, with respect to data, shall mean data or information submitted by three or more persons that have been summed or assembled in such a manner so as not to reveal, directly or indirectly, the identity or business of any such person. The MDMR will not voluntarily release confidential information to other state or federal agencies, except as provided for above, and to the fullest extent possible, will oppose other agency and congressional subpoenas to obtain confidential information. The MDMR will not disclose confidential statistics under court order without specific approval by the State Attorney General's Office.

Chapter 04 Record Keeping

100 Each firm or individual, whether or not licensed by the MDMR, purchasing red drum, spotted seatrout, flounder, and/or cobia for resale from commercial fishermen, will keep a record of quantity and species purchased from each commercial fisherman and record the license number of the commercial fishermen on the purchase receipt for inspection by MDMR personnel.

Chapter 05 Enforcement Personnel Authorized to Inspect Sales Receipts

100 MDMR enforcement personnel are authorized to inspect any and all seafood purchase and/or sales receipts from firms or individuals, whether or not licensed by the MDMR to ensure reporting requirements listed in this Part. MDMR enforcement personnel may not reveal confidential information except as it applies in violations of the reporting requirement in this Part.

Chapter 06 Shrimp Landings Reporting Requirements

100 Information confidentiality officers of the MDMR are authorized and empowered to obtain information on each vessel or boat trip landed in Mississippi. Data obtained from the captain or other crewmen is as follows: total catch in pounds by species and size count, ex-vessel price by sizes, condition landed (heads-on, heads-off), area fished, depth fished, and the number of hours fished in each area. Since it may not be feasible to interview persons from every vessel or boat, copies of the purchase slips will be required and obtained from each processing or landing firm. Interview data from vessels or boats will serve as a sample, while data obtained from the processing or landing firms will be utilized to establish total landings. Seafood dealers shall be required to maintain the total

catch in pounds by species and size count, ex-vessel price by sizes, condition landed (heads-on, heads-off), and the registration or documentation number of the vessel, and the name of the vessel if applicable.

Chapter 07 Crab Landings Reporting Requirements

100 The quantity landed by each crabber will be obtained from each firm weekly. Information confidentiality officers may copy firm records and interview crabbers to determine areas in which traps are set and numbers of traps set. The quantity of crabs caught incidentally by any other means and sold, will also be reported by each landing or processing firm.

Chapter 08 Finfish Landings Reporting Requirements

100 Each firm or individual, whether or not licensed by the MDMR, purchasing finfish from fishermen will keep a record of quantity and species purchased from each fisherman. The MDMR may provide forms to record finfish purchases. Completed forms are to be submitted to information confidentiality officers upon request. Information confidentiality officers may also require each captain to furnish sample trip interviews on the quantity of each species taken, the method of fishing, the area and depth fished, and number of hours fished. Response to questionnaires will be required of fishermen on demand, reporting catch by species and area of capture when requested by an information confidentiality officer, regardless of whether the fish were sold, given away or consumed by the fisherman. Reporting may be by questionnaire mailed to each fisherman.

Chapter 09 Pet Food Landings Reporting Requirements

100 Tonnage of fish landed, area fished, depth fished, and the number of hours fished in each area, will be reported to the MDMR for each vessel landing these fish in the State of Mississippi. Weigh-outs, actual weight of catch, will be obtained from the firm where the catch was landed.

Chapter 10 Menhaden Landings Reporting Requirements

100 The captains of each vessel fishing for menhaden (*Brevoortia* sp.) in Mississippi waters is required to maintain a logbook and complete all logbook entries for each set made during each day's operation. Reports may be collected bi-weekly by personnel of the MDMR. Logbooks may be furnished by the MDMR. The captain of each vessel must follow the printed instructions contained in each logbook. An annual report by month on processed products (meal, oil, and solubles) will be required of each firm.

Chapter 11 Bait Operator Landings Reporting Requirements

100 Daily records on catches of live bait shrimp and sales of bait (shrimp, chum, squid, crabs, bull minnows) and other bait products shall be kept and reported on forms furnished by the MDMR, and shall be submitted to the MDMR on a monthly basis. Live Bait Dealer Reports shall be postmarked no later than the fifteenth day of the month following the monthly reporting period.

Chapter 12 Oyster Landings Reporting Requirements

100 Oysters must be inspected by the MDMR for size and quantity. If the inspection is satisfactory, oyster tags will be issued to be filled out and placed on the containers by the oystermen as specified in Miss. Code Ann. § 49-15-42, as amended. If the oysters are sold, the purchaser's name must be included on the tags. All oysters processed in the State of Mississippi, regardless of their origin, shall be reported by each processor to the MDMR information confidentiality officers on demand.

Chapter 13 Recreational Fishing Landings Reporting Requirements

100 Persons engaged in recreational fishing in waters under the jurisdiction of the MDMR or landing fish in Mississippi shall be required to furnish information pertaining to such fishing when requested by an information confidentiality officer. Charter boat or head boat captains operating in Mississippi waters will be required to complete questionnaires furnished by the MDMR for each trip. Completed questionnaires will be furnished to an information confidentiality officer upon request.

Chapter 14 Unauthorized Disclosure

100 The unauthorized disclosure by any individual of any confidential information obtained by the MDMR is a violation of this Part, and is punishable upon conviction in accordance with Miss. Code Ann. § 49-15-63, as amended.

Chapter 15 Penalties

100 Any unlawful act under this Part committed by any person, firm, or corporation shall be deemed a violation of the provisions of this Part and shall constitute a misdemeanor and upon conviction, said person shall be punished in accordance with Miss. Code Ann. § 49-15-63, as amended, unless a penalty is specifically provided elsewhere in the Mississippi Code Ann. of 1972, as amended.

Chapter 16 Chapters and Subchapters Declared Separable

100 Each chapter and subchapter of this Part is hereby declared separable, and if any chapter or subchapter or part thereof shall be held invalid or unconstitutional, the balance of said Title 22 Part 09 shall remain in full force and effect.

101 Violations of more than one chapter or subchapter of this Part or part thereof shall be considered separate offenses and punished as such.

Chapter 17 Administrative Procedures Act

100 Pursuant to the amendments to the Administrative Procedures Act, § 25-43-1.101, *et seq.*, of the Mississippi Code Ann. of 1972, as amended, and the rules and regulations promulgated pursuant thereto by the Secretary of State; the former Ordinance 9.004 has been modified and the MCMR and MDMR have adopted the terminology and numbering system developed by the Secretary of State. Therefore, references to "ordinance" or to "Part" appearing in these regulations or the underlying statutes are used interchangeably and refer to the same instrument.

TITLE 22 MISSISSIPPI DEPARTMENT OF MARINE RESOURCES
PART 9 RULES AND REGULATIONS FOR STATISTICAL REPORTING AND CONFIDENTIALITY OF STATISTICAL DATA FOR MARINE FISHERIES IN THE STATE OF MISSISSIPPI, shall be in effect and be in force from and after the 1st day of January 2007.

Adopted this the 19th day of 2006.

MISSISSIPPI COMMISSION ON MARINE RESOURCES

By: _____
Vernon Asper, Ph.D., Chairman

MISSISSIPPI DEPARTMENT OF MARINE RESOURCES

By: _____
William W. Walker, Ph.D., Executive Director

TITLE 22 – MISSISSIPPI DEPARTMENT OF MARINE RESOURCES

PART 10 RULES AND REGULATIONS TO PROHIBIT THE DISPOSAL OF PLASTICS AND OTHER GARBAGE IN MARINE WATERS OF THE STATE OF MISSISSIPPI

REQUIREMENTS FOR DISPOSAL FACILITIES ON VESSEL AND AT CERTAIN ACCESS AREAS AND TO PROVIDE PENALTIES FOR THE VIOLATIONS OF THE MARINE LITTER ACT OF 1989, AS AMENDED

Chapter 01 Introduction

Purpose

100 This Part provides regulations to prohibit the disposal of plastic and other garbage in marine waters. This Part also provides for disposal facilities on vessels and at certain access areas and to provide penalties for the violations of the Marine Litter Act of 1989, Miss. Code Ann. § 51-2-1, *et seq.*, as amended.

Chapter 02 Justification and Authority

100 Marine litter has become an ever-growing concern in the Gulf of Mexico, averaging in volume over one (1) ton per mile of shoreline.

101 Plastics which comprise 50-70% of all floating items sighted at sea and may require up to 450 years to completely decompose.

102 Marine litter is known to cause the death of marine birds, fin-fish mammals and reptiles, some of which are presently in danger of extinction.

103 Marine litter and debris pose an increasing menace to navigation, fouling propellers and water intake structures.

104 Marine litter aesthetically blights our shorelines affecting tourism and requiring thousands of tax dollars to clean our beaches.

105 The Marine Litter Act of 1989 prohibits the dumping of wastes, garbage and other debris from vessels, both recreational and commercial, within Mississippi State waters and empowers the Mississippi Department of Marine Resources (MDMR) marine officers to uphold and enforce the provisions set forth in the Act.

106 The Mississippi Commission on Marine Resources (MCMR) has been vested with the authority to promulgate regulations to carry out this act, including adopting the provisions of

ANNEX V of the Protocol of 1978 of the International Convention for the Prevention of Pollution by Ships.

Chapter 03 Definitions

100 **VESSEL** shall mean any boat, barge, or other vehicle operating in the marine environment from the largest supertanker to the smallest recreational craft.

101 **DISCHARGE** shall mean any release however caused from a ship and includes any escape, disposal, spilling, leaking, pumping, emitting or emptying. It does not include release of harmful substances directly arising from the authorized exploration, exploitation, and associated offshore processing of seabed mineral resources; or release of harmful substances for purposes of legitimate scientific research relating to pollution abatement or control.

102 **GARBAGE** shall means all kinds of victual, domestic and operational waste excluding fresh fish and parts thereof, generated during the normal operation of the ship and liable to be disposed of continuously or periodically including dishwater and gray water.

103 **DISHWATER** shall mean the liquefied residue from the manual or automatic washing of dishes and cooking utensils which have been pre-cleaned to the extent that any food particles adhering to them would not normally interfere with the operation of automatic dishwashers.

104 **GRAYWATER** shall mean drainage from dishwasher, shower, and laundry, bath, and washbasin drains and does not include drainage from toilets, urinals, hospitals, and drainage from cargo spaces.

105 **HARMFUL SUBSTANCE AND HAZARDOUS SUBSTANCE** shall mean any substance which, if introduced into the sea, is liable to create hazards to human health, harm living resources and marine life, damage amenities or interfere with other legitimate uses of the sea. Hazardous substances shall include fuel, oil, paints, varnishes, solvents, pesticides, insecticides, fungicides, algicides, other hazardous liquids. It is important to note that "garbage," including but not limited to plastics, is considered to be a "harmful substance" since it is liable to "create hazards to human health, to harm living resources and marine life, and to damage amenities".

106 **PLASTIC** shall mean any garbage that is solid material that contains as an essential ingredient one or more synthetic organic high polymers and is formed or shaped during either manufacture of the polymers or fabrication into a finished product by heat or pressure or both. Examples of plastics included but are not limited to: packaging (vapor proof barriers, bottles, containers, liners), ship construction (fiberglass and laminated structures, siding, piping, insulation, flooring, carpets, fabrics, adhesives, electrical and electronic components), disposable eating utensils and cups (including foamed products), bags, sheeting, floats, synthetic fishing nets, monofilament fishing line, strapping bands, hardhats, synthetic ropes and lines. This definition excludes glass, paints, varnishes, waxes (all of which might be

considered "plastics" by other definitions), and plastic polymers naturally produced by living organisms but harvested and used by man, such as chitin.

107 **VICTUAL WASTE** shall mean any spoiled or unspoiled food waste.

108 **MARINE WATERS OR MARINE ENVIRONMENT** shall mean any waters influenced by the ebb and flow of the tide and includes all rivers, streams, bays, sounds, and waters extending three (3) miles south of the barrier islands within the State of Mississippi.

109 **PERSON** shall mean any human individual conduction or causing to conduct the discharge of garbage from land, vessel, plane, or fixed or floating platforms including those for mineral exploration.

110 **MARINAS** shall mean facilities which provide services and wharfage to three (3) or more recreational or commercial vessels.

111 **ACCESS AREAS** include but are not limited to ports, harbors, boat launching ramps, seafood and ice dealers, bait camps, yacht clubs, vessel repair and construction yards, and private mooring facilities including boat slips, or any other facilities offering services or wharfage to recreational or commercial vessels.

112 **PORT** shall mean:

112.01 A group of terminals that combines to act as a unit;

112.02 A port authority or other organization that chooses to be considered a port, and/or;

112.03 Terminals or facilities which provide wharfage or other services to ships, including but not limited to commercial fishing facilities, naval facilities, shipbuilding and vessel repair facilities, recreational boating facilities, or mineral and oil industry shorebases.

113 **PROPER DISPOSAL FACILITIES** shall mean facilities capable of holding without overflow, a quantity of garbage equal to that calculated in accordance with the worksheets contained in the Annex V regulations promulgated by the U.S. Coast Guard.

114 **CLOSED CONTAINER** shall mean any sealed and properly labeled receptacle. The size and volume of the container shall be determined by the length and purpose of the cruise/voyage, the number of passengers and crew on board, and the amount of trash or garbage to be generated. Closed containers shall include, but not be limited to, buckets or cans with lids, or water tight garbage bags with appropriate ties. Closed containers shall be clearly and permanently marked with weather resistant materials.

Chapter 04 Unlawful Discharge

100 It shall be unlawful for any person or vessel to discharge any type of plastics, including synthetic ropes, fishing nets, garbage bags, and other garbage including paper products, glass, metal, dunnage, lining and packing materials into the marine waters of this state.

101 It shall be unlawful for any person or vessel to discharge any hazardous substances into the marine waters of the State of Mississippi.

Chapter 05 Marina and Vessel Requirements

100 It shall be required that all marinas have proper disposal facilities on site for all vessel wastes, including, but not limited to: garbage, dishwater, graywater, including drainage of toilets, marine sanitation devices (MSD's), urinals, hospitals and cargo space, harmful substances and hazardous substances, plastics, and victual waste.

101 All vessels shall have on board a clearly marked closed container for the proper disposal of waste, trash and other garbage. Signage shall be posted on board notifying passengers and crew that it is unlawful to dispose of waste, trash and other garbage into the marine waters of the State of Mississippi.

Chapter 06 Hazardous Substances

100 All hazardous substances shall be kept in closed containers wherever present on a vessel in the marine waters of this state. The containers shall be sufficient to prevent the substances from escaping in the event the container is released into marine waters. Closed containers shall not be required for substances intended for human consumption, or for bait. Closed containers shall not be required while vessels are taking on or unloading cargo and provisions.

Chapter 07 Emergencies and Accidental Release of Substances

100 The regulations contained herein pertaining to the release of substances covered in Chapter 4 and Chapter 6 of this Part shall not apply during the following emergencies, accidents or releases due to an act of nature:

100.01 Discharges from a ship for the purpose of securing the safety of a ship and those on board or saving life at sea.

100.02 The escape of substances resulting from damage to a ship or its equipment, if all reasonable precautions have been taken before and after the occurrence of the damage, to prevent or minimize the escape.

100.03 The accidental loss of synthetic fishing nets or the loss of synthetic material during repair of nets provided all reasonable precautions have been taken to prevent such losses. Snagged or entangled fishing tackle and nets shall be

recovered as much as reasonably possible, and the unrecovered remainder is caused to sink.

Chapter 08 Penalties

100 Any person, or vessel convicted of violating the Marine Litter Act of 1989, Miss. Code Ann. § 51-2-1, *et seq.*, as amended, or any provision of this Ordinance shall be guilty of a misdemeanor and upon a first conviction shall be punished by a fine not to exceed Five Hundred Dollars ($500.00) or community service requiring litter collection of not less than twenty-five (25) hours nor more than two hundred fifty (250) hours, or both. Persons under eighteen (18) years of age shall be penalized with community service, and may be assessed a fine as well. Each day of a continuing violation constitutes a separate violation. Violations of more than one section or subsection of the Ordinance, or part thereof, shall be considered separate offenses and punished as such.

101 Any person or vessel convicted of a second or subsequent violation of the Marine Litter Act of 1989, as amended, or of any provision of this ordinance shall be guilty of a misdemeanor and upon conviction shall be punished by a fine not to exceed Ten Thousand Dollars ($10,000.00), or revocation of boating licenses, or both.

Chapter 09 Chapters and Subchapters Declared Separable

100 Each chapter and subchapter of this Part is hereby declared separable, and if any chapter or subchapter or part thereof shall be held invalid or unconstitutional, the balance of said Title 22 Part 10 shall remain in full force and effect.

101 Violations of more than one chapter or subchapter of this Part or part thereof shall be considered separate offenses and punished as such.

Chapter 10 Administrative Procedures Act

100 Pursuant to the amendments to the Administrative Procedures Act, § 25-43-1.101, *et seq.*, of the Mississippi Code Ann. of 1972, as amended, and the rules and regulations promulgated pursuant thereto by the Secretary of State; the former Ordinance 10.003 has been modified and the MCMR and MDMR have adopted the terminology and numbering system developed by the Secretary of State. Therefore, references to "ordinance" or to "Part" appearing in these regulations or the underlying statutes are used interchangeably and refer to the same instrument.

TITLE 22 – MISSISSIPPI DEPARTMENT OF MARINE RESOURCES
PART 10 RULES AND REGULATIONS TO PROHIBIT THE DISPOSAL OF PLASTICS AND OTHER GARBAGE IN MARINE WATERS OF THE STATE OF MISSISSIPPI REQUIREMENTS FOR DISPOSAL FACILITIES ON VESSEL AND AT CERTAIN ACCESS AREAS AND TO PROVIDE PENALTIES FOR THE VIOLATIONS OF THE MARINE LITTER ACT OF 1989, AS AMENDED, shall be in effect and be in force from and after the 1st day of January 2007.

Adopted this the 19th day of December 2006.

MISSISSIPPI COMMISSION ON MARINE RESOURCES

By: _____
Vernon Asper, Ph.D., Chairman

MISSISSIPPI DEPARTMENT OF MARINE RESOURCES

By: _____
William Walker, Ph.D., Executive Director

TITLE 22 – MISSISSIPPI DEPARTMENT OF MARINE RESOURCES

PART 11 RULES AND REGULATIONS ESTABLISHING PROCEDURES FOR THE DISPOSITION OF EQUIPMENT AND/OR NETS SEIZED BY THE MISSISSIPPI COMMISSION ON MARINE RESOURCES IN THE STATE OF MISSISSIPPI

Chapter 1 Introduction

Purpose

100 This Part establishes regulations for procedures for the disposition of equipment and/or nets seized by the Mississippi Commission on Marine Resources (MCMR).

Chapter 02 Justification and Authority

100 The MCMR is required by law to seize certain equipment or nets during the course of enforcing the provisions of § 49-15-1, *et seq.*, of the Mississippi Code Ann. of 1972, as amended.

101 The MCMR is required in § 49-15-15 (1) (k), as amended, to provide for the disposition of this equipment if the sale thereof is not directed by the justice court as provided in § 49-15-65 of the Mississippi Code Ann. of 1972, as amended.

Chapter 03 Regulations on Sale and Disposition of Seized Equipment and/or Nets

100 Prior to the sale of any equipment or nets seized pursuant to § 49-15-1, *et seq.* of the Mississippi Code Ann. of 1972, as amended, the MCMR shall review each item and determine which shall be sold and which shall be destroyed.

101 All equipment or nets seized by the law enforcement officers of the MCMR pursuant to § 49-15-1 *et seq.* of the Mississippi Code Ann. of 1972, as amended, to be sold, shall be sold at public auction for cash to the highest and best bidder. Each public auction held by the MCMR shall be advertised at least once each week for three consecutive weeks prior to the auction, the last notice to appear not more than ten days nor less than five days prior to such auction. Such advertisement shall be printed in a newspaper having general circulation in the coastal counties of the State of Mississippi.

102 The advertisements providing notice of said public auction shall contain a description of the property to be sold and a statement of the time and place of the sale. The name of the owner of said property shall be included at the discretion of the agency.

103 At the discretion of the agency, the equipment or nets to be sold may be viewed by the public prior to the auction, whereupon notice of same shall be included in the advertisements of public auction.

104 Sales of equipment or nets seized shall be held each year, forty-five days, more or less, following the opening of shrimp season, as provided in § 49-15-15 of the Mississippi Code Ann. of 1972, as amended. Additional sales may be scheduled at the discretion of the MCMR. Proceeds from sales conducted pursuant to this Part shall be paid into the Seafood Fund of the MCMR.

105 Equipment or nets shall be destroyed only after approval has been obtained from the MCMR and the MCMR has been notified of the reasons for the destruction of said equipment or nets and the manner in which said equipment or nets are to be destroyed.

Chapter 04 Penalties

100 Any unlawful act under this Part committed by any person, firm, or corporation shall be deemed a violation of the provisions of this Part and shall constitute a misdemeanor and upon conviction, said person shall be punished in accordance with Miss. Code Ann. § 49-15-63, as amended, unless a penalty is specifically provided elsewhere in the Mississippi Code Ann. of 1972, as amended.

Chapter 05 Chapters and Subchapters Declared Separable

100 Each chapter and subchapter of this Part is hereby declared separable, and if any chapter or subchapter or part thereof shall be held invalid or unconstitutional, the balance of said Title 22 Part 11 shall remain in full force and effect.

101 Violations of more than one chapter or subchapter of this Part or part thereof shall be considered separate and punished as such.

Chapter 06 Administrative Procedures Act

100 Pursuant to the amendments to the Administrative Procedures Act, § 25-43-1.101, *et seq.*, of the Mississippi Code Ann. of 1972, as amended, and the rules and regulations promulgated pursuant thereto by the Secretary of State; the former Ordinance 11.001 has been modified and the MCMR and Mississippi Department of Marine Resources have adopted the terminology and numbering system developed by the Secretary of State. Therefore, references to "ordinance" or to "Part" appearing in these regulations or the underlying statutes are used interchangeably and refer to the same instrument.

TITLE 22 – MISSISSIPPI DEPARTMENT OF MARINE RESOURCES
PART 11 RULES AND REGULATIONS ESTABLISHING PROCEDURES FOR THE DISPOSITION OF EQUIPMENT AND/OR NETS SEIZED BY THE MISSISSIPPI COMMISSION ON MARINE RESOURCES IN THE STATE OF MISSISSIPPI, shall take effect and be in force from and after the 1st day of January 2007

Adopted this the 19th day of December 2006

MISSISSIPPI COMMISSION ON MARINE RESOURCES

By: _____
Vernon Asper, Ph.D., Chairman

MISSISSIPPI DEPARTMENT OF MARINE RESOURCES

By: _____
William W. Walker, Ph.D., Executive Director

TITLE 22 – MISSISSIPPI DEPARTMENT OF MARINE RESOURCES

PART 12 RULES AND REGULATIONS FOR VESSEL SEAFOOD TRANSPORT IN THE STATE OF MISSISSIPPI

Chapter 01 Introduction

Purpose

100 This Part establishes regulations of vessel seafood transport

Chapter 02 Justification and Authority

100 Miss. Code Ann. § 49-15-34, as amended, authorizes the Mississippi Commission on Marine Resources (MCMR) to regulate seafood transport and to permit the landing of seafood in the state which is legally taken outside of the Mississippi territorial waters without obtaining a license under Title 49, Chapter 15 of the Mississippi Code Ann. of 1972, as amended.

101 Miss. Code Ann. § 49-15-34 (2), as amended authorizes the MCMR to establish a permit fee in an amount not to exceed the amount of the license fee established in Miss. Code Ann. § 49-15-28 (1), as amended.

Chapter 03 Transport Permit Required

100 A transport permit is required for each vessel desiring to land seafood in the state, which is legally taken outside of the Mississippi territorial waters without obtaining a license under Miss. Code Ann. § 49-15-1 *et seq*. as amended.

101 A transport permit fee of one hundred dollars ($100.00) shall be paid upon issuance of said transport permit.

Chapter 04 Penalties

100 Any unlawful act under this Part committed by any person, firm, or corporation shall be deemed a violation of the provisions of this Part and shall constitute a misdemeanor and upon conviction, said person shall be punished in accordance with Miss. Code Ann. § 49-15-63, as amended, unless a penalty is specifically provided elsewhere in § 49-15-1, *et seq*. of the Mississippi Code Ann. of 1972, as amended. In the case of continuing violations, each day shall constitute a separate offense.

Chapter 05 Chapters and Subchapters Declared Separable

100 Each chapter and subchapter of this Part is hereby declared separable, and if any chapter or subchapter or part thereof shall be held invalid or unconstitutional, the balance of said Title 22 Part 12 shall remain in full force and effect.

101 Violations of more than one chapter or subchapter of this Part or part thereof shall be considered separate and punished as such.

Chapter 06 Administrative Procedures Act

100 Pursuant to the amendments to the Administrative Procedures Act, § 25-43-1.101, *et seq.*, of the Mississippi Code Ann. of 1972, as amended, and the rules and regulations promulgated pursuant thereto by the Secretary of State; the former Ordinance 12.002 has been modified and the MCMR and Mississippi Department of Marine Resources have adopted the terminology and numbering system developed by the Secretary of State. Therefore, references to "ordinance" or to "Part" appearing in these regulations or the underlying statutes are used interchangeably and refer to the same instrument.

TITLE 22 – MISSISSIPPI DEPARTMENT OF MARINE RESOURCES
PART 12 RULES AND REGULATIONS FOR VESSEL SEAFOOD TRANSPORT
IN THE STATE OF MISSISSIPPI, shall take effect and be in force from and after the 1st day of January 2007

Adopted this the 19th day of December 2006

MISSISSIPPI COMMISSION ON MARINE RESOURCES

By: _____
Vernon Asper, Ph.D., Chairman

MISSISSIPPI DEPARTMENT OF MARINE RESOURCES

By: _____
William W. Walker, Ph.D., Executive Director

TITLE 22 – MISSISSIPPI DEPARTMENT OF MARINE RESOURCES

PART 13 RULES AND REGULATIONS FOR AQUACULTURE IN THE MARINE ENVIRONMENT IN THE STATE OF MISSISSIPPI

Chapter 01 Introduction

Purpose

100 This Part establishes the requirements for aquaculture activities in marine waters that require a permit under the provisions of the Coastal Wetlands Protection Act and the Mississippi Aquaculture Act of 1988, and said requirements are to be used in making permit decisions regarding regulated activities in marine waters and provide regulatory guidance for industry and resource agencies.

Chapter 02 Justification and Authority

100 The Mississippi Commission on Marine Resources (MCMR) is vested with the jurisdiction and authority over all marine aquatic life and is authorized to enact all regulations necessary for the protection, conservation and propagation of all seafood in the waters under the territorial jurisdiction of the State of Mississippi, as provided for in Miss. Code Ann. § 49-15-15, as amended.

101 The MCMR is vested with the jurisdiction and authority over all coastal wetlands including the flora and fauna on and in the wetlands, and is charged with the protection of the coastal wetlands pursuant to the Coastal Wetlands Protection and Miss. Code Ann. § 49-27-1, *et seq*., as amended.

102 The MCMR through the Mississippi Department of Marine Resources (MDMR) is charged with the responsibility of promulgating rules and regulations which specify design criteria to protect marine resources and to prevent the release of undesirable species from an aquaculture facility into the environment, as provided for in the Mississippi Aquaculture Act of 1988, Miss. Code Ann. § 79-22-15, as amended.

103 The MCMR provides these requirements for aquaculture activities in marine waters that require a permit under the provisions of the Coastal Wetlands Protection Act and the Mississippi Aquaculture Act of 1988, and said requirements are to be used in making permit decisions regarding regulated activities in marine waters and provide regulatory guidance for industry and resource agencies.

Chapter 03 Definitions

100 **MILE -** For the purposes of this Title and Part, a mile shall be interpreted to mean one

nautical mile.

101 **NET-PEN** - A net-pen shall refer to any aquaculture system that uses nets or cages suspended in the water column to grow fish or invertebrates.

102 **ISLANDS** - All islands in the territorial waters of the State of Mississippi, which includes, but is not limited to, Petit Bois, Horn, East Ship, West Ship, Cat, Round and Deer Islands.

103 **SHORELINE** - That area where the water contacts the land including the mainland and all offshore and barrier islands.

Chapter 04 Requirements Applicable to all Aquaculture Operations

100 The following requirements shall apply to all types of aquaculture activities in the marine waters of the State of Mississippi.

100.01 All aquaculture permit applicants shall provide the MDMR with a site-specific environmental assessment that describes the site characteristics and the potential impacts associated with the project. This assessment shall include but not necessarily be limited to information on bottom characteristics, hydrological characteristics (current speed and direction, temperature range, dissolved oxygen content range, etc.), proximity to habitats of special significance and endangered species that utilize the general area. Data from pre-existing studies may be used if it is applicable to the specific site.

100.02 Aquaculture operations shall not be located within 1,500 feet of any pipeline or submerged cable.

100.03 Discharges into the surrounding waters of any waste materials including, but not limited to, solids, debris, sanitary and kitchen wastes, oil and grease but excluding fouling organisms, the excrement of the cultured species, and commercially prepared feeds fed to them, shall be prohibited.

100.04 Aquaculture operations shall not locate within one mile of habitats of special significance. Habitats of special significance include habitats for endangered and threatened species, public oyster reefs, bird nesting areas, and sea turtle nesting grounds. Net-pen operations shall not locate within one mile of a seagrass bed. Molluscan shellfish operations must not locate within 1,500 feet of a seagrass bed.

100.05 In order to minimize the impacts to sea turtles, the structure and any associated vessels moored adjacent to it shall use external lighting systems composed of low pressure sodium vapor lights with a maximum of 55 watts per bulb or any other light source proven and documented not to disturb sea turtles. Coast Guard required navigation lights are exempt from this guideline.

100.06 Generally, only non-lethal methods of predator control shall be allowed. However, the oyster drill (*Thais haemastoma* sp.) shall be exempt from this guideline. To insure that the applicant has taken measures to prevent the deaths or harm of potential predators, a predator control plan that details the type of predator controls being proposed (i.e. mesh size of netting, color of netting, height

of netting, etc.) for each aquaculture operation shall be approved by the MDMR prior to the issuance of a permit.

100.07 Care shall be taken to avoid locating aquaculture operations in close proximity to federal navigation channels and dredged material disposal areas. Aquaculture operations shall not be sited within one-half (1/2) mile of the centerline of a federal navigation channel nor shall they be sited within a safety fairway, an anchorage area, or within the boundary of a dredged material disposal site unless specifically authorized by the U.S. Army Corps of Engineers and/or the U.S. Coast Guard.

100.08 All aquaculture operations must be properly marked and lighted in accordance with U.S. Coast Guard regulations.

100.09 All aquaculture operations shall minimize impacts to the natural scenic qualities of the coastal environments. The noise generated by the facility shall be minimized.

100.10 All applicants shall provide the MDMR with a plan for securing or moving, if necessary, the aquaculture facility in the event of a significant storm or hurricane. The permitted facility shall comply with the approved storm plan in the event of a significant storm or hurricane.

Chapter 05 Requirements Specific to Finfish and Crustacean Aquaculture

100 Net-pen or other containment systems for culturing finfish, crustaceans or other non-molluscan marine organisms shall be located in waters of sufficient depth. A minimum clearance of ten (10) feet below the bottom of the net-pen system shall be maintained at all times. The distance shall be measured at mean low water. If monitoring indicates a serious problem with water quality or other environmental conditions at the site (i.e., when certain limits for specific parameters established in the monitoring program or by the Mississippi Department of Environmental Quality are exceeded), the operation must be adjusted to reduce impacts. Adjustments shall include, but are not-limited to, modifying the feeding rate or feeding schedule, reducing the amount of fish in the net-pen system, or increasing or decreasing the clearance under the nets to allow for increased water circulation.

101 Net-pen aquaculture operations shall not be located within two (2) miles of the shoreline.

102 Variations to the requirements in Chapter 05 are allowed for cultivation of filter-feeder species without commercial feeds, with approval by the MCMR.

Chapter 06 Requirements Specific to Molluscan Shellfish Aquaculture

100 Off-Bottom Culture.

100.01 Off-bottom culture of molluscan shellfish is defined as floating and/or suspended operations, that include, but are not limited to, long lines and rafts.

100.02 Molluscan shellfish aquaculture operations, which include support facilities, shall

not be located within two (2) miles of the shoreline.

100.03 All off-bottom molluscan shellfish culture operations shall be designed to minimize impacts to water circulation patterns.

101 On-Bottom Culture in Offshore Waters.

101.01 On-bottom culture of molluscan shellfish in offshore waters includes any aquaculture operation that involves the use of cultch material, racks, cages or any structures to support shellfish which are, located more than 750 yards from the shoreline. Cultch material must be approved by the MDMR, and approval, in part, will be based on the environmental safety and suitability of the material.

101.02 A minimum of six (6) feet of water at mean low water shall be maintained above on-bottom offshore water aquaculture operations at all times. The MCMR may allow variance to this water depth requirement after review and approval.

101.03 Molluscan shellfish aquaculture operations which include support facilities shall not be located within two (2) miles of the shoreline.

102 On-Bottom Culture in Nearshore Waters.

102.01 On-bottom culture of molluscan shellfish in nearshore waters includes any aquaculture operation that involves the use of cultch material, racks, cages or any structures to support shellfish which are located within 750 yards of the shoreline. Cultch material must be approved by the MDMR, and approval will be based on the environmental safety and suitability of the material.

102.02 On-bottom culture operations shall be designed to minimize the disruption of the natural movement of sediment in the nearshore areas.

102.03 Racks and cages must be arranged in rows with adequate spacing between rows to allow for reasonable ingress and egress to the shoreline. No racks or cages shall be located within two hundred (200) feet of the shoreline unless it can be proven that there will be no conflicts with the traditional user groups in the area (i.e. flounder fisherman, beachgoers, etc.).

102.04 In addition to aforementioned requirements for molluscan shellfish culture, an applicant must also abide by MCMR regulations governing shellfish.

Chapter 07 Monitoring Program Requirements

100 All aquaculture operations shall perform a Pre-Operational Environmental Survey (POES) no earlier than three months prior to operation and submit the data and findings in a report to the MDMR. The POES shall characterize selected bottom sediment and water column conditions at the site prior to the commencement of the aquaculture operation. The POES shall include the following information:

100.01 Bathymetric Survey. A bathymetric survey using a continuous recording dept recorder or equivalent equipment shall be performed at the aquaculture site. The site shall be divided into an appropriate number of transects, based upon size of project. The results of this survey shall be submitted to the MDMR in a tabulated and graphic form.

100.02 Sediment and Water Quality Analysis. A quantitative sampling device is to be

used to collect sediment samples for chemical and biological analysis. The water column shall also be tested for selected environmental parameters. The number of water quality and sediment samples that will be required shall be based on the potential production level of the operation. Detailed sampling protocols and procedures are contained in the Marine Aquaculture Environmental Monitoring Program.

101 A Marine Aquaculture Environmental Monitoring Program (MAEMP) developed by the MDMR, or developed by the applicant and approved by the MDMR shall be implemented before the aquaculture operation is initiated and the data and findings shall be submitted in a report to the MDMR in a format designated by the MDMR. The MAEMP is intended to monitor potential changes in water and sediment quality resulting from the aquaculture operation. Secondly, it provides data with which to review the current environmental requirements for possible future modifications. As additional data are obtained on the environmental effects of aquaculture operations, the monitoring protocols as specified in the MAEMP may be revised. It is also possible that monitoring at some culture sites may be curtailed or eliminated entirely if little or no measurable effect on environmental quality is found. The determination to curtail, eliminate or refocus the monitoring at any site will be made after the MDMR reviews the results obtained from the MAEMP.

102 The MAEMP consists of four principle elements: 1) hydrographic survey, 2) sediment chemistry, 3) water quality, and 4) benthic survey. The frequency, range, and duration of the monitoring will depend on the type and potential production level of the aquaculture operation. Detailed protocols and procedures applicable to monitoring the environmental parameters and report preparation are presented in the MAEMP.

103 Additionally, the applicant shall keep a daily record of the number of incidental deaths of coastal wildlife that occur within the leased area. This log shall be submitted to the MDMR by the 10th of each month. The MDMR shall be notified immediately upon the injury or death of any threatened or endangered species, marine mammal or raptor within the leased area.

Chapter 08 Aquaculture Research

100 State educational institutions conducting marine aquaculture projects shall comply with all provisions of this Title and Part, pursuant to Miss. Code Ann. § 79-22-29, as amended, but shall be exempt from fees, pursuant to Miss. Code Ann. § 79-22-31, as amended.

Chapter 09 Penalties

100 Any person, firm or corporation violating any of the provisions of this Part shall be, in addition to civil liability provided for in Miss. Code Ann. § 49-27-55, as amended, guilty of a misdemeanor, and on conviction, shall be penalized in accordance with Miss. Code

Ann. § 49-27-57, as amended. Violations of more than one chapter or subchapter of this Part, or part thereof, shall be considered separate offenses and punished as such. In the case of continuing violations, each day shall constitute a separate offense.

Chapter 10 Chapter and Subchapter Declared Separable

100 Each chapter and subchapter of this Title and Part is hereby declared separable, and if any chapter or subchapter or part thereof shall be held invalid or unconstitutional, the balance of said Title 22 Part 13 shall remain in full force and effect.

101 Violations of more than one chapter or subchapter of this Title and Part or part thereof shall be considered separate and punished as such.

Chapter 11 Administrative Procedures Act

100 Pursuant to the amendments to the Administrative Procedures Act, § 25-43-1.101, *et seq.*, of the Mississippi Code of 1972, as amended, and the rules and regulations promulgated pursuant thereto by the Secretary of State; the former Ordinance 13.001 has been modified and the MCMR and MDMR have adopted the terminology and numbering system developed by the Secretary of State. Therefore, references to "ordinance" or to "Part" appearing in these regulations or the underlying statutes are used interchangeably and refer to the same instrument.

TITLE 22 - MISSISSIPPI DEPARTMENT OF MARINE RESOURCES
PART 13 RULES AND REGULATIONS FOR AQUACULTURE IN THE MARINE ENVIRONMENT IN THE STATE OF MISSISSIPPI, shall be in effect and in force from and after the 1st day of January 2007.

Adopted this the 19th day of December 2006

MISSISSIPPI COMMISSION ON MARINE RESOURCES

By: _____
Vernon Asper, Ph.D., Chairman

MISSISSIPPI DEPARTMENT OF MARINE RESOURCES

By: _____
William Walker, Ph.D., Executive Director

TITLE 22 – MISSISSIPPI DEPARTMENT OF MARINE RESOURCES

PART 14 RULES AND REGULATIONS TO IMPLEMENT THE DERELICT VESSEL ACT IN THE STATE OF MISSISIPPI

Chapter 01 Introduction

Purpose

100 This Part establishes regulations to implement the derelict vessel act.

Chapter 02 Justification and Authority

100 The Mississippi Commission on Marine Resources (MCMR) is vested with the jurisdiction and authority over all marine aquatic life and is authorized to enact all regulations necessary for the protection, conservation and propagation of all seafood in the waters under the territorial jurisdiction of the State of Mississippi, as provided for in Miss. Code Ann. § 49-15-15, as amended.

101 The MCMR is vested with the jurisdiction and authority over all coastal wetlands including the flora and fauna on and in the wetlands, and is charged with the protection of the coastal wetlands pursuant to the Coastal Wetlands Protection Act, Miss. Code Ann. § 49-27-1, *et seq.*, as amended.

102 The MCMR is vested with the jurisdiction and authority over the removal of derelict vessels from the coastal wetlands within the territorial jurisdiction of the State of Mississippi, as provided for in Miss. Code Ann. § 49-27-71, as amended.

Chapter 03 Derelict Vessel Removal Regulations

100 The Mississippi Department of Marine Resources (MDMR) shall not remove or cause the removal of any derelict vessel of known ownership from the coastal wetlands of Mississippi without the approval of the MDMR Executive Director.

102 MCMR or the MDMR Executive Director may authorize the removal of derelict vessels as provided by law. For the purposes of this Part, derelict vessels are defined as any vessel having remained submerged in or on the coastal wetlands in excess of thirty (30) days as provided for in Miss. Code Ann. § 49-27-71 (1) (a), as amended. Submerged in or on the coastal wetlands shall include vessels grounded on the coastal wetlands though not completely submerged.

103 Municipalities and counties may contract directly for the removal of derelict vessels. Municipalities and counties shall coordinate with the MDMR prior to the removal of derelict vessels to determine permitting requirements. Prior to authorizing the removal of a derelict vessel by the MDMR, the MCMR must receive an official request from the municipality or board of supervisors where the derelict vessel is located. The official request must appear on the minutes of the governing authority requesting the removal of the derelict vessel and shall include the following:

- 103.01 the location of the derelict vessel;
- 103.02 a detailed description of the derelict vessel;
- 103.03 a statement that the vessel has been submerged in or on the coastal wetlands in excess of ninety days;
- 103.04 the names and addresses of any known owners of the derelict vessel; and
- 103.05 a commitment to pay for all of the costs associated with the removal of the derelict vessel and restoration of the affected coastal wetlands.

104 Following the receipt of a request to remove a derelict vessel the MCMR will review the request for sufficiency and either authorize the MDMR to remove the derelict vessel or notify the requesting agency that the request is deficient.

Chapter 04 Liability of Derelict Vessels

100 Any person, firm or corporation, owning or operating a vessel that is or becomes a derelict vessel shall be liable to the State of Mississippi for the restoration of all affected coastal wetlands and all costs associated with the removal of said vessel. When the last known owner or operator of a derelict vessel is ascertainable the owner or operator shall be notified by certified mail to remove the derelict vessel and restore, in accordance with MDMR staff recommendations, the affected coastal wetlands within thirty (30) days of the date of the notice. The owner of the derelict vessel shall coordinate with the MDMR to obtain all necessary permits, if any. Failure to remove the vessel and restore affected coastal wetlands may result in the imposition of the damages provided for in Chapter 6 of this Part.

Chapter 05 Removal of Derelict Vessels

100 Prior to the removal of any derelict vessel notice of intent to remove and dispose of the derelict vessel shall be given to the owner. Notice shall be given to unknown owners by publishing in a newspaper having general circulation in the county where the derelict vessel is located. Said notice shall be published once a week for three consecutive weeks. The derelict vessel may be removed ten (10) days after the last date of publication. In addition to providing notice to the unknown owner, notice shall be sent by mail to the Mississippi Department of Archives and History for a determination as to whether the vessel to be removed is of archeological, historical, or architectural significance under the provisions of the Antiquities Law of Mississippi. The Department of Archives and History shall respond

within thirty (30) days to the notice and advise whether or not the vessel should be preserved.

Chapter 06 Fines Assessed on Derelict Vessels

100 In the event that the owner of a derelict vessel fails to remove the vessel within thirty (30) days of the date of the notice the MDMR may initiate litigation as provided for in Miss. Code Ann. § 49-27-71, as amended, and any other legal action that it deems necessary and appropriate to facilitate the removal of the derelict vessel. The chancery court of the county where the vessel is located shall have jurisdiction and by writ of mandatory injunction order the removal of the derelict vessel by the owner or operator thereof and shall allow a reasonable time for completion of the restoration and removal and may, in its discretion, order as punitive damages a sum not to exceed Five Hundred Dollars ($500.00) per day for each day such violation has existed. The chancery court may further order as punitive damages a sum not to exceed Five Hundred Dollars ($500.00) per day for each day that the violation exists beyond the date set by the court in its injunction for the removal of the vessel and the restoration of the coastal wetlands. Additionally, the owner or operator shall be liable for reasonable attorney's fees and all costs of court.

Chapter 07 Contract/Salvage Removal of Derelict Vessels

100 The MDMR is authorized to enter into contracts with individuals, firms and corporations for the removal of derelict vessels. The MDMR will follow standard contracting and bidding procedures for obtaining the services of a salvage operator. The salvage value, if any, of the derelict vessel may be used to offset the cost of the removal of the vessel and the restoration of the coastal wetlands. The cost of the removal of the derelict vessel and restoring the affected coastal wetlands shall be paid by the municipality or the county where the vessel is located directly to the salvage operator.

Chapter 08 Environmental Assessment(s) of Removing Derelict Vessels

100 Prior to the removal of any derelict vessel, an environmental assessment shall be performed to determine the potential impacts to the coastal wetlands from the removal of the derelict vessel. The environmental assessment shall include the following:

100.01 an assessment of the amount and type of fuels, oils, and coolants on the vessel;

100.02 the presence of any other deleterious substances that may be discharged into the coastal wetlands as a result of the removal of the vessel;

100.03 a description of the process to be employed to remove the derelict vessel and the materials identified with minimum impacts to the coastal wetlands; and

100.04 a disposal plan for the deleterious materials removed from the derelict vessel.

101 The environmental assessment is part of the cost of the removal of a derelict vessel. Further, any depressions resulting from the removal of a derelict vessel within 1500 feet of the shoreline must be filled.

102 In the event that an owner or operator is subsequently identified, the owner or operator shall be liable for double the cost of the removal of the derelict vessel and the restoration of the affected coastal wetlands, attorney fees and all costs of court. Upon recovery of said damages the county or municipality shall be reimbursed the costs of the removal of the derelict vessel and restoration of the coastal wetlands.

Chapter 09 Fines and Damages Associated with Derelict Vessel Removal

100 Any fines and damages collected in excess of the cost of the removal of the derelict vessel and the restoration of the affected coastal wetlands shall be deposited in a special fund in the State Treasury to be known as the "Derelict Vessel Fund." The fund shall be administered by the MDMR. Any funds deposited in said fund shall be used to cover the administrative costs incurred by the MDMR for the removal of derelict vessels. Any remaining funds shall be used as a match for municipal and county funds to cover the costs of removing additional derelict vessels.

101 Any derelict vessel salvaged may be destroyed or otherwise disposed of without additional notice to the owner or operator and the value thereof, if any, applied as an offset to the cost of the removal of the derelict structure and restoration of the affected coastal wetlands.

Chapter 10 Penalties

100 Any unlawful act under this Part committed by any person, firm, or corporation shall be deemed a violation of the provisions of this Part and shall constitute a misdemeanor and upon conviction, said person shall be punished in accordance with Miss. Code Ann. § 49-15-63, as amended, unless a penalty is specifically provided elsewhere in the Mississippi Code Ann. of 1972, as amended.

Chapter 11 Chapters and Subchapters Declared Separable

100 Each chapter and subchapter of this Part is hereby declared separable, and if any chapter or subchapter or part thereof shall be held invalid or unconstitutional, the balance of said Title 22 Part 14 shall remain in full force and effect.

101 Violations of more than one chapter or subchapter of this Part or part thereof shall be considered separate and punished as such.

Chapter 12 Administrative Procedures Act

100 Pursuant to the amendments to the Administrative Procedures Act, § 25-43-1.101, *et seq.*, of the Mississippi Code Ann. of 1972, as amended, and the rules and regulations promulgated pursuant thereto by the Secretary of State; the former Ordinance 14.001 has been modified and the MCMR and MDMR have adopted the terminology and numbering system developed by the Secretary of State. Therefore, references to "ordinance" or to "Part" appearing in these regulations or the underlying statutes are used interchangeably and refer to the same instrument.

TITLE 22 – MISSISSIPPI DEPARTMENT OF MARINE RESOURCES
PART 14 RULES AND REGULATIONS TO IMPLEMENT THE DERELICT VESSEL ACT IN THE STATE OF MISSISIPPI, shall take effect and be in force from and after the 1st day of January 2007.

Adopted this the 19th day of December 2006

MISSISSIPPI COMMISSION ON MARINE RESOURCES

By: _____
Vernon Asper, Ph.D., Chairman

MISSISSIPPI DEPARTMENT OF MARINE RESOURCES

By: _____
William W. Walker, Ph.D., Executive Director

TITLE 22 – MISSISSIPPI DEPARTMENT OF MARINE RESOURCES

PART 15 – ADMINISTRATIVE RULES AS REQUIRED BY MISSISSIPPI ADMINISTRATIVE PROCEDURES LAW

Chapter 01 Introduction

100 The Mississippi Administrative Procedures Law provides for public notification and participation in the governmental process and such provisions are applicable to the Mississippi Commission on Marine Resources (hereinafter "Commission") and the Mississippi Department of Marine Resources ("MDMR"). Pursuant to Miss. Code Ann. §§ 25-43-1.101, et seq., the Commission has adopted the following regulations on public document requests, hearings and declaratory opinions.

Chapter 02 Agency Method of Operation

100 Requests for Information from the Department

It is the policy of the Commission to keep secure and to make available for public use and inspection all official public documents maintained by the MDMR. Therefore, pursuant to the provisions in Miss. Code Ann. § 25-43-2.104, the agency will abide by the following rules for responding to requests for public information.

100.01 Official MDMR information and files must be protected from alteration, removal and damage and all access to public documents will be controlled by MDMR employees.

100.02 All requests for MDMR information and files shall be submitted in writing to the Executive Director, Mississippi Department of Marine Resources, 1141 Bayview Ave., Suite 101, Biloxi, MS 39530.

100.03 The request must be marked "Request for Public Records" and must describe the type of record, names, dates, file numbers, title of publication and other information which may aid in locating the requested public records. Depending on the type of request, staff may require submission of a completed "Request for Disclosure of Public Records" form in order to proceed with the search for information and files.

100.04 The Executive Director or his designee will determine whether the records sought are exempt from production under the Mississippi Public Records Act (Miss. Code Ann. §§ 25-61-1, et seq.) and any denials of access to exempt information or files will be provided to the requester in writing.

100.05 Individuals requesting inspection of MDMR public records must be accompanied by MDMR personnel when inspecting MDMR records. Individuals requesting inspection of MDMR public records will be advised as to when and where they may inspect the records.

100.06 A request for public records must be accompanied by sufficient funds to defray the actual cost of searching, reviewing, copying and, if applicable, mailing the requested records. MDMR staff will notify requester of an estimate of costs to fulfill the request and said estimate will be due upon notice. Failure to submit estimated defrayal costs will render the request incomplete and staff will notify requester of denial of request. The processing of the request will resume upon receipt by MDMR of payment of the cost estimate.

101 Procedures for Other Inquiries and Requests for MDMR Action

It is the policy of the Commission to be responsive to the public in all matters within its jurisdiction. Pursuant to the provisions in Miss. Code Ann. § 25-43-2.104 (b), other inquiries (in addition to the requests for public documents) or requests for action by the agency must be submitted in writing and directed to the MDMR Executive Director, 1141 Bayview Avenue, Suite 101, Biloxi, MS 39530.

Chapter 03 Procedures for Hearings on and Review of Commission Rules, Regulations and Public

100 Purpose

The following rules shall control public hearings and hearings within the jurisdiction of the Commission and the MDMR, pursuant to the Administrative Procedures Law, Miss. Code Ann. § 25-43-3.104 (2)(d).

101 Scope of Rules

These rules govern the conduct of public hearings on proposed changes to existing Commission rules and regulations, and conducting hearings on wetlands permits. Further, these rules provide the procedures for contesting proposed rules, and requests for the Commission to reconsider its decisions on the adoption of rules, regulations, public notices, and decisions of the Commission on the issuance, denial, or revocation of coastal wetlands permits.

102 Written Comments

102.01 The MDMR will notify the public of proposed rulemaking by publication in a newspaper having general circulation in the county or counties potentially affected by the rule and on the MDMR website at www.dmr.state.ms.us. The

MDMR will also maintain a rule making docket of the public notices, hearings, economic impact statements, rule adoptions and other rule making activities of the Commission, including an index and full text of all current rules in effect, on the MDMR website. In addition, the public may obtain a copy of the any current rule or index by visiting the offices of the MDMR at 1141 Bayview Ave., Suite 101, Biloxi, Mississippi, during normal office hours.

102.02 Written comments on proposed rules, regulations and coastal wetland project permits are encouraged and they may be submitted to the Executive Director of the MDMR or to the individual designated in the Notice as the person to contact. If public hearings are conducted for a proposed wetland project, written comments may be submitted no later than ten (10) working days prior to the Commission meeting, at the public hearing, or at such other time as set in the notice of the hearing. The public will be provided at least twenty-five (25) days to respond after the filing of the proposed rule with the Secretary of State (except as provided in Miss. Code § 25-43-3.108 for emergency rule making in cases of imminent peril to the public). Written comments presented at public hearings will be included as a part of the record of the public hearing.

103 Public Hearings

For the purpose of these rules, "public hearing" means a hearing that is conducted by the MDMR prior to the adoption of a rule, regulation or coastal wetlands permit action and it does not refer to a regularly scheduled Commission meeting. Public hearings shall be conducted only when required by statute or when the Commission or the MDMR determines that public hearings are warranted to provide additional public input prior to the adoption of a rule, regulation or action on a public notice.

104 Notice of Public Hearings

If the determination is made to hold public hearings, then notification to the public shall be published in a newspaper having general circulation in the county or counties affected by the proposed rules, regulations or public notices. The Commission or the Executive Director of the MDMR may order such additional publication as deemed necessary and appropriate. The notice should include the reason or purpose of the hearing, references to the rules and regulations or wetlands project involved and the date, time, and place of the hearing and the deadline for submitting written comments. The notice should be published at least (1) three (3) days prior to the date of the hearing for wetlands projects and at least twenty days prior to the date of the hearing for rule making. Additional notification will be provided to individuals that have personally requested notification pursuant to Miss. Code Ann. § 25-43-3.103.

105 Conduct of Public Hearings

105.01 Public hearings will be conducted at times, locations and facilities selected by the MDMR. Representatives or employees of the MDMR will preside over the public hearing. Prior to the commencement of the hearing, individuals in attendance will sign in on forms or registers provided by the MDMR. At that time, they will indicate whether they wish to make oral comments at the public hearing. Those individuals who indicate that they wish to make oral comments will be called on to do so before the end of the public hearing. Any individual called on to make oral comments may waive his election to do so. Individuals not indicating their election to speak at the time that they sign in at the hearing will not be called on to make oral comments. Individuals called upon to make their oral comments will not be allowed to "pass" their remarks until later in the hearing and will not be allowed to allot any unused time to another individual.

105.02 Comments during the hearing must address the subject of the hearing. Comments on matters other than the subject of the hearing will not be allowed and will not be part of the consideration of the Commission on the proposed rule, regulation or coastal wetlands project. The representative or employee of the MDMR who is selected to preside over the public hearing will announce before the commencement of oral comments the length of time each individual will be allowed to make comments. The time limit will be set after considering the number of individuals requesting time for oral comments and the total time available to conduct the entire public hearing.

105.03 The presiding representative or employee will make any additional orders, decisions and rulings which in his judgment are necessary for the orderly, fair, and efficient conduct of the public hearing.

105.04 Presentations on proposed rules, regulations and coastal wetlands projects may be allowed at the discretion of the Executive Director of the MDMR or the presiding representative or employee. Applicants for coastal wetlands permits should be prepared to make a presentation on the project at their designated public hearing so as to inform the general public about the proposed project.

106 Contesting Proposed Rules

Persons desiring to contest the making of any rule, regulation or coastal wetlands project permit, may do so by attending the public meetings on the proposed rule, regulation or coastal wetlands project permit, and stating there the basis of their objection. Alternatively, persons opposed to proposed rules, regulations, or coastal wetlands project permit may object thereto by filing a written objection to the rules, regulations, or coastal wetlands project permit with the Commission by mailing the objection to the Executive Director of the MDMR at 1141 Bayview Ave., Suite 101, Biloxi, MS 39530 or emailing the objection to the "MDMR Directorate" at www.dmr.state.ms.us no later than the time allowed for written comments. Only persons complying with one of the two methods of objecting to proposed rules, regulations or coastal wetlands permit application will be

allowed to petition the Commission for reconsideration of the rule, regulation, permit decision or public notice.

107 Petition for Reconsideration before the Commission

107.01 After the Commission has acted upon a rule, regulation or coastal wetlands permit application, any party (parties) opposed to the rule, regulation or coastal wetlands project permit that complies with Section 106 above, may request reconsideration of the Commission's decision by filing a Petition for Reconsideration. The Petition for Reconsideration must be filed within fourteen (14) days of the final adoption of the rule, regulation, permit decision or public notice. The "final adoption" date, for purposes of reconsideration is the day that the Commission takes action and votes on the rule, regulation, permit decision or public notice, and not the day that its minutes are approved.

107.02 Petitions for Reconsideration of the issuance, denial or revocation of coastal wetlands permits may be made by any party authorized by Miss. Code Ann. § 49-27-39 to take an appeal to chancery court, and if made, the petition must be in accordance with the other terms of this ordinance. When a Petition for Reconsideration is filed by an objector to the issuance of a wetlands permit, the applicant may be required to defend the decision of the Commission.

107.03 The Petition shall state specifically the points of law or facts which the party requesting the reconsideration believes the Commission overlooked or misapprehended, and shall contain a statement of the action which the party wishes the Commission to take. The Petition shall contain such argument in support of the Petition as the requesting party wishes to present, but in no event shall the Petition exceed fifteen (15) pages in length (exclusive of exhibits). The Petition must be typed and double-spaced. The original and twelve (12) copies of the Petition for Reconsideration must be filed with the Commission through the MDMR. Filing may be accomplished by mail, but filing shall be considered timely only if the Petition is received within the time period described above.

107.04 The Commission will consider the Petition for Reconsideration at its next regular meeting which occurs more than ten (10) days following the Petition's filing. The Commission may (1) make a final disposition of the Petition by either granting or denying the requested action without further argument; (2) request a response from the MDMR prior to making a final disposition; (3) set the matter for an evidentiary hearing; or (4) make such further order as it deems appropriate under the circumstances. Once a Petition for Reconsideration has been considered and ruled on by the Commission, no further requests for reconsideration will be allowed.

Chapter 04 Procedures for Conducting Evidentiary

100 Requesting an Evidentiary Hearing

100.01 The following procedures shall govern formal hearings and requests for reconsideration when such are granted by the Commission. Any request for hearing must be made within fourteen (14) days after the date the Commission takes action upon permit issuance, denial, modification or revocation, as shown on the Minutes of the Commission on Marine Resources; and may be requested by any interested party aggrieved by such action. For the purposes of this ordinance, an "interested party" in a request for reconsideration of a matter involving a coastal wetlands permit is defined as persons and organizations that have complied with the provisions of Mississippi Code Section 49-27-39. Persons, firms or organizations requesting reconsideration of decisions on wetlands permitting issues will follow the provisions of this ordinance in addition to those located in Chapter VIII Section 2, Part I.F. of the Mississippi Coastal Program.

100.02 Any person, firm or corporation that has a license or permit suspended or revoked may request an evidentiary hearing.

100.03 The Commission may order and require an evidentiary hearing on any matter within its jurisdiction.

101 Setting the Hearing

101.01 The Commission shall fix the time and place of such hearing and shall notify all parties thereto by certified mail. Individuals coming before the Commission may appear personally, by counsel, or both, produce witnesses and cross-examine witnesses.

101.02 The Commission shall delegate one of it members to act as the presiding officer or obtain the services of counsel from the Attorney General's Office to act as the presiding officer for the Commission.

102 Witnesses

The Commission is not authorized to issue subpoenas. Parties to an evidentiary hearing are responsible for assuring the attendance of their witnesses.

103 Pre-filing Testimony and Documents

103.01 Direct testimony of each witness to be relied upon during the hearing shall be pre-filed with the Commission and copies of the same shall be mailed to all parties seven (7) days prior to the hearing, except that in the discretion of the Commission this requirement may be modified or waived. Parties which call

"adverse" witnesses shall not be required to submit pre-filed testimony as contemplated in this paragraph. At least seven (7) days prior to the hearing, all parties involved shall exchange copies of all exhibits that will be introduced during the hearing indicating the party offering and the witness who will sponsor each. The presiding officer may permit an exception to these requirements when witnesses or exhibits are necessary for rebuttal or impeachment. Failure to submit the above referenced exhibits and the pre-filed testimony in a timely fashion shall be grounds for exclusion of testimony of witnesses and exhibits from the hearing. Also, the presiding officer, in his discretion, may call a pre-hearing conference prior to any hearing to establish hearing guidelines and clarify issues.

103.02 Should the Commission waive the above mentioned requirement for pre-filed testimony, then at least seven (7) days before the hearing, all parties involved shall exchange a list of all witnesses each will call during the hearing, a brief statement of the testimony expected from each witness, and copies of all exhibits as set forth in 22 MISS ADMIN CODE 15.03.103.01 above.

104 Order of Proof

104.01 Statements or testimony shall be offered under oath and shall be recorded. The presiding officer shall open the hearing by identifying each of the parties thereto, describing the permit or matter that is the subject of the hearing, and, if appropriate, the prior action taken thereupon by the Commission. The presiding officer shall then inquire whether the parties wish to exclude witnesses that have not testified from the hearing. If witnesses that have not testified are excluded, no witnesses found improperly present in the hearing room during the proceeding may testify.

104.02 The order of proof shall be such that the staff of the MDMR shall present a brief analysis and recommendation with regard to the permit in question, which shall be followed by presentation of proof by the non-objecting party, if any, and subsequently by presentation of proof by the objecting party and/or the staff of the MDMR.

104.03 Each party shall be permitted to make a brief opening statement with regard to its position. Each witness shall testify through direct testimony which shall be pre-filed with the Commission pursuant to requirements set forth in 22 MISS ADMIN CODE 15.03.103.01 above. The presiding officer shall permit cross-examination, redirect examination limited to matters raised on cross-examination and may permit recross-examination limited to matters raised during redirect examination. Any Commissioner may, at any time, question a witness.

104.04 The strict rules of evidence shall not apply; however, all objections must be made in a timely fashion. The presiding officer may limit or exclude testimony which is redundant or not relevant to the issues before the Commission.

104.05 At the conclusion of the testimony and introduction of documents, each party will be permitted to make a brief closing statement summarizing the evidence offered by said parties in support of their respective positions, at which time the hearing record shall be closed.

105 Rules of Evidence

The Commission shall not be bound by the strict rules of evidence, but shall base all its determinations on sufficient evidence.

106 Deliberations by the Commission

106.01 The Commission may issue its ruling immediately at the conclusion of the presentation of evidence or may take the same under advisement until a subsequent meeting of the Commission.

106.02 Upon an affirmative vote of three-fifths of the members present, the Commission may go into executive session to deliberate. The Commission shall enter in its Minutes the Commission's final decision affirming, modifying or reversing its prior decision to deny, modify or revoke the permit or license. Said decision shall be final and conclusive. An appeal may be taken to the appropriate court within thirty (30) days of the date of notification of the Commission's decision. The parties shall be notified in writing of the Commission's decision. Mailing notification of the Commission's decision, postage pre-paid, to the parties shall constitute sufficient notice.

107 Transcript

The Commission, in its discretion, may not require a transcription of the hearing record, except in the event of an appeal, wherein said record shall be transcribed as provided by law.

108 Appeals

In the event of an appeal, the party prevailing before the Commission may be required by the Commission to defend the decision in court. Failure of the prevailing party to assist in the defense may result in the confession of the cause of action by the Commission. The prevailing party will be responsible for all costs of the defense.

Chapter 05 Declaratory Opinions

100 Scope

This chapter set forth the Commission's rules governing the form and content of requests for declaratory opinions, and the Commission's procedures regarding the requests, as required by Section 25-43-2.103 of the Mississippi Code. A declaratory opinion is a written statement by the Commission, pronouncing the applicability of a statute, rule or order within the primary jurisdiction of the Commission to specific circumstances. This chapter is intended to supplement and to be read in conjunction with the provisions of the Mississippi Administrative Procedures Law, Miss. Code Ann. §§ 25-43-1.101 et seq., which may contain additional information regarding the issuance of declaratory opinions. In the event of any conflict between these rules and the Mississippi Administrative Procedures Law, the latter shall govern.

101 Persons Who May Request Declaratory Opinions

Any person with a substantial interest in the subject matter may request a declaratory opinion from the Commission by following the specified procedures. "Substantial interest in the subject matter" means: an individual, business, group or other entity that is directly affected by the Commission's administration of the laws within its primary jurisdiction. "Primary jurisdiction of the agency" means the agency has a constitutional or statutory grant of authority in the subject matter at issue.

102 Subjects Which May Be Addressed In Declaratory Opinions

The Commission will issue declaratory opinions regarding the applicability to specified facts of:

102.01 A statute administered or enforceable by the Commission; or

102.02 A rule promulgated by the Commission.

102.03 The Commission will not issue a declaratory opinion regarding a statute or rule which is outside the primary jurisdiction of the agency.

103 Circumstances in which Declaratory Opinions Will Not Be Issued

The Commission 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:

103.01 The question presented lacks clarity;

103.02 Litigation is pending or anticipated, administrative action or other adjudication which may either answer the question presented by the request or otherwise makes an answer unnecessary;

103.03 The statute or rule on which a declaratory opinion is sought is clear and not in need of interpretation to answer the question presented by the request;

103.04 The facts presented in the request are not sufficient to answer the question presented;

103.05 The request fails to contain information required by these rules or the requestor failed to follow the procedure set forth in these rules;

103.06 The request seeks to resolve issues which have become moot, or are abstract or hypothetical such that the requestor is not substantially affected by the statute or rule on which a declaratory opinion is sought;

103.07 No controversy exists concerning the issue as the requestor is not faced with existing facts or those certain to arise which raise a question concerning the application of the statute or rule;

103.08 The question presented by the request concerns the legal validity of a statute or rule;

103.09 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;

103.10 No clear answer is determinable;

103.11 The question presented by the request involves the application of a criminal statute or a set of facts which may constitute a crime;

103.12 The answer to the question presented would require the disclosure of information which is privileged or otherwise protected by law from disclosure;

103.13 The question is currently the subject of an Attorney General's opinion request or has been answered by an Attorney General's opinion;

103.14 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 a opinion would constitute the unauthorized practice of law.

103.15 The issuance of a declaratory opinion may adversely affect the interests of the State, the Commission or any of their officers or employees in any litigation which is pending or may reasonably be expected to arise;

103.16 The question involves eligibility for a license, permit, certificate or other approval by the Commission or some other agency, and there is a statutory or regulatory application process by which eligibility for said license, permit, certificate or other approval would be determined.

104 Written Request Required

Each request must be printed or typewritten, or must be in legible handwriting. Each request must be submitted on standard business letter-size paper (8-1/2 inches by 11 inches). Requests may be in the form of a letter addressed to the Executive Director of the MDMR.

105 Where to Send Requests

All requests must be mailed, delivered or transmitted via facsimile to the Executive Director of the MDMR, 1141 Bayview Ave., Suite 101, Biloxi, MS 39530 or emailing the request to the "MDMR Directorate" at: www.dmr.state.ms.us. The request must clearly state that it is a request for a declaratory opinion. No oral or telephone requests will be accepted for official declaratory opinions.

106 Name, Address and Signature of Requestor

Each request must include the full name, telephone number, and mailing address of the requestor. All requests shall be signed by the person filing the request, who 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 and that there are no related proceedings pending before any other administrative or judicial tribunal.

107 Question Presented

Each request shall contain the following:

107.01 A clear and concise statement of all facts on which the opinion is requested;
107.02 A citation to the statute or rule at issue;

107.03 The question(s) sought to be answered in the opinion, stated clearly;

107.04 A suggested proposed opinion from the requestor, stating the answers desired by petitioner and a summary of the reasons in support of those answers;

107.05 The identity of all other known persons involved in or impacted by the described factual situation, including their relationship to the facts, name, mailing address and telephone number; and

107.06 A statement to show that the person seeking the opinion has a substantial interest in the subject matter.

108 Time for Commission's Response

Within forty-five (45) days after the receipt of a request for a declaratory opinion which complies with the requirements of these rules, the Commission shall, in writing:

108.01 Issue a declaratory opinion regarding the specified statute or rule as applied to the specified circumstances;

108.02 Decline to issue a declaratory opinion, stating the reasons for its action; or

108.03 Agree to issue a declaratory opinion by a specified time but not later than ninety (90) days after receipt of the written request.

108.04 The forty-five (45) day period shall begin running on the first State of Mississippi business day on or after the request is received by the MDMR, whichever is sooner.

109 Opinion Not Final for Sixty Days

A declaratory opinion shall not become final until the expiration of sixty (60) days after the issuance of the opinion. Prior to the expiration of sixty (60) days, the Commission may, in its discretion, withdraw or amend the declaratory opinion for any reason which is not arbitrary or capricious. Reasons for withdrawing or amending an opinion include, but are not limited to, a determination that the request failed to meet the requirements of these rules or that the opinion issued contains a legal or factual error.

110 Notice by Commission to Third Parties

The Commission may give notice to any person, agency or entity that a declaratory opinion has been requested and may receive and consider data, facts, arguments and opinions from other persons, agencies or other entities other than the requestor.

111 Public Availability of Requests and Declaratory Opinions

Declaratory opinions and requests for declaratory opinions shall be available for public inspection and copying in accordance with the Public Records Act and the Commission's public records request procedure. All declaratory opinions and requests shall be indexed by name and subject. 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.

112 Effect of a Declaratory Opinion

The Commission will not pursue any civil, criminal or administrative action against a person who is issued a declaratory opinion from the Commission and who, in good faith, follows the direction of the opinion and acts in accordance therewith unless a court of competent jurisdiction holds that the opinion is manifestly wrong. Any declaratory opinion rendered by the Commission shall be binding only on the Commission on Marine Resources and the person to whom the opinion is issued on the specific issue addressed in that opinion. No declaratory opinion will be used as precedent for any other transaction or occurrence beyond that set forth by the requesting person.

Chapter 06 Chapters and Subchapters Declared Separable

106 Each chapter and subchapter of this Part is hereby declared separable, and if any chapter or subchapter or part thereof shall be held invalid or unconstitutional, the balance of said Title 22 Part 15 shall remain in full force and effect.

101 Violations of more than one chapter or subchapter of this Part or part thereof shall be considered separate offenses and punished as such.

Chapter 07 Administrative Procedures Act

Pursuant to the amendments to the Administrative Procedures Act, Section 25-43-101.1 et seq., of the Mississippi Code of 1972, the rules and regulations promulgated pursuant thereto by the Secretary of State; the former Ordinance 15.002 has been modified and the Commission and MDMR have adopted the terminology and numbering system developed by the Secretary of State. Therefore, references to "ordinance" or to "part" appearing in these regulations or the underlying statutes are used interchangeably and refer to the same instrument.

TITLE 22 MISSISSIPPI DEPARTMENT OF MARINE RESOURCES
PART 15 – ADMINISTRATIVE RULES AS REQUIRED BY MISSISSIPPI ADMINISTRATIVE PROCEDURES LAW, shall be in effect and be in force from and after the 15th day of December 2005.

Adopted this the 15th day of November 2005.

MISSISSIPPI COMMISSION ON MARINE RESOURCES

By: _____
Vernon Asper, Chairman

MISSISSIPPI DEPARTMENT OF MARINE RESOURCES

By: _____ for
William W. Walker, Executive Director

TITLE 22 – MISSISSIPPI DEPARTMENT OF MARINE RESOURCES

PART 16 RULES AND REGULATIONS FOR BOAT AND WATER SAFETY ON MARINE WATERS OF THE STATE OF MISSISSIPPI

Chapter 01 Introduction

Purpose

100 This part establishes rules and regulations for boat and water safety on the marine waters of the State of Mississippi.

Chapter 02 Justification and Authority

100 The Mississippi Commission on Marine Resources (MCMR) has determined boat and water safety regulations are necessary for the safe use and well being of marine waters under the territorial jurisdiction of the State of Mississippi.

101 The MCMR has determined that such regulations are in the best interest of the State of Mississippi and the people of Mississippi and the marine habitats in the waters under the territorial jurisdiction of the MCMR.

102 The MCMR, pursuant to the authority set forth in § 59-21-121, Mississippi Code Ann. 1972, as amended, has been given the power to regulate regattas, boat races, fireworks exhibitions, etc., which are conducted in the marine waters under the territorial jurisdiction of the State of Mississippi.

103 The MCMR is authorized by § 59-21-117 of the Mississippi Code of 1972, as amended, to enact all regulations necessary for the safe use and operation of vessels in the marine waters in the territorial jurisdiction of the State of Mississippi.

Chapter 03 Definitions

100 **VESSEL** shall mean every description of watercraft, other than seaplane on the water, used or capable of being used as a means of transportation on the water.

101 **MOTORBOAT** shall mean any undocumented vessel propelled by machinery, whether or not such machinery is the principal source of propulsion.

102 **OWNER** shall mean the person who claims lawful possession of a vessel by virtue of legal title or equitable interest therein which entitles him to such possession.

103 **OPERATOR** shall mean the person who operates or has charge of the navigation or use of a motorboat or vessel.

104 **PERSONAL FLOATATION DEVICE** shall mean a wearable flotation device classified and approved by the United States Coast Guard which is in such a condition that it is fit for its intended purpose, bears a legibly marked United States Coast Guard approval number, and is of an appropriate size for the person who intends to use it.

105 **PERSONAL WATERCRAFT** shall mean a vessel which uses an inboard motor powering a water jet pump as its primary source of motive power and which is designed to be operated by a person sitting, standing, or kneeling on, or being towed behind the vessel rather than in the conventional manner of sitting or standing inside the vessel.

106 **ENFORCING AUTHORITY** shall mean Marine Patrol Officers of the Mississippi Department of Marine Resources (MDMR) or any other duly deputized law enforcement officer of the State of Mississippi.

107 **VENDOR** shall mean an individual or company in the business of renting vessels or personal watercraft to the general public for their use.

108 **NO WAKE ZONE** shall mean an area of navigable marine water in which vessels are not allowed to create a potentially damaging wake or to operate the vessel above idle speed.

109 **MARINE SAFETY ZONE** shall mean an area of marine waters where special marine safety rules are instituted by the Executive Director of the MDMR.

Chapter 04 Scope

100 The regulations of Title 22 Part 16 govern the use of all vessels on all marine waters of the State of Mississippi.

Chapter 05 Restrictions

100 A person may not operate or give permission to operate any vessel on the marine waters of the State of Mississippi under the jurisdiction of the MCMR unless each person onboard a personal watercraft and each person twelve (12) years and younger onboard other vessels less than 26 feet in length is wearing a Type I, Type II, or Type III, personal flotation device approved by the United States Coast Guard.

101 A person may not operate or give permission to operate on the marine waters of the State of Mississippi a personal watercraft or any other similar vessel unless it is equipped with a self circling device, or a lanyard type engine cutoff switch that is attached to the operator.

102 A vessel or personal watercraft livery (vendor) owner, or the livery owner's agent or employee shall prominently display these regulations governing personal watercraft:

102.01 Advise renters to read the regulations.

102.02 Within 30 days of the effective date of these regulations, add to the rental contract a statement that the renter or operator has read and understands the personal watercraft regulations. This statement shall be signed by the renter or operator and the livery (vendor) owner, retained in the files of the livery operator for at least 30 days, and be made available to the MDMR upon request.

Chapter 06 Reckless and Negligent Operation

100 On the marine waters of the State of Mississippi, a person may not operate a vessel in a reckless or negligent manner. Reckless or negligent operation of a vessel which endangers lives and/or property is prohibited. Reckless and negligent operation of a vessel shall include, but is not limited to the following examples:

100.01 Operating at an excessive speed within one hundred (100) feet of another occupied vessel except in a crossing or overtaking situation as described in the Federal Rules of the Road.

100.02 Jumping, or attempting to jump the wake of another vessel, within one hundred (100) feet of the vessel.

100.03 Following within one hundred (100) feet of a water skier.

100.04 Weaving through congested vessel traffic.

100.05 Speeding in restricted or no wake areas.

100.06 Operating a vessel or personal watercraft in a manner that endangers the life, limb, or property of any person, including the operator.

100.07 Bow riding, or allowing a person to ride any place on the vessel where there is a potential risk of injury. This includes, but is not limited to, riding on exposed bow decks, riding on swim platforms, riding on gunwhales, or riding any place on the vessel which was not designed as a normal passenger seat.

100.08 Operating the vessel with operator visibility obscured due to passenger positioning.

Chapter 07 Designated No Wake Zones

100 General No Wake Zones

100.01 Within and one hundred (100) feet adjacent to any public harbor and/or public marina.

100.02 Within one hundred (100) feet of any public boat launching ramp facility.

Chapter 08 Specific No Wake Zones

100 No wake zones will be instituted in specific instances as the need arises and according to a defined procedure. In cases where citizens feel that a no wake zone is needed, they shall petition their County Board of Supervisors for its establishment, providing reasonable justification and evidence for the need. The Board of Supervisors may evaluate the request, and if found to be warranted, deliver it to the MDMR for consideration. The MDMR staff will investigate the request in light of the specific site and other factors which may come into play. If the need for a no wake zone is substantiated by this investigation, the results and staff recommendation will be presented to the MCMR for their evaluation and potential implementation.

101 This same procedure may be used by any citizen to request the removal or modification of an existing no wake zone.

Chapter 09 Establishment of Temporary Specific No Wake Zones; Emergency Rule

100 The Executive Director of the MDMR shall have the authority to establish temporary specific no wake zones upon the agency finding that an imminent peril to public health, safety or welfare exists. In no event shall the established emergency temporary specific no wake zone exceed the time as specified in § 25-43-3.108 of the Mississippi Code Ann. of 1972, as amended. The Executive Director shall immediately rescind any emergency temporary specific no wake zone whenever the imminent peril to public health, safety or welfare no longer exists.

Chapter 10 Establishment of Designated Marine Safety Zones

100 The Executive Director of the MDMR shall have the authority to establish Designated Marine Safety Zones on the waters under the jurisdiction of the MCMR. These zones may be established for, but are not limited to the following purposes:

100.01 Construction projects on or adjacent to marine waters, whose work activity has the potential for adversely affecting the safety or normal flow of marine traffic in the area, or where normal marine traffic flow would jeopardize the safety of the construction workers. This shall include speed or no-wake zones that may be established for the duration of the construction project up to a maximum of three years.

100.02 Traffic and spectator control for marine events such as fireworks displays, boat races, or other like activities held on the marine waters.

Chapter 11 Permits for Events on Marine Waters

100 A permit shall be required by any person, organization or group sponsoring a regatta, motor boat or other race, marine parade, exhibition, etc.

101 Applications for such race or events shall be on a form prescribed by the MDMR and must contain the following information:

101.01 Name, address and phone number of applicant
101.02 Date and time of event
101.03 Location and area impacted by event
101.04 Type of event
101.05 Support services requested

102 Applicant must submit a copy of any entry requirements as well as any special rules pertaining to equipment, rigs or procedures.

103 Applicant shall attach a section of a chart or a scale drawing showing the boundaries and/or course and markers contemplated.

104 Applicant shall be responsible for providing adequate protection from marine traffic interference and hazards.

105 Applications must be received by the MDMR no less than thirty (30) days prior to the date of the event.

106 The Executive Director of the MDMR is hereby granted the authority to issue permits for marine events.

Chapter 12 Penalties

100 Any person, firm or corporation violating any of the provisions of Part 16 shall be, in addition to civil liability provided for in Miss. Code Ann. § 49-27-55, as amended, guilty of a misdemeanor, and on conviction, shall be penalized in accordance with Miss. Code Ann. § 59-21-157 and § 59-21-153, as amended. Violations of more than one chapter or subchapters of this Part, or part thereof, shall be considered separate offenses and punished as such. In the case of continuing violations, each day shall constitute a separate offense.

Chapter 13 Chapters and Subchapters Declared Separable

100 Each chapter and subchapter of this Part is hereby declared separable, and if any chapter or subchapter or part thereof shall be held invalid or unconstitutional, the balance of said Title 22 Part 16 shall remain in full force and effect.

101 Violations of more than one chapter or subchapter of this Part or part thereof shall be considered separate and punished as such.

Chapter 14 Administrative Procedures Act

100 Pursuant to the amendments to the Administrative Procedures Act, § 25-43-1.101, *et seq.*, of the Mississippi Code Ann. of 1972, as amended, and the rules and regulations promulgated pursuant thereto by the Secretary of State; the former Ordinance 16.003 has been modified and the MCMR and MDMR have adopted the terminology and numbering system developed by the Secretary of State. Therefore, references to "ordinance" or to "Part" appearing in these regulations or the underlying statutes are used interchangeably and refer to the same instrument.

TITLE 22 MISSISSIPPI DEPARTMENT OF MARINE RESOURCES
PART 16 RULES AND REGULATIONS FOR BOAT AND WATER SAFETY ON MARINE WATERS OF THE STATE OF MISSISSIPPI, shall be in effect and be in force from and after the 16th of April, 2010.

Adopted this the 16th day of March 2010

MISSISSIPPI COMMISSION ON MARINE RESOURCES

By: _____
Vernon Asper, Ph.D., Chairman

MISSISSIPPI DEPARTMENT OF MARINE RESOURCES

By: _____
William W. Walker, Ph.D., Executive Director

TITLE 22 – MISSISSIPPI DEPARTMENT OF MARINE RESOURCES

PART 17 REGULATION OF SHELLFISH LANDING, UNLOADING, TRANSPORTING, PROCESSING, BUYING, SELLING, OPENING, AND OTHER SHELLFISH RELATED ACTIVITIES IN THE STATE OF MISSISSIPPI

Chapter 01 Introduction

Purpose

100 This Part establishes the minimum requirements necessary to regulate the intrastate and interstate commerce of molluscan shellfish and to establish a program to protect the public health of consumers by assuring the sale or distribution of shellfish from safe sources and assuring shellfish have not been adulterated during landing, unloading, transporting, processing, buying, selling, opening and other shellfish related activities in the state.

Chapter 02 Justification and Authority

100 The Mississippi Commission on Marine Resources (herein after referred to as the "Commission") has determined that it is in the best interest of the State of Mississippi and necessary for the protection, conservation, and propagation of all shellfish in the waters under the territorial jurisdiction of the State of Mississippi to regulate the landing, unloading, transporting, processing, buying, selling, opening, and other shellfish related activities in the state.

101 The Commission is required by Miss. Code Ann. § 49-15-15 (1) (c) to regulate all seafood sanitation and processing programs.

102 The Commission is required by Miss. Code Ann. § 49-15-44 to prohibit the sale or possession of illegal oysters as defined in Miss. Code Ann. § 49-15-3 (e).

103 Miss. Code Ann. § 49-15-28, addresses seafood wholesale licensing.

104 Miss. Code Ann. § 49-15-29, authorizes the Commission to assess and collect certain taxes and license fees.

105 Miss. Code Ann. § 49-15-30, authorizes the Commission to promulgate regulations for nonresident certificates.

106 Miss. Code Ann. § 49-15-42, addresses tagging, landing and unloading of oysters.

107 Miss. Code Ann. § 49-15-43, addresses the packaging of oysters.

108 Miss. Code Ann. § 49-15-45, provides that certain municipalities may enforce oyster regulations.

109 Miss. Code Ann. § 49-15-46 (3), requires all oysters harvested in Mississippi shall be tagged.

110 Miss. Code Ann. § 49-15-63, addresses general penalties for violation of these regulations.

Chapter 03 Definitions

100 **ADULTERATED** – Shellfish shall be deemed to be adulterated if any foreign substance has been added to the shellfish, or has been mixed or packed therewith so as to increase its bulk or weight, or reduce its quality, or make it appear better or of greater value than it is.

101 **CERTIFIED INTERSTATE SHELLFISH SHIPPER** – An individual, firm or corporation who has been issued a numbered license and certification by the Commission or the Mississippi Department of Marine Resources (DMR), its Executive Director, Director of Marine Fisheries, Seafood Technology Bureau Director or other DMR designee for shellfish handling and processing, or a non-resident individual, firm or corporation who has been issued a numbered license and certification by the non-resident's appropriate State Shellfish Control Authority indicating that the individual, firm or corporation operates in compliance with the sanitation and program regulations of the National Shellfish Sanitation Program, and is therefore eligible to participate in the interstate shipment of shellfish.

102 **CERTIFIED SHELLFISH PLANT** – A certified shellfish plant is defined as a shellfish plant which complies with the provisions of this Part and which possesses a valid shellfish processing plant license and certification from the Commission or the DMR, its Executive Director, Director of Marine Fisheries, Seafood Technology Bureau Director or other DMR designee for shellfish handling and processing. A certified shellfish plant is recognized as a Certified Interstate/Intrastate Shellfish Shipper. A certified shellfish plant is designated as either a: Shellstock Shipper (SS), Shucker-Packer (SP), Repacker, (RP) or Reshipper (RS).

103 **ILLEGAL MOLLUSCAN SHELLFISH** – All molluscan shellstock, molluscan shellfish, obtained from uncertified shops or dealers or from an unlicensed harvester, molluscan shellstock obtained from waters not declared safe and sanitary by the DMR and offered for sale or sold, and shucked molluscan shellfish obtained from uncertified shops or dealers (Miss Code Ann. §49-15-3(e)).

104 **INTERSTATE COMMERCE** – The movement of a shipment or service across state or international borders; or the intent to continue a movement within a state that originated from another state or country.

105 **INTRASTATE COMMERCE** – The movement that originates in a single state, moves in that state only and delivers in that originating state.

106 **LANDED** – The point at which shellfish first are brought to a point of land after being harvested and are no longer transported by boat or vessel.

107 **MISBRANDED** – Shucked shellfish shall be deemed to be misbranded if its labeling is false or misleading in any way, or if it does not bear a label in accordance to Chapter 11 (Labeling and Tagging of Shellfish) of this Part.

108 **REPACKER (RP)** – A person other than the original certified shucker-packer who repacks shucked shellfish into other containers. A repacker may also repack and ship shellstock. A repacker shall not shuck shellfish.

109 **RESHIPPER (RS)** – A person who purchases shucked shellfish or shellstock from other certified shippers and sells the product without repacking or relabeling to other certified shippers, wholesalers, or retailers.

110 **SHALL** – Is used to state mandatory requirements.

111 **SHELLFISH** – All edible molluscan shellfish species of oysters, clams, mussels, or scallops; either shucked or in the shell; fresh or frozen; whole or in part.

112 **SHELLSTOCK** – Shellfish in the shell.

113 **SHELLSTOCK SHIPPER (SS)** – A person who grows, harvests, buys, or repacks and sells shellstock. They are not authorized to shuck shellfish or to repack shucked shellfish. A shellstock shipper may also ship shucked shellfish

114 **SHOULD** – Is used to state recommended or advisory procedures or to identify recommended equipment.

115 **SHUCKER-PACKER (SP)** – A person who shucks and packs shellfish. A shucker-packer may act as a shellstock shipper or reshipper or may repack shellfish originating from other certified dealers.

Chapter 04 Requirements for Non-Residents

100 As provided for in Miss. Code Ann. § 49-15-30, it shall be unlawful for any nonresidents buying, selling, transporting, or handling shellfish in the State of Mississippi to fail to:

100.01 Purchase or pay all fees and licenses required of a Mississippi resident engaged in a similar or like activity in said nonresident's state.

100.02 Purchase or pay all additional fees and licenses required of a Mississippi resident engaged in a similar or like activity in Mississippi.

Chapter 05 Transfer of Tagged Shellfish

100 When molluscan shellfish are transferred from a licensed harvester to a certified dealer or from a certified dealer's mobile unit to another certified dealer's mobile unit, the transfer of tagged shellfish shall take place across transfer facilities or locations that are periodically monitored by DMR for sanitary conditions or at a certified dealer's facility that is inspected by the DMR. There shall be no such transfers at any other locations except for emergency conditions as declared by the certified dealer and approved by the DMR. It shall be unlawful to fail to comply with the terms of this section.

Chapter 06 Molluscan Shellfish Handling and/or Processing Facilities

100 Any person, firm, corporation or business desiring to alter an existing or construct a new molluscan shellfish handling/transporting/processing facility shall acquire a Mississippi Certified Shellfish Sanitation or Processing Plant license and certification from the DMR to operate any such facility, should contact the DMR staff in charge of the regulatory molluscan shellfish handling and processing responsibilities. The DMR staff shall be contacted prior to handling or processing any molluscan shellfish in any fashion in any altered or new molluscan shellfish handling/ transporting/processing facility. It shall be unlawful to fail to comply with the terms of this section.

101 The DMR shall manage the State of Mississippi's molluscan shellfish sanitation program according to the relevant specifications stated in the current National Shellfish Sanitation Program (NSSP) Model Ordinance Guidelines/Interstate Shellfish Sanitation Conference (ISSC), and according to Commission Title and Parts that are not in conflict with these specifications and according to the applicable statutes of the State of Mississippi.

102 The DMR's management includes inspections of the certified facilities in accordance with relevant NSSP/ISSC sanitation/health safety specifications and issuance to certified dealers itemized statements of compliances and non-compliances with these specifications. For the cited excessive non-compliances, the DMR shall provide the processor a schedule of corrections to bring the facilities into compliance according to the current and applicable NSSP/ISSC specifications. Otherwise, certification shall not be issued or renewed, and will be considered revoked. It shall be unlawful to operate a processing or shipping facility without a current valid license and certification.

103 The implementation of the requirements by the DMR as specified herein are subject to the following:

103.01 No procedure or guideline of the NSSP/ISSC, which is or may be in conflict with any statute of the Legislature of the State of Mississippi has or should be in the future applied or enforced by the DMR.

103.02 No procedure or guideline of the NSSP/ISSC which may be more stringent than any relevant federal regulation or law has or should be applied by the DMR.

103.03 The DMR may, consistent with its existing practice, dispute any proposed or adopted procedure or guideline of the NSSP/ISSC, in accordance with the procedures laid down therefore by said Conference; when, in the opinion of the DMR, any such proposed guideline or regulation would appear to be unnecessary for the accomplishment of the goals of the NSSP/ISSC, or scientifically invalid, or unduly and unnecessarily burdensome upon the State of Mississippi's molluscan shellfish industry, or for any other reason deemed proper by the DMR.

Chapter 07 Legally Harvested and Properly Tagged

100 It shall be unlawful for any person, firm, or corporation to possess, land, handle, unload, open, sell or offer for sale or transport any shellfish taken from the waters under the territorial jurisdiction of the State of Mississippi except those shellfish taken legally and properly tagged from an area declared open to shellfish harvesting by public order of the Commission or as hereby authorized the DMR, its Executive Director, Director of Marine Fisheries, Seafood Technology Bureau Director or other DMR designee in accordance with the procedures outlined in the most current version of Title 22 Part I (Oyster Harvesting) and as provided for in Miss. Code Ann. § 49-15-42.

Chapter 08 Possession of Illegal Shellfish

100 It shall be unlawful for any person, firm or corporation to sell or possess any illegal shellfish as provided for in Miss. Code Ann. § 49-15-44.

Chapter 09 Processing Plant Requirements for License and Certification

100 As provided in Miss. Code Ann. § 49-15-15 (1)(c), in the three coastal counties, the shellfish sanitation program regulating processing plants and shellfish sold in retail stores operating in conjunction with a processing plant or seafood market that primarily deals with seafood is under the exclusive authority of the Commission.

101 It shall be unlawful for any person to engage in handling, shucking, packaging, repackaging, or shipping shellfish for sale, who does not possess a dealer's or processor's license and certification from the Commission or as hereby authorized by the DMR, its Executive

Director, Director of Marine Fisheries, Seafood Technology Bureau Director or other DMR designee in charge of molluscan shellfish handling and processing. The license and certification must be renewed annually. This does not apply to a restaurant or similar establishment, which may shuck and serve, under sanitary conditions, raw oysters at a half-shell bar for consumption on the premises.

102 Each certified molluscan shellfish seafood facility shall follow the provisions as described in the general requirements for dealers in the current NSSP Model Ordinance Guidelines.

103 A license and certification held by a person shall be suspended or revoked by the Commission when it has reason to believe that a public health hazard exists or whenever the holder has violated any of the requirements of this regulation or whenever the holder has interfered with a representative of the DMR in the performance of duties.

104 The DMR shall in all cases serve upon the holder a written notice of intent to suspend the license and certification. The notice shall specify the violations and afford the holder such reasonable opportunity to correct such violations as may be agreed to by the parties or in absence of agreement fixed by the Commission before making any order of suspension effective. A copy of the inspection sheet handed to the license and certification holder or his authorized representative, or in their absence, posted in a conspicuous place in the establishment, shall constitute a written notice to suspend the license and certification.

105 A suspension of license and certification shall remain in effect until the violation has been corrected to the satisfaction of the Commission. In a case where the shellfish and shellfish products involved create a health hazard or whenever adulterated or misbranded shellfish and/or shellfish products are found, or in any case of willful refusal to permit an inspection, the DMR, its Executive Director, Seafood Technology Bureau Director, or other DMR personnel designated by the DMR Executive Director, may issue a Cease and Desist order effective immediately to suspend all related shellfish activities. This order shall be in effect until such time as proper corrective actions have been taken and the order is officially lifted.

106 Upon request for reapplication, from any person whose license and certification has been suspended, the Commission or as hereby authorized DMR officers, the DMR shall make such inspection(s) and/or collect samples as deemed necessary to determine compliance with the requirement of this regulation. Upon repeated violations, the Commission may revoke a license and certification following reasonable notice to the license and certification holder and an opportunity for a hearing.

Chapter 10 Adulterated, Misbranded, or Unlabeled Shellfish and Shellfish Products Prohibited

100 It shall be unlawful for any person within the state of Mississippi, under the jurisdiction and authority of the Commission in accordance with Miss. Code Ann. 49-15-15 (c) to provide, purchase, sell, offer, possess, or expose for sale, or have in possession with intent to sell,

any raw shellfish and shellfish products which are adulterated, misbranded, mislabeled or unlabeled.

101 No person shall hold or pack shellfish under conditions whereby the shellfish may become adulterated.

102 Any adulterated, misbranded, mislabeled, or unlabeled shellfish or shellfish products under the jurisdiction and authority of the Commission in accordance with Miss. Code Ann. 49-15-15 (c), may be impounded by the direction of the Commission or as hereby authorized the DMR, its Executive Director, Director of Marine Fisheries, Seafood Technology Bureau Director or other DMR designee in charge of molluscan shellfish handling and processing, or Marine Patrol Officer.

103 Seizure and disposal of shellfish products shall be carried out by a Marine Patrol Officer as directed by the Commission, or as hereby authorized the DMR Executive Director, Director of Marine Fisheries, Seafood Technology Bureau Director or Certified Seafood Officer, in charge of molluscan shellfish handling and processing.

Chapter 11 Labeling and Tagging of Shellfish

100 All containers or packages enclosing fresh shucked or frozen raw shucked shellfish and shucked shellfish products shipped within, into or out of the State of Mississippi shall originate from a certified dealer and shall be conspicuously, indelibly, and legibly labeled with the following information:

100.01 Name of the product.
100.02 Name and address of the packer, repacker, or distributor.
100.03 Size of container.
100.04 Certification number.
100.05 Net drained weight when packed.
100.06 On packages containing sixty-four (64) fluid ounces or more shall have on the lid and sidewall or bottom the "DATE SHUCKED" indicated as the number of the day, month and year or the month, day and year.
100.07 On packages of less than sixty-four (64) fluid ounces of fresh product labeled with the wording "SELL BY' followed by a date expressed as a month, day and year, not to exceed seventeen (17) days from the date shucked.
100.08 Containers of frozen shucked shellfish shall show the date the product was shucked and the date frozen, labeled as "DATE SHUCKED" and "DATE FROZEN" followed by the date expressed as the month, day, and year. Shucked product previously frozen must be labeled with the wording "PREVIOUSLY FROZEN".

101 All shellfish shipped within, into or out of the State of Mississippi by a certified dealer shall be tagged with the following indelible, legible information:

101.01 Dealer's name
101.02 Dealer's address
101.03 Dealer certification number and original shellstock shipper's certification number
101.04 Date of harvest
101.05 Harvest area

102 When both the harvester and dealer tags appear on the container, the dealer's tag is not required to duplicate the information on the harvester's tag.

103 It shall be unlawful for any shellfish harvested from Mississippi waters or landed in the state and shipped into interstate commerce to originate from other than a Mississippi Certified Dealer.

104 If the shellfish is removed from the original container by the dealer, the tag on the new container shall meet the requirements in Chapter 11 of this Part.

105 All shellfish and shucked shellfish shipped by a certified dealer within, into or out of the State of Mississippi shall be accompanied by a bill of lading or bill of sale with the following information:

105.01 Shipper's name, address, and certification number.
105.02 Date of shipment.
105.03 Name and address of consignee.
105.04 Type and quantity of shellfish products.
105.05 Bulk tagging of shellstock is permitted when conducted in accordance with current NSSP guidelines as described in the most current version of the NSSP's Model Ordinance.

106 The Executive Director may establish additional labeling and tagging requirements as may be required or necessary.

Chapter 12 Purchase and Sales Records / Shellfish Tag Retention

100 Persons, firms or corporations handling, shucking, buying, selling, or shipping shellfish shall keep accurate records showing the names, addresses, and certification numbers of all persons from whom lots of shellfish are received, the source of each lot (growing area) and the names and addresses of persons to whom lots are sold or shipped and the dates of the aforementioned transactions. Shellfish tags are required to be attached to containers until containers are empty and thereafter kept on record for at least ninety (90) days. Persons, firms or corporations handling, shucking, buying, selling or shipping shellstock shall record

the tag number of each container of shellstock and to whom or from whom the shellstock were shipped, sold, bought or received. Such records shall be open to inspection at any time during operating hours, by any duly authorized representative of the DMR, including Officers of the Marine Patrol.

Chapter 13 Shipping and Transportation of Molluscan Shellfish

100 Licensed harvesters may transport their own daily harvested shellstock intrastate unrefrigerated for up to four (4) hours after the checkout time listed on their trip ticket.

101 Interstate shipping of shellfish shall only be through a certified seafood dealer or processor and no shellfish shall enter or exit the state of Mississippi un-refrigerated.

102 It shall be unlawful for shellstock to fail to be transported in refrigerated trucks when the shellstock have been previously refrigerated.

103 When mechanical refrigeration units are used, the units shall:

- 103.01 Be equipped with automatic controls; and
- 103.02 Maintain the ambient air temperature in the storage area at temperatures of 45°F (7.2°C) or less.

104 All ice used in the processing, storage, or transportation of shellstock or shucked shellfish shall:

- 104.01 Be made on-site from potable water in a commercial ice machine; or
- 104.02 Come from a facility sanctioned by the DMR or the appropriate regulatory agency.

105 When shipping time is four (4) hours or less, it shall be unlawful for any dealer to fail to ship all shellfish:

- 105.01 Well iced; or
- 105.02 In mechanically refrigerated conveyances which are equipped with automatic temperature controls that maintain the ambient air temperature in the storage area at temperatures of 45°F (7.2°C) or less.

106 When shipping time is four (4) hours or less, the dealer should provide thermal recorders during shipment.

107 When the shipping time is greater than four (4) hours, it shall be unlawful for any dealer to fail to ship all shellfish:

107.01 In mechanically refrigerated conveyances which are equipped with automatic temperature controls that maintain the ambient air temperature in the storage area at a temperature of 45°F (7.2°C) or less; or

107.02 In containers with an internal ambient air temperature maintained at or below temperatures of 45°F (7.2°C).

108 It shall be unlawful for any transportation of shucked shellfish to fail to be in either mechanically refrigerated vehicles or well-iced and protected from contamination.

109 When the shipping time is greater than four (4) hours, unless the dealer has an approved alternate means of monitoring the time-temperature, the dealer shall assure that a suitable time-temperature recording device accompanies each shipment of shellfish.

110 It shall be unlawful for any shellfish, whether refrigerated or not, to be unprotected from sun and contamination during transport. Dogs, cats, birds, and other animals shall not be allowed in any vehicle or vessel used to transport shellfish.

111 All vehicles transporting shucked shellfish intrastate must be properly licensed in accordance with Miss. Code Ann. 49-15-28 and 49-15-29.

112 Frozen shellfish shall be transported in such a manner as to remain frozen solid and the temperature of the product maintained at 0°F (-17.8°C) or less.

113 Other than documented common carriers, all mechanically refrigerated transport vehicles used by DMR certified dealers for transporting shellfish must be certified and inspected by the DMR.

114 It shall be unlawful to open containers of shucked shellfish in transit, except for inspection by an official of the DMR or other duly authorized official.

115 The Executive Director may establish other time and temperature controls on the shipping and transportation of shellstock as may be required or necessary.

Chapter 14 Receiving and Storage of Molluscan Shellfish

100 Shellfish shall be stored in a mechanically refrigerated conveyance or unit which is equipped with automatic temperature controls and maintains the ambient air temperature in the storage area at temperatures of 45°F (7.2°C) or less and is protected from contamination.

101 Shucked shellfish may be stored well iced provided that the ice is from a DMR approved water source and is free of contaminants.

102 All shellstock must be mechanically refrigerated in a DMR approved cooler or conveyance within four (4) hours after the checkout time.

103 Shellfish dealers and processors shall place shellfish under temperature control within two (2) hours of receipt from the harvester.

104 When the dealer is also the harvester, shellfish shall be placed in a mechanically refrigerated unit within four (4) hours.

105 Frozen shellfish shall be stored in such a manner as to remain frozen solid and the temperature of the product maintained at 0°F (-17.8°C) or less.

106 Once placed under temperature control and until sale to the final processor or consumer, it shall be unlawful to fail to keep shellfish:

106.01 Iced; or
106.02 Placed and stored in a storage area or conveyance maintained at 45°F (7.2°C) or less; and
106.03 Without ice, mechanical refrigeration or other approved methods of refrigeration for more than two (2) hours at points of transfer.

107 Shellstock oysters shall be packed in clean barrels, sacks, hampers, or other measurable containers.

108 The Executive Director may establish other time and temperature controls on receiving and storing shellstock as may be required or necessary.

Chapter 15 Recreationally Harvested Shellstock or Shellfish Purchased for Personal Consumption

100 Chapters 13 & 14 of this Part shall not apply to recreationally harvested shellstock or shellfish purchased for personal consumption from a licensed and certified establishment or individual. All shellfish purchased for personal consumption must be properly labeled as specified in this Part, and be accompanied by a receipt or a bill of sale containing the following information, the intent being that the following information is present and available for inspection by any official of DMR:

100.01 Name, license and certification number of seller
100.02 Quantity of shellfish purchased
100.03 Purchase date

Chapter 16 Shellfish Recall

100 When molluscan shellfish have been landed and have moved into or through the handling, processing and/or marketing system and have been determined by the DMR as subjected to

contamination that threatens imminent peril to public health, such oysters shall be recalled. The recalled oysters shall be properly disposed of under the supervision of the DMR to prevent human consumption.

Chapter 17 Depuration

100 Depuration of shellstock is permitted as described in the current NSSP Model Ordinance guidelines.

Chapter 18 Post Harvest Processing

100 Post Harvest Processing is permitted as described in the current NSSP Model Ordinance guidelines.

Chapter 19 Responsibility

100 It shall be the duty and responsibility of each owner, manager, and operator of a certified shellfish plant to insure that all regulations pertaining thereto are strictly adhered to and that only safe, wholesome, unadulterated shellfish shall be offered for sale to the consuming public. It shall be his duty and responsibility to see that his plant is properly supervised at all times and all shellfish can be identified, whether shellstock or shucked shellfish, to insure that they were harvested from approved growing waters and that they have been handled and processed in a sanitary manner. Each owner shall be subject to penalties under this Part and Miss. Code Ann.

Chapter 20 Penalties

100 Any unlawful act under this Part committed by any person, firm, or corporation shall be deemed a violation of the provisions of this Part and shall constitute a misdemeanor and upon conviction, said person shall be punished in accordance with Miss. Code Ann. § 49-15-63 unless a penalty is specifically provided elsewhere in the Mississippi Code of 1972, Annotated.

101 Violations of more than one section or subsection of this Part or part thereof shall be considered separate offenses and punished as such.

102 Any shellfish in violation of any section of this Part shall be subject to confiscation and disposal of such shellfish by direction of any designated Marine Patrol Officer of the DMR.

Chapter 21 Sections and Subsections Declared Separable

100 Each section and subsection of this Part is hereby declared separable, and if any section or subsection or part thereof shall be held invalid or unconstitutional, the balance of said Title 22 Part 17 shall remain in full force and effect.

Chapter 22 Administrative Procedures Act

100 Pursuant to the amendments to the Administrative Procedures Act, Section 25-43-101.1, et seq., of the Mississippi Code of 1972, and the rules and regulations promulgated pursuant thereto by the Secretary of State; the former Ordinance 17.001 has been modified and the commission and department have adopted the terminology and numbering system developed by the Secretary of State. Therefore, references to "ordinance" or to "Part" appearing in these regulations or the underlying statutes are used interchangeably and refer to the same instrument.

Title 22 – MISSISSIPPI DEPARTMENT OF MARINE RESOURCES, Part 17 REGULATION OF SHELLFISH LANDING, UNLOADING, TRANSPORTING, PROCESSING, BUYING, SELLING, OPENING, AND OTHER SHELLFISH RELATED ACTIVITIES IN THE STATE OF MISSISSIPPI, shall be in effect and be in force from and after the 28th day of September, 2009.

Adopted this the 15th day of September, 2009.

MISSISSIPPI COMMISSION ON MARINE RESOURCES

By: _____
Richard Gollott, Vice Chairman

MISSISSIPPI DEPARTMENT OF MARINE RESOURCES

By: _____
William Walker, Ph.D., Executive Director

TITLE 22 – MISSISSIPPI DEPARTMENT OF MARINE RESOURCES

PART 18 RULES AND REGULATIONS FOR SPECIAL PERMITS IN THE STATE OF MISSISSIPPI

Chapter 01 Introduction

Purpose

100 This part provides for the regulations for special permits

Chapter 02 Justification and Authority

100 The Mississippi Commission on Marine Resources (MCMR) is vested with the jurisdiction and authority over all marine aquatic life and to regulate any matters pertaining to seafood, as provided for in § 49-15-15, of the Mississippi Code Ann. of 1972, as amended.

101 The MCMR is authorized by § 57-15-10 (1) of the Mississippi Code Ann. of 1972, as amended, to adopt, modify or repeal regulations to manage any matter pertaining to the marine resources of the state, unless the matter is governed by statute.

102 The MCMR is authorized by § 49-15-15 (o) of the Mississippi Code Ann. of 1972, as amended, to prescribe types and forms of scientific permits for public educational or scientific institutions, federal and state agencies and consultants performing marine resources studies.

103 The MCMR is authorized by § 49-15-64 of the Mississippi Code Ann. of 1972, as amended, to promulgate rules and regulations governing the taking of shrimp by nonprofit organizations and shall issue such regulations to all organizations upon request and the issuance of the special permit.

104 The MCMR is authorized by § 49-15-36 (4) (a and b) of the Mississippi Code Ann. of 1972, as amended to promulgate rules and regulations governing the taking of oysters by the nonprofit organization and shall issue such regulations to all organizations upon request and at the issuance of the special permit.

105 The Mississippi Department of Marine Resources (MDMR) is authorized by § 79-22-15 (4) of the Mississippi Code Ann. of 1972, as amended, to issue permits to obtain estuarine and marine brood stock. The MCMR may promulgate regulations for such permits and may require a permittee to meet any requirements listed in subsection two (2) of the Statute.

Chapter 03 Conditions Applicable to All Special Permits.

100 Each application received will be reviewed based on individual project merit. After review by personnel of the MDMR, a recommendation will be made to the Executive Director of the MDMR or his designee as to the validity of the permit request and if it has sufficient merit for issuance.

101 The Executive Director of the MDMR or his designee reserves the right to cancel for cause at any time an existing Special Permit.

102 The original permit or a copy of the original permit must be in the possession of one of the permittees when taking or possessing marine organisms under the conditions of the permit. Permits are not transferable, but may be issued in more than one person's name.

103 The MDMR reserves the right at any time to send an observer aboard any vessel to monitor collection or harvesting activities.

104 The taking of threatened or endangered species is strictly prohibited, unless proper authority is received from the controlling regulating federal/state agency. A copy of said authority must be submitted to the MDMR along with the initial application of the appropriate permit.

105 No other commercial or recreational harvesting and/or collecting can take place during the harvesting or collecting activity being conducted under the issuance of any Special Permits, unless otherwise authorized by the Executive Director.

106 All MDMR Special Permits are valid only in the marine waters under the territorial jurisdiction of the State of Mississippi. These waters include all waters south of Interstate Highway10 in Hancock, Harrison and Jackson Counties and extend to approximately three miles South of the barrier islands. To conduct sampling activities within the one-mile boundary of the Gulf Islands National Seashore permission must also be obtained from the National Park Service located in Ocean Springs, MS at (228) 875-9057.

107 The MDMR Office of Marine Fisheries at (228) 374-5000 and the Marine Patrol Office (228) 432-7708 must be notified 24 hours in advance of the start of any harvesting or collection activity.

108 All Special Permits will expire December 31 of the year of issuance, unless otherwise noted. The Executive Director or his designee may set time limits or restrict the duration of harvest activities as deemed necessary.

109 The Non-Profit Organization Harvesters Permit must be signed by both the Executive Director of the MDMR and the permittee.

110 Violation of any of these conditions shall render the Special Permit null and void and subject the violator to penalty provisions identified in Chapter 8 below.

Chapter 04 Marine Scientific Collection Permit

100 When making the initial request in writing for a Marine Scientific Collection Permit the applicant must include the following information on a form provided by the MDMR:

- 100.01 Name, address and daytime phone number of applicant
- 100.02 Names of all person(s) that will be conducting field collections under the provisions of the specific permit.
- 100.03 Registration and/or documentation number(s) of all vessels that will be involved in collection activities and name of vessel(s) if applicable.
- 100.04 A general description of all activities which will be conducted, including a schedule of collection activities, collection methods, number and size of all gear to be used, frequency of collection activity by gear type.
- 100.05 A navigational chart showing the geographical location of the collection activities.

101 A complete written report of all collection activities must be submitted to the MDMR Office of Marine Fisheries within 90 days following the expiration date of the permit.

102 None of the finfish or shellfish collected under the authority of a Mississippi Marine Scientific Collection Permit are to be sold, bartered, traded or consumed. Only applicants who can demonstrate a specific need for retaining specimens as an integral part of the project will be authorized to retain specimens.

Chapter 05 Non-Profit Organization Harvesters Permit.

100 If the non-profit organization is requesting to harvest shrimp prior to the official opening of the season or if the non-profit organization is requesting to harvest oysters outside the open season or in areas not normally open to harvest, the initial request must be submitted in writing and the applicant must include the following information on a form provided by the MDMR.

- 100.01 Applicant name, date, official name and tax exempt number of non-profit organization, phone number of applicant and address.
- 100.02 Names of all person(s) that will be harvesting or transporting shrimp and/or oysters.
- 100.03 Registration and/or documentation number(s) of all vessels involved in harvesting or transporting shrimp and/or oysters and name of vessel(s) if applicable.
- 100.04 A general description of all activities which will be conducted, including a schedule of harvest activities, number and size of all gear to be used, frequency of collection activity by gear type.
- 100.05 A description of the general area where harvest activity will take place.
- 100.06 The point of departure and return must be included in the application.
- 100.07 Name and date of the function shrimp or oyster are harvested for.

101 Applicants must be tax-exempt organizations under Section 501 (c) of the United States Internal Revenue Code and have on file with the State Tax Commission a tax-exempt letter issued by the United States Internal Revenue Service. Each application received will be

reviewed. After review by Office of Marine Fisheries personnel of the MDMR, a recommendation will be made to the Executive Director of the MDMR or his designee as to the validity of the permit request and if it has sufficient merit for issuance.

102 The Shrimp Permit will only be issued to non-profit organizations that conduct functions prior to the official opening of shrimp season. The oyster permit will only be issued to non-profit organizations demonstrating a need to harvest oysters outside the open season or in areas closed to harvest. All regulations must be adhered to as defined in the current version of Title 22 Parts 2 and 1 of MCMR as well as Miss. Code Ann. § 49-15-64 and § 49-15-36, as amended.

103 Trawling is permitted only between 6:00 a.m. and 6:00 p.m. on the date that harvest is permitted. In the event of inclement weather an alternate date must be included on the application. Harvest activities must be coordinated with the Office of Marine Fisheries a minimum of one week prior to any harvesting and all harvest activities as regulated under State Statute or Part shall apply.

104 The total catch of shrimp shall be limited to that deemed necessary by the MDMR and the applicant, but shall not exceed a maximum of 500 pounds. Any by-catch must to be returned to the water immediately. The Executive Director will determine the total number of oysters, which the permittee will be allowed to harvest under the conditions of the permit.

105 The permit is issued under the authority of Miss. Code Ann. § 49-15-64 and § 49-15-36, as amended.

Chapter 06 Marine Brood Stock Collection Permit.

100 When making the initial request in writing for a broodstock collection permit the applicant must include the following information on a form provided by the MDMR:

- 100.01 Name, address and daytime phone number of applicant
- 100.02 Names of all person(s) that will be conducting field collections under the provisions of the specific permit.
- 100.03 Registration and/or documentation number(s) of all vessels that will be involved in collection activities and name of vessel(s) if applicable.
- 100.04 A general description of all activities which will be conducted, including a schedule of collection activities, collection methods, number and size of all gear to be used, frequency of collection activity by gear type.
- 100.05 A map showing the geographical location of the collection activities.
- 100.06 Target species and proposed number of each species to be harvested.

101 A complete written report of all collection activities must be submitted to the MDMR Office of Marine fisheries within 90 days following the expiration date of the permit.

102 None of the finfish or shellfish collected under the authority of a Marine Broodstock Collection Permit are to be sold, bartered, traded or consumed.

103 The permit is issued under the authority of Miss. Code Ann. § 79-22-15(4), as amended.

Chapter 07 Experimental Gear/Underutilized Species Permit

100 When making the initial request in writing for an Experimental Gear/Underutilized Species Permit the applicant must include the following information on a form provided by the MDMR:

- 100.01 Name, address and daytime phone number of applicant
- 100.02 Names of all person(s) that will be conducting harvest activities under the provisions of the specific permit.
- 100.03 Registration and/or documentation number(s) of all vessels that will be involved in harvest activities and name of vessel(s) if applicable.
- 100.04 A general description of all activities which will be conducted, including a schedule of harvest activities, harvest methods, number and size of all gear to be used, including a diagram of gear to be used.

101 A complete written report of all harvest activities must be submitted to the MDMR office within 90 days following the expiration date of the permit to include but not limited to:

- 101.01 Number of trips
- 101.02 Duration of trips
- 101.03 Number and/or lbs of target species harvested
- 101.04 Disposition of catch
- 101.05 Area of harvest

102 Only the target species harvested under the authority of a Marine Experimental Gear/Underutilized Species Permit are allowed to be sold, bartered, traded or consumed. All other species of marine organisms must be returned immediately to the marine waters under the territorial jurisdiction of the State of Mississippi.

103 The Executive Director of the MDMR or his designee will determine the types of commercial licenses that must be obtained for harvesting seafood under the Marine Experimental Gear/Underutilized Species Permit.

104 The permit is issued under the authority of Miss. Code Ann. § 57-15-10, as amended.

Chapter 08 Penalties

100 Any person, firm, or corporation violating any of the provisions of this Part shall be guilty of a misdemeanor and upon conviction shall be penalized in accordance with § 49-15-63 or any applicable State Statute of the Mississippi Code Ann. of 1972, as amended. Violations of more than one chapter or chapters of this Part shall be considered separate offenses and punished as such.

Chapter 09 Chapters and Subchapters Declared Separable

100 Each chapter and subchapter of Title 22 Part 18 shall be declared separable, and if any chapter or subchapter or part thereof shall be held invalid or unconstitutional, the balance of said Title 22 Part 18 shall remain in full force and effect.

101 Violations of more than one chapter or subchapter of this Part or part thereof shall be considered separate offenses and punished as such.

Chapter 10 Administrative Procedures Act

100 Pursuant to the amendments to the Administrative Procedures Act, § 25-43-1.101, *et seq.*, of the Mississippi Code Ann. of 1972, as amended, and the rules and regulations promulgated pursuant thereto by the Secretary of State; the former Ordinance 18.000 has been modified and the MCMR and MDMR have adopted the terminology and numbering system developed by the Secretary of State. Therefore, references to "ordinance" or to "Part" appearing in these regulations or the underlying statutes are used interchangeably and refer to the same instrument.

TITLE 22 – MISSISSIPPI DEPARTMENT OF MARINE RESOURCES
PART 18 RULES AND REGULATIONS FOR SPECIAL PERMITS IN THE STATE OF MISSISSIPPI, shall be in effect and be in force from and after the 1st day of January 2007.

Adopted this the 19th day of December 2006.

MISSISSIPPI COMMISSION ON MARINE RESOURCES

By: _____
Vernon Asper, Ph.D., Chairman

MISSISSIPPI DEPARTMENT OF MARINE RESOURCES

By: _____
William W. Walker, Ph.D., Executive Director

TITLE 22 – MISSISSIPPI DEPARTMENT OF MARINE RESOURCES

PART 19 RULES AND REGULATIONS FOR THE USE OF VEHICLES AND VESSELS IN MISSISSIPPI COASTAL PRESERVES AND MARINE WATERS OF THE STATE OF MISSISSIPPI

Chapter 01 Introduction

Purpose

100 This Part establishes a regulation to prohibit all motorized vehicle use within the publicly owned Mississippi Coastal Preserves and marine waters.

Chapter 02 Justification and Authority

100 It is the public policy of this state to favor the preservation of the natural state of the coastal wetlands and their ecosystems and to prevent the despoliation and destruction of them pursuant to Miss. Code Ann. § 49-27-3, as amended.

101 The Mississippi Commission on Marine Resources (MCMR) finds that airboats and other non-permitted vehicular activity pose a substantial threat to the flora and fauna of the Coastal Preserves.

102 The MCMR finds that airboats pose a substantial threat to the safety of other vessels in the marine waters of the state of Mississippi.

103 The MCMR is vested with authority to adopt, modify or repeal rules or regulations to utilize, manage, conserve, preserve and protect the flora, fauna, tidelands, coastal wetlands, coastal preserves, marine waters and any other matter pertaining to the marine resources under its jurisdiction pursuant to Miss. Code Ann. § 49-15-304, as amended.

104 The MCMR is vested with the jurisdiction and authority over all marine aquatic life and is authorized to enact all regulations necessary for the protection, conservation and propagation of all seafood in the waters under the territorial jurisdiction of the State of Mississippi, as provided for in Miss. Code Ann. § 49-15-15, as amended.

105 The killing or materially damaging any flora or fauna on or in any coastal wetland is subject to regulation by the MCMR pursuant to Miss. Code Ann. § 49-27-5 (c) (iii), as amended.

106 The MCMR is vested with authority to enact regulations to address boat and water safety in the marine waters of the state of Mississippi, as provided for in Miss. Code Ann. § 59-21-117, as amended.

107 The MCMR is vested with authority to make special rules and regulations with reference to the operation, equipment or safety of vessels or motorboats on any waters of the state, as provided for in Miss. Code Ann. § 59-21-129, as amended.

108 The MCMR, through the Mississippi Department of Marine Resources (MDMR), shall act as the Mississippi Boat and Water Safety Commission in the marine waters of the state of Mississippi, as provided for in Miss. Code Ann. § 59-21-111, as amended.

109 The MCMR is vested with the authority to adopt regulations to manage any matter pertaining to the marine resources of the state, as provided for in Miss. Code Ann. § 57-15-10 (1), as amended.

110 Miss. Code Ann. § 49-15-63, as amended, addresses general penalties for violation of these regulations.

Chapter 03 Prohibition of All Motorized Vehicles in Publicly Owned Coastal Preserves

100 All motorized vehicles, motorcycles, personal water craft, airboats, hovercrafts, vessels and aircraft or aquaplanes are prohibited in publicly owned Mississippi Coastal Preserves emergent vegetation and adjoining surrounding land areas, except those vehicles and vessels operated by the MDMR or as otherwise permitted pursuant to this Part.

101 The provisions of this chapter shall not apply in the case of an emergency or to any employee conducting the official business of a municipal, county, state, or federal agency, or persons conducting activities pursuant to a contract or sub-grant with a state or federal agency.

Chapter 04 Penalties

100 Any unlawful act under this Part committed by any person, firm, or corporation shall be deemed a violation of the provisions of this Part and shall constitute a misdemeanor and upon conviction, said person shall be punished in accordance with Miss. Code Ann. § 49-15-63, as amended, unless a penalty is specifically provided elsewhere in the Mississippi Code Ann. of 1972, as amended.

Chapter 05 Chapters and Subchapters Declared Separable

100 Each chapter and subchapter of this Part is hereby declared separable, and if any chapter or subchapter or part thereof shall be held invalid or unconstitutional, the balance of said Title 22 Part 19 shall remain in full force and effect.

101 Violations of more than one chapter or subchapter of this Part or part thereof shall be considered separate offenses and punished as such.

Chapter 06 Administrative Procedures Act

100 Pursuant to the amendments to the Administrative Procedures Act, § 25-43-1.101, *et seq.*, of the Mississippi Code Ann. of 1972, as amended, and the rules and regulations promulgated pursuant thereto by the Secretary of State; the former Ordinance 19.000 has been modified and the MCMR and MDMR have adopted the terminology and numbering system developed by the Secretary of State. Therefore, references to "ordinance" or to "Part" appearing in these regulations or the underlying statutes are use interchangeably and refer to the same instrument.

TITLE 22 – MISSISSIPPI DEPARTMENT OF MARINE RESOURCES
PART 19 RULES AND REGULATIONS FOR THE USE OF VEHICLES AND VESSELS IN MISSISSIPPI COASTAL PRESERVES AND MARINE WATERS OF THE STATE OF MISSISSIPPI, shall be in effect and be in force from and after the 1st day of January 2007.

Adopted this the 19th day of December 2006.

MISSISSIPPI COMMISSION ON MARINE RESOURCES

By: _____
Vernon Asper, Ph.D. Chairman

MISSISSIPPI DEPARTMENT OF MARINE RESOURCES

By: _____
William W. Walker, Ph.D., Executive Director

TITLE 22 – MISSISSIPPI DEPARTMENT OF MARINE RESOURCES

PART 20 ADMINISTRATIVE PENALTY PROCEDURES

Chapter 01 General Provisions

100 Part 20 provides the procedures for conducting administrative hearings for violations of rules, regulations and statutes within the purview of the Commission on Marine Resources (CMR) and the Department of Marine Resources (DMR). Mississippi Code Section 49-15-401 (Miss. Leg. 2005, Ch. 422) authorizes the Commission on Marine Resources to "enforce the rules and regulations of the commission and Sections 49-15-1 through 49-15-321, 49-27-1 through 49-27-71, 59-21-111, and such other statutes within the jurisdiction of the Commission on Marine Resources". The CMR is authorized in Mississippi Code Section 49-15-401, *et seq.*, to impose administrative penalties and to develop procedures to implement the authority granted to the Commission.

101 The provisions contained herein apply only to complaints filed on or after the effective date of Part 20.

Chapter 02 Definitions

The following definitions apply:

100 "Administrative record" means all documents and records timely filed with the CMR/DMR including pleadings, petitions, motions, and legal arguments in support thereof; all documents or records admitted into evidence or administratively noticed by the hearing officer; all official recordings or written transcripts of hearings conducted; and all orders or decisions issued by the hearing officer, executive director, or the CMR regarding the complaint at issue.

101 "Citation" means a charge against an individual commenced by a Marine Patrol Officer.

102 "Complainant" means the CMR/DMR, acting through any of its employees that have been authorized to investigate, issue, and prosecute a complaint under Part 20.

103 "Complaint" means a document issued by the DMR that seeks administrative civil penalties as an alternative to judicial civil penalties or prosecution of criminal offenses. "Complaint" does not include a citation issued by a Marine Patrol Officer charging an individual with misdemeanors or other criminal offenses answerable in justice, county or circuit court

104 "Consent Order" means an order entered by the hearing officer/executive director in accordance with the settlement agreement of the parties.

105 "Days" means calendar days.

106 "Default" means the failure of any party to take the steps necessary and required by these regulations to further the hearing towards resolution, resulting in a finding by the hearing officer adverse to the respondent.

107 "Discovery" refers to the process set forth in Chapter 14 allowing a party to request and obtain information relevant to the complaint proceedings. The scope of discovery is limited by the express terms of that chapter.

108 "Executive Director" refers to the executive director of the Mississippi Department of Marine Resources or his designee.

109 "Hearing Officer" refers to the individual or commissioner selected by the CMR to preside over the hearing on the complaint.

110 "Informal settlement conference" refers to a meeting between the Executive Director and the respondent to discuss the complaint and the Executive Director's recommendation to the CMR regarding the imposition of an administrative penalty.

111 "Proceeding" means any hearing, determination or other activity before the hearing officer involving the parties to a complaint.

112 "Respondent" means the alleged violator and any person, firm or corporation against whom a complaint has been filed.

113 "Response/Request for Hearing" means a document, responsive to the complaint and signed by the respondent, in which respondent requests a hearing before a hearing officer and admits or denies the allegations of the complaint or asserts affirmative defenses to the action.

Chapter 03 Right to Representation

100 A party may appear in person or through a representative, who is not required to be an attorney at law. The right to representation is at the party's own expense. Following notification that a party is represented by a person other than him or herself, all further communications regarding the proceedings shall be directed to that representative.

101 A representative of a party shall be deemed to control all matters respecting the interest of such party in the proceeding. Persons who appear as representatives shall not engage

in unethical conduct or intentionally fail to observe the procedures set forth in these rules and the proper instructions or orders of the hearing officer.

102 A representative may withdraw an appearance by filing a written notice of withdrawal with the hearing officer and by serving a copy on all parties.

Chapter 04 Time Limits; Computation of Time

100 All actions required pursuant to these rules shall be completed within the times specified, unless extended by the hearing officer upon a showing of good cause. Requests for extensions of time for the filing of any pleading, letter, document, or other writing or completing any other required action must be received in advance of the date on which the filing or action is due and should contain sufficient facts to establish a reasonable basis for the relief requested.

101 In computing the time within which a right may be exercised or an act is to be performed, the day of the event from which the designated period runs shall not be included and the last day shall be included. If the last day falls on a Saturday, Sunday, or a state holiday; time shall be extended to the next work day of the DMR.

102 Papers delivered to or received by the hearing officer during regular business hours (8 a.m. to 5 p.m.) will be filed on that date. Papers delivered or received at times other than regular business hours will be filed on the next regular business day.

Chapter 05 Service, Notice and Posting

100 Except as otherwise provided in Part 20, the original of every pleading, petition, letter, document, or other writing served in a proceeding under these rules shall be filed with the CMR and the Hearing Officer by submitting them to the Administrative Office of the DMR.

101 The complaint and all accompanying information shall be served on the respondent by any method provided by the Mississippi Rules of Civil Procedure. No additional service is required for citation issued by a Marine Patrol Officer.

102 Unless otherwise required, service of any documents in the proceedings may be made by personal delivery; by United States first-class or interoffice mail, by overnight delivery, or by fax.

103 Service and notice to a party who has appeared through a representative shall be made upon such representative.

Chapter 06 Complaint

100 All complaints and citations for the imposition of administrative penalties shall be reported to and brought before the CMR for final decision.

101 All allegations or charges shall be made in writing and signed by the DMR Office Director or Marine Patrol Officer alleging that a violation has occurred that warrants the initiation of administrative penalties.

102 The CMR shall not consider complaints filed by third parties. Individuals with allegations or knowledge of violations are encouraged to submit their information to the DMR for evaluation. If the staff of the DMR determines that there is substance to the allegations and evidence to support charging an alleged violator, the DMR shall prepare and sign a complaint.

103 Marine Patrol Officers may issue citations that, except for service, shall be processed as complaints seeking administrative penalties. Citations issued by Marine Patrol Officers and filed in Justice of County Court may be voluntarily dismissed prior to the entry of any judicial decision on the underlying facts and, thereafter, refilled and processed as administrative complaints in accordance with the provisions of Chapter 06 Section 104 below.

104 Following the submission of a complaint, the Executive Director of the DMR shall within thirty (30) days review the complaint and, except for citations issued by Marine Patrol Officers initially seeking administrative penalties, cause the complaint to be served on the respondent.

105 The Executive Director shall cause a copy of the complaint and any supporting documents to be served on the respondent by any means allowed by the Mississippi Rules of Civil Procedure and shall direct the respondent to respond to the allegations within 30 days of the receipt of the complaint.

106 Following receipt of the response or thirty (30) days after service of the complaint or citation, the Executive Director shall evaluate the complaint or citation for the purpose of making a recommendation to the CMR.

107 If the Executive Director determines that the complaint lacks merit, the Executive Director may recommend to the CMR that the complaint be dismissed. If the Executive Director determines that the complaint has merit, the Executive Director may recommend a fine not to exceed Ten Thousand Dollars ($10,000.00) for each violation committed by the respondent.

108 The Executive Director's recommendation shall be sent to the CMR and to the respondent.

109 The respondent shall have 15 days from receipt of the Executive Director's recommendation within which to request an "informal settlement conference" with the Executive Director.

110 Upon receipt of a request for an informal settlement conference the Executive Director shall schedule a meeting with the respondent to discuss the complaint and the Executive Director's recommendation.

111 If the Executive Director and the respondent agree to a possible resolution of the complaint, the Executive Director's recommendation to the CMR may be amended.

Chapter 07 Request for Hearing

100 The respondent may request a hearing before the CMR. A request for a hearing before the CMR shall be submitted within twenty (20) days of the respondent's receipt of the Executive Director's initial recommendation to the CMR.

101 The CMR shall consider the complaint and the Executive Director's recommendation at a regular monthly meeting of the CMR.

102 Within forty (40) days of receipt of a request from a respondent for a hearing before the CMR, the CMR shall schedule a hearing on the complaint.

103 Notice of the hearing shall be sent by the Executive Director to the respondent by certified mail at least fifteen (15) days prior to the date of the scheduled hearing.

104 The CMR may grant continuances of scheduled hearings.

105 The CMR may set the hearing before one or more members of the commission or designate a representative of the Attorney General's Office (AGO) to preside over the hearing and render a finding and recommendation to the full commission. If the CMR appoints one or more commissioners or a representative from the AGO to serve as a hearing officer, they may grant continuances of scheduled hearings.

106 A duly qualified court reporter shall record the hearing and shall make a full and complete transcript of the proceedings.

107 The hearing shall be closed to the public unless the respondent requests that the hearing be open to the public.

Chapter 08 Motions

100 Any motion or request for action by the hearing officer relating to any proceeding pending before him or her filed by any party, except those made orally on the record at the hearing, shall be in writing and shall be directed to the hearing officer, with written notice and proof of service to all parties. The caption of each motion shall contain the title and docket number of the proceeding and a clear and plain statement of the relief sought, together with the grounds therefore.

101 The hearing officer shall set the time and place for the hearing of the motion. The hearing shall occur as soon as practicable.

102 The hearing officer may decide a motion filed pursuant to this section without oral argument.

103 The hearing officer shall issue a written order deciding any motion, unless the motion is made during the course of the hearing on the merits while on the record. The hearing officer may request that the prevailing party prepare a proposed order.

Chapter 09 Form of Pleadings

100 Except as otherwise expressly provided in Part 20 or by the hearing officer, there are no specific requirements as to the form of documents filed in a proceeding under these rules.

101 The original of any pleading, letter, document, or other writing (other than an exhibit) shall be signed by the filing party or its representative. The signature constitutes a representation by the signer that it has read the document, that to the best of its knowledge, information and belief, the statements made therein are true, and that it has not filed the document for the purpose of delay.

102 Any written legal argument or statement submitted to the hearing officer by a participant in an action under this part shall be double spaced and typed in a font size 12 point or larger.

Chapter 10 Hearing Officers

100 In any matter subject to hearing pursuant to these rules, the hearing officer shall have the authority to do any act and take all measures necessary for the maintenance of order and for the efficient, fair and impartial adjudication of issues arising in proceedings governed by these rules, including, but not limited to, authority to hold pre-hearing conferences; conduct hearings to determine all issues of fact and law presented; to rule upon motions, requests and offers of proof, dispose of procedural requests, and issue all necessary orders; to issue subpoenas and subpoenas *duces tecum* for the attendance of a person and production of testimony, books, documents, or other things; to compel the

attendance of a person residing anywhere in the state; to rule on objections, privileges, defenses, and the receipt of relevant and material evidence; to call and examine a party or witness and introduce into the hearing record documentary or other evidence; to request a party at any time to state the respective position or supporting theory concerning any fact or issues in the proceeding; to certify official acts; to extend the submittal date of any proceeding; to hear and determine all issues of fact and law presented and to issue such interlocutory and final orders, findings, and decisions as may be necessary for the full adjudication of the matter.

Chapter 11 Issuance of and Response to Complaints

100 A complaint may be issued for violations of any rule, regulation, permit, variance, or orders of the CMR/DMR.

101 A complaint shall include:

101.01 The names of each respondent alleged to have committed a violation(s) covered under this Part 20;

101.02 A statement of the facts, in ordinary and concise language, that specifically identifies the statutes and/or rules alleged to have been violated and the acts or omissions of the respondents that constitutes the alleged violation(s). The statement shall be specific enough to afford the named respondents notice and information in which to prepare a defense;

101.03 Reference to these procedures, notice that a copy of the procedures is available from the DMR;

101.04 Inform the respondent of the consequences of failing to respond by the applicable deadline.

102 Excluding citations issued by Marine Patrol Officers, a complaint shall be commenced by filing it with the secretary for the CMR and service on the named respondent(s) by either personal or other form of service consistent with Rule 4 of the Mississippi Rules of Civil Procedure.

103 Within thirty (30) days after service of the complaint, the respondent or its representative may file a response to the complaint with the CMR.

104 The respondent may:

104.01 Object to the complaint on the ground that it does not state acts or omissions upon which the agency may proceed;

104.02 Object to the form of the complaint on the ground that it is so indefinite or uncertain that the respondent cannot identify the transaction or prepare a defense;

104.03 Admit or deny the complaint, in whole or in part, specifying each allegation of fact or conclusion of law as to liability which is in dispute; or

104.04 Present new matters by way of affirmative defenses.

105 Each uncontested allegation in the complaint shall be deemed admitted by the respondent.

106 If the respondent fails to respond to the complaint in the time periods provided in this section, the matter shall be considered a default, and the respondent shall be considered to have waived his or her right to appear and contest the complaint.

107 The issues for hearing shall be limited to those raised in the complaint and the response. If the complaint alleges a repeat violation and the validity of the earlier violations(s) was not contested because of the respondent's failure to file a response/request for hearing, the validity of the earlier violations(s) shall not be at issue.

Chapter 12 Pre-hearing Procedures

100 The CMR shall appoint a representative from the Attorney General's Office to serve as the hearing officer.

101 The hearing officer shall grant such delays or continuances as may be necessary or desirable in the interest of fairly resolving the case.

102 The hearing officer may, on his or her own motion or upon request of any party

accompanied by a showing of good cause, continue a hearing to another time or place.

103 A party shall apply to the hearing officer for a continuance not less than five days prior to the scheduled hearing.

104 All hearings shall be conducted at the offices of the Department of Marine Resources, 1141 Bayview Avenue, Biloxi, MS 39530, or such other location selected by the hearing officer.

Chapter 13 Settlement Agreements and Consent Orders

100 At any time before a final decision of the hearing officer, the complainant and the respondent may settle an action, in whole or in part.

101 The parties shall memorialize any agreement in writing.

102 The hearing officer assigned to hear the merits of the case, shall thereafter enter a proposed agreed order in accordance with the terms of the settlement agreement. Proposed agreed orders are subject to approval of the CMR.

Chapter 14 Discovery

100 The provisions of this section provide the exclusive right to, and method of, discovery as to any proceeding governed by these hearing procedures. However, nothing in this section prohibits the parties from voluntarily stipulating to provide discovery deemed appropriate. This section does not authorize the inspection or copying of, any writing, or thing which is privileged from disclosure by law or protected as part of an attorney's work product.

101 Unless otherwise stipulated to by the parties, a party may request:

101.01 The names and addresses of witnesses to the extent known to the other party, including, but not limited to, those intended to be called to testify at the hearing; and

101.02 The opportunity to inspect and make a copy of any thing, document, statement or other writings relevant to the issues for hearing that are in the possession, custody or control of the other party and would be admissible in evidence.

102 Information subject to disclosure includes the following information from inspection or investigative reports prepared by, or on behalf of, any party that pertain to the subject matter of the proceeding:

102.01 names and addresses of witnesses or of persons (other than confidential informants) having personal knowledge of the issues involved in the proceeding;

102.02 matters perceived by the investigator in the course of his or her investigation (as opposed to his or her analysis or conclusions), and

102.03 statements related to the issues of the proceedings which are otherwise admissible. For purposes of this section, "any thing, document, statement or other writings relevant to the issues for hearing that are in the

possession, custody, or control of the other party" would include those items within the possession, custody, or control of a third-party who obtained or used such items while acting as a representative, contractor, or agent of the "other party."

103 The hearing officer shall set the time for the exchanging of the names and addresses of witnesses and the inspecting and copying of relevant things, documents, statements, and other writings identified in section 101.02 above. Unless other arrangements are made, the party requesting the writings shall pay for the copying.

104 All requests under 101 above are continuing, and the party receiving the request shall be under a continuing duty to provide the requesting party with the information requested.

105 Absent a stipulation between the parties, a party claiming that certain writings or things are privileged against disclosure shall, within five (5) days of receipt of the request for inspection and copying, serve on the requesting party a written statement setting forth what matters it claims are privileged and the reasons supporting its claims.

106 Any party claiming that its request for discovery pursuant to this section has not been complied with or that the opposing party has failed to comply with a stipulated agreement to provide discovery may serve and file with the hearing officer a motion to compel the party who has refused or failed to produce the requested or stipulated discovery to comply. The motion shall include the following:

106.01 Facts showing the party has failed or refused to comply with a discovery request or stipulation;

106.02 A description of the information sought to be discovered;

106.03 The reasons why the requested information is discoverable;

106.04 Evidence that a reasonable and good faith attempt to contact the non-complying party for an informal resolution of the issue has been made; and

106.05 To the extent known by the moving party, the measures for the non-complying party's refusal to provide the requested information.

107 The motion shall be filed within five (5) days after the date the requested information was to be made available for inspection and copying or the date of notification of the refusal to comply with the discovery request.

108 The hearing on the motion to compel discovery shall be held within ten (10) days after the motion is filed, or a later time that the hearing officer may on his or her own motion

for good cause determine. The party who has refused or failed to provide discovery shall have the right to serve and file a written answer or other response which shall be due at the hearing office and personally served on all parties at least three (3) days prior to the date set for hearing.

109 Unless otherwise stipulated by the parties, the hearing officer shall no later than five (5) days after the hearing make its order denying or granting the motion. The order shall be in writing setting forth the matters the moving party is entitled to discover. The hearing officer shall serve a copy of the order by mail upon the parties.

110 If after receipt of an order directing compliance with the provisions of these rules regarding discovery, a party fails, without good cause, to comply with the order, the hearing officer may draw adverse inferences against that party and may prevent that party from introducing any evidence that had been requested and not produced during discovery into the administrative record.

111 Subpoenas and subpoenas *duces tecum* may be issued for attendance at a hearing and for production of documents at any reasonable time and place or at a hearing.

112 At the request of a party, subpoenas and subpoenas *duces tecum* shall be issued by hearing officer acting for the CMR.

113 The custodian of documents that are the subject of a subpoena *duces tecum* may satisfy the subpoena by delivery of the documents or a copy of the documents, or by making the documents available for inspection or copying.

114 The process extends to all parts of the state and shall be served by the sheriff in the county where they are to be executed

115 Upon timely motion of a party or witness, or upon his or her own motion, after notice to the parties and an opportunity to be heard and upon a showing of good cause, the hearing officer may order the quashing of a subpoena or subpoena *duces tecum* entirely, may modify it, or may direct compliance with it upon other terms or conditions. In addition, the hearing officer may make any other order as may be appropriate to protect a party or witness from unreasonable or oppressive demands.

116 In the case of the production of a party to the record of a proceeding or of a person for whose benefit a proceeding is prosecuted or defended, the service of a subpoena on the witness is not required if written notice requesting the witness to attend, with the time and place of the hearing, is served on the representative of the party or person.

117 A witness other than an employee of the state or a political subdivision thereof appearing pursuant to a subpoena or a subpoena *duces tecum*, other than a party, shall receive the same mileage, and appearance fees allowed by law; such fees are to be paid by the party at whose request the witness is subpoenaed.

Chapter 15 Contempt and Sanctions

100 If any person in proceedings before the hearing officer or CMR disobeys or resists any lawful order or refuses to respond to a subpoena, subpoena *duces tecum*, or refuses to take the oath or affirmation as a witness or thereafter refuses to be examined, or is guilty of misconduct during a hearing or in its immediate vicinity as to obstruct the proceedings, the hearing officer may or CMR may invoke the assistance of any court of general jurisdiction to order the person or entity to comply with the subpoena and directions of the hearing officer or CMR.

Chapter 16 Hearings

100 If after service of a Notice of Hearing a party fails to appear at a hearing either in person or by representative, the hearing officer may issue a default.

101 The hearing shall be presided over by a hearing officer who shall conduct a fair and impartial hearing in which each party has a reasonable opportunity to be heard and to present evidence.

102 The hearing shall be conducted in the English language.

103 Subject to reasonable limitations that may be imposed by the hearing officer, each party to the proceeding shall have the right to:

103.01 Call and examine witnesses;

103.02 Introduce exhibits;

103.03 Question opposing witnesses on any matter relevant to the issues even though that matter was not covered in the direct examinations;

103.04 Impeach any witness regardless of which party first called the witness to testify; and

103.05 Call and examine an opposing party as if under cross-examination, even if that party does not testify on his or her own behalf.

104 The complainant shall have the initial burden of presenting evidence in support of issuance of the complaint, the requested penalty, and any other material that is pertinent to the issues to be determined by the hearing officer.

105 At the conclusion of complainant's case-in-chief, the respondent has the burden of presenting any defense to the allegations set forth in the complaint and any response or evidence with respect to the appropriate relief. The respondent has the right to examine, respond to, or rebut the allegations of the complaint and any proffered evidence and material. The respondent may offer any documents, testimony, or other exculpatory evidence which bears on appropriate issues, or may be relevant to the penalty amount.

106 At the close of respondent's presentation of evidence, the parties respectively have the right to introduce rebuttal evidence that is necessary to resolve disputed issues of material fact, subject to any limits imposed by the hearing officer.

107 The hearing officer may:

107.01 Limit the number of witnesses and the scope and extent of any direct examination, cross-examination, or rebuttal testimony, as necessary, to protect the interests of justice and conduct a reasonably expeditious hearing;

107.02 Require the authentication of any written exhibit or statement;

107.03 Call and examine a party or witness and may, on his or her own motion, admit any relevant and material evidence;

107.04 Exclude persons whose conduct impedes the orderly conduct of the hearing; or

107.05 Take other action to promote due process or the orderly conduct of the hearing.

108 The taking of evidence in a hearing shall be controlled by the hearing officer in the manner best suited to ascertain the facts and safeguard the rights of the parties.

109 Each matter in controversy shall be decided by the hearing officer upon a preponderance of the evidence.

110 Hearings shall be recorded electronically and shall be the official recording of the hearing.

111 A verbatim transcript of the official recording will not normally be prepared, but may be ordered by the hearing officer if deemed necessary to permit a full and fair review and resolution of the case. If not so ordered by the hearing officer, a party may, at its own expense, request that a verbatim transcript be made. The party making the request shall provide one copy to the hearing officer and one copy to every other party.

112 The official recording of the hearing and transcript of the recording, together with all written submissions made by the parties, shall become part of the administrative record for the proceeding.

113 Testimony shall be taken only under oath or affirmation.

114 The hearing need not be conducted according to technical rules relating to evidence and witnesses. The hearing officer shall admit evidence which is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of any common law or statutory rule which might make improper the admission of such evidence over objection in civil actions, and which is not irrelevant, immaterial, unduly repetitious, or otherwise unreliable or of little probative value. Hearsay evidence may be used for the purpose of supplementing or explaining other evidence, but upon timely objection shall not be sufficient in itself to support a finding unless it would be admissible over objection in civil actions.

115 In reaching a decision, official notice may be taken, either before or after submission of the proceeding for decision, of any generally accepted technical or scientific matter within the CMR/DMR's area of expertise.

116 Upon motion of a party, the hearing officer may exclude from the hearing room any witnesses not at the time under examination; but the parties or their representatives to the proceeding shall not be excluded.

Chapter 17 Decisions of the Hearing Officer

100 Upon motion, the hearing officer may find a party to be in default upon failure to file a timely response to the complaint; to appear at a scheduled conference or hearing; or to comply with an order of the hearing officer.

101 For purposes of a pending complaint action, a default by respondent shall constitute an admission of all facts alleged in the complaint and a waiver of respondent's right to a hearing of the allegations.

102 A default by complainant shall constitute a waiver of complainant's right to proceed on the merits of the action, and shall result in the dismissal of the complaint with prejudice.

103 No finding of default shall be made against the respondent unless the complainant presents sufficient evidence to establish a prima facie showing that the CMR//DMR had jurisdiction over the matters at issue and that the complaint was properly served.

104 Any proceeding may be reinstated by the hearing officer upon a showing of good cause that contains sufficient facts to show or establish a reasonable basis for the failure to

appear at the hearing. The request for reinstatement shall be made by the defaulting party within ten (10) days of service of the default order.

105 Within a reasonable period of time after the hearing, the hearing officer shall make findings upon all facts relevant to the issues for hearing. The hearing officer shall include a recommendation to the CMR on the final disposition of the complaint and a recommendation on the fine to be imposed.

106 The order or decision shall be in writing, signed and dated by the hearing officer deciding the proceeding.

Chapter 18 Penalty Assessment Criteria

100 In determining penalties, the hearing officer and CMR shall consider all relevant circumstances, including, but not limited to:

100.01 The extent of harm caused by the violation;

100.02 The nature and persistence of the violation;

100.03 The length of time over which the violation occurs;

100.04 The frequency of past violations; and

100.05 The cooperation of the respondent during the course of the investigation and any action taken by the defendant, including the nature, extent, and time of response of any action taken to mitigate the violation

Chapter 19 Decision of the CMR

100 At a regular monthly meeting of the CMR occurring more than fourteen (14) days after the submission of the findings and recommendation of the hearing officer, the CMR shall make a final determination of the alleged violation.

101 The CMR may adopt the recommendation of the hearing officer or make such further disposition as it deems appropriate.

102 If the CMR accepts the recommendation of the hearing officer the findings of facts and conclusions of law submitted by the hearing officer shall be adopted as the findings of the CMR.

Chapter 20 Final Order or Decision; Judicial Review

100 A respondent adversely affected by a final decision of the CMR may file an appeal with the Chancery Court of Harrison County, Second Judicial District.

101 No petitions for reconsideration under Part 15 are available from CMR decisions following hearings before a hearing officer.

102 The appeal shall be filed within thirty (30) days after notification of the decision of the Commission is served or mailed to the party seeking judicial review.

103 The appeal shall be perfected by upon filing notice of the appeal and by the prepayment of all estimated costs, including the cost of preparation of the record of the proceedings before the commission, and the filing of a bond in the sum of Five Hundred Dollars ($500.00), conditioned that if the action of the commission is affirmed by the chancery court, the appealing party shall pay the costs of the appeal to the chancery court.

104 The scope of the review by the chancery court shall be limited to a review of the record made before the commission to determine if the action of the commission is unlawful for the reason that it was:

104.01 Not supported by substantial evidence;

104.02 Arbitrary or capricious; or

104.03 In violation of some statutory or constitutional right of the individual.

Chapter 21 Penalties

100 Any violation of the rules and regulations of the CMR or violations of Mississippi Code Sections 49-15-1 through 49-15-321, 49-27-1 through 49-27-71, 59-21-111, or other statutes within the jurisdiction of the CMR may result in the imposition of administrative penalties not to exceed Ten Thousand Dollars ($10,000.00) for each violation.

101 Violations of rules and regulations of the CMR may also constitute a misdemeanor punishable by fine and or imprisonment in the county jail as provided for in Mississippi Code Section 49-15-63 (1) (a).

102 The CMR/DMR is prohibited from pursuing a violator for administrative penalties and a misdemeanor conviction for the same offense. If a respondent has committed multiple offenses the CMR/DMR may pursue separate violations in different forums.

103 Forfeiture of nets, equipment and paraphernalia used in committing a violation may be commenced in addition to seeking administrative penalties.

104 Suspension or revocation of licenses or permits may be commenced in addition to seeking administrative penalties

Chapter 22 Chapters and Subchapters Declared Separable

100 Each chapter and subchapter of Title 22 Part 20 shall be declared separable, and if any chapter or subchapter or part thereof shall be held invalid or unconstitutional, the balance of said Title 22 Part 20 shall remain in full force and effect.

Title 22, Part 20 shall take effect and be in force from and after the1st day of July, 2006.

Adopted this the 16th day of May, 2006.

MISSISSIPPI COMMISSION ON MARINE RESOURCES

By: _____
Vernon Asper, Chairman

MISSISSIPPI DEPARTMENT OF MARINE RESOURCES

By: _____
William W. Walker, Executive Director

TITLE 22 – MISSISSIPPI DEPARTMENT OF MARINE RESOURCES

PART 21 RULES AND REGULATIONS FOR THE PREPARATION, PICKING, PACKING, SHIPPING, AND SALE OF SALTWATER CRABS AND SALTWATER CRAB PRODUCTS IN THE STATE OF MISSISSIPPI

Chapter 01 Introduction

Purpose

100 This Part establishes the minimum requirements necessary to regulate the processing of saltwater crabs and establishes a program to protect the public health of consumers by providing for the sale or distribution of saltwater crabs from safe sources and by providing that the saltwater crabs have not been adulterated during preparation, picking, packing, shipping and selling and other related activities in the state.

Chapter 02 Justification and Authority

100 The Mississippi Commission on Marine Resources (MCMR) has determined that it is in the best interest of the State of Mississippi and necessary for the protection, conservation, and propagation of all saltwater crabs in the waters under the territorial jurisdiction of the State of Mississippi to regulate the preparation, picking, packing, shipping and sale activities of saltwater crabs in the state.

101 The MCMR is authorized by Miss. Code Ann. § 49-15-15 (1) (c), as amended, to regulate all seafood sanitation and processing programs.

102 Miss. Code Ann. § 49-15-28, as amended, addresses seafood wholesale licensing.

103 Miss. Code Ann. § 49-15-29, as amended, authorizes the MCMR to assess and collect certain taxes and license fees.

104 Miss. Code Ann. § 49-15-30, as amended, authorizes the MCMR to promulgate regulations for nonresident certificates.

105 Miss. Code Ann. § 49-15-63, as amended, addresses general penalties for violation of these regulations.

Chapter 03 Definitions

100 **ADULTERATED** – saltwater crabs or saltwater crab products shall be deemed adulterated if any foreign substance has been added to the saltwater crab or saltwater crab products.

Saltwater crabs or saltwater crab products shall also be deemed adulterated if the saltwater crabs or saltwater crab products have been mixed or packed therewith so as to increase its bulk or weight, or reduce its quality, or make it appear better or of greater value than it is.

101 **CERTIFICATION or CERTIFY** – the issuance of a numbered certificate to a person for a particular activity or group of activities that indicates permission from the authority to conduct the activity.

102 **CERTIFICATION NUMBER** – a unique combination of letters and numbers, as assigned by the Mississippi Department of Marine Resources (MDMR), to each processor for each location. Each certification number shall consist of a three digit Arabic number preceded by the two letter State abbreviation (MS) and followed by the two letter abbreviation for the activity of crab processing (CP) that the processor is qualified to perform in accordance with this Part.

103 **CERTIFIED CRAB PLANT** – an individual, firm or corporation that has a building or facility/unit or parts thereof, used for or in connection with handling, transporting, packaging, repackaging, and/or processing of saltwater crabs or saltwater crab products and possesses a valid license and certification number.

104 **COMPLIANCE SCHEDULE** – a written schedule that provides a correction time period to eliminate the deficiencies noted during inspections.

105 **CONTAINER** – any bag, sack, tote, conveyance or other receptacle used for containing saltwater crabs or saltwater crab products for holding or transporting.

106 **CRITICAL DEFICIENCY ("C")** – a condition or practice that results in the production of a product that is unwholesome or presents a threat to the health or safety of the consumer.

107 **CROSS CONNECTION** – an unprotected actual or potential connection between a potable water system and any source or system containing unapproved water or a substance that is not or cannot be approved as safe and potable.

108 **EASILY CLEANABLE** – a surface which is readily accessible and is made of such materials, has a finish, and is so fabricated that residues may be effectively removed by normal cleaning methods.

109 **FOOD CONTACT SURFACE** – those surfaces that contact human food and those surfaces from which drainage onto the food or onto surfaces that contact the food ordinarily occurs during the normal course of operations. Food contact surfaces include utensils and food contact surfaces of equipment.

110 **INCLUDES OR INCLUDING** – means includes or including by way of illustration and not by way of limitation.

111 **KEY DEFICIENCY ("K")** – a condition or practice that could potentially result in adulterated, decomposed, misbranded or unwholesome product.

112 **LABEL** – any written, printed or graphic matter affixed to or appearing upon any package containing saltwater crabs or saltwater crab products.

113 **MAY** – means discretionary and is not mandatory or required.

114 **MISBRANDED** – products shall be deemed misbranded if its labeling is false or misleading in any way, or if it does not bear a label in accordance with this Part.

115 **OTHER DEFICIENCY ("O")** – a condition or practice which is not defined as critical or key and is not in accordance with the requirements of this Part.

116 **PERSON** – any individual, receiver, trustee, guardian, personal representatives, fiduciary, or representative of any kind, and any partnership, association, corporation or other entity. Person includes the federal government, the State, and any other public or private entity.

117 **PEST** – refers to any objectionable animals or insects including, but not limited to birds, rodents, flies, and larvae.

118 **PROCESSING** – handling, storing, changing into different market forms, manufacturing, preserving, picking, chilling, and packaging, labeling, or holding.

119 **PROCESSOR** – means any person engaged in commercial, custom, or institutional processing of saltwater crabs or saltwater crab products.

120 **SALTWATER CRAB** – shall mean all species of saltwater crabs that are commercially processed. The primary saltwater crab species includes, but is not limited to *Callinectes sp.*

121 **SALTWATER CRAB PRODUCTS** – the actual saltwater crab or the edible meat of a processed saltwater crab distributed for consumption.

122 **SANITATION MONITORING** – monitoring conditions and practices during processing with sufficient frequency to ensure, at a minimum, conformance with those conditions and practices specified in this Part.

123 **SANITATION STANDARD OPERATING PROCEDURES** – a document that is specific to each location at which saltwater crabs or saltwater crab products are handled/processed. This document should specify how the processor intends to meet the sanitation conditions and practices to be monitored in accordance with this Part.

124 **SANITIZE** – to adequately treat food contact surfaces by a process that is effective in destroying vegetative cells of microorganisms of public health significance, substantially reducing the numbers of other undesirable microorganisms, and not adversely affecting the product or its safety for the consumer.

125 **SHALL** – is used to state mandatory requirements.

126 **SHOULD** – is used to state recommended or advisory procedures or to identify recommended equipment.

127 **SWING DEFICIENCY ("S $^{O/K}$" or "S $^{K/C}$")** – a deficiency noted on the inspection form which, depending upon the severity and circumstances, can be a "Critical, Key, or Other" deficiency.

Chapter 04 Application

100 As provided in Miss Code Ann. § 49-15-15(1) (c), as amended, the provisions of this Part shall apply to:

- 100.01 All persons, firms or entities engaged in the processing of saltwater crabs or saltwater crab products intended for human consumption and operating under a certified crab plant certification number as issued by the MDMR.
- 100.02 Retail establishments located in Hancock, Harrison and Jackson Counties of the State of Mississippi operating in conjunction with a certified crab plant or seafood market which primarily deal with saltwater crab or saltwater crab products.
- 100.03 Those areas of any certified crab plant under the jurisdiction of the MCMR.
- 100.04 Non-residents engaged in like activity as defined in Miss. Code Ann. § 49-15-30, as amended.

101 The provisions of this Part shall not apply to:

- 101.01 Operations of such persons, firms, entities or establishments with respect to seafood products other than saltwater crabs;
- 101.02 The operations of retail establishments located in Mississippi dealing in seafood or seafood products, but not operating in conjunction with a certified crab plant.
- 101.03 Harvesting or transporting saltwater crab or saltwater crab products, without otherwise engaging in processing.

Chapter 05 MDMR Program Management

100 The MCMR authorizes MDMR to manage the saltwater crab plant certification program activities according to the relevant specifications stated in this Part and the applicable statutes of the State of Mississippi.

101 The MDMR management includes inspections of the certified facilities in accordance with relevant seafood sanitation/health safety specifications specified herein.

- 101.01 The MDMR shall issue to certified crab plants written information of non-compliance with these specifications.
- 101.02 For the cited excessive non-compliances, the MDMR shall provide the

processor a reasonable schedule for correction to bring the facilities into compliance according to the current and relevant sanitation/health safety specifications stated herein.

102 The MDMR Executive Director, the Director of Marine Fisheries or the MDMR designee in charge of saltwater crab processing or his designee will declare that saltwater crabs or saltwater crab products be recalled when the MDMR determines that a recall is required to eliminate a public health risk to consumers who otherwise may experience such a risk if the food is available and is consumed. The recalled saltwater crabs or saltwater crab products will be properly disposed of in accordance with Chapter 14 Subchapter 103 of this Part to prevent human consumption.

Chapter 06 Processor Certification

100 General requirements

100.01 It shall be unlawful for a person to act as a processor prior to obtaining certification.

100.02 Any person who wants to be a processor shall provide the MDMR a business address at which inspections of the facilities, activities, or equipment can be conducted.

100.03 It shall be unlawful for all persons, firms, or entities desiring to engage in processing saltwater crabs within the State of Mississippi to fail to obtain a license for such operations in accordance with Miss. Code Ann. § 49-15-28 and § 49-15-29, as amended.

100.04 The MCMR authorizes MDMR to certify all saltwater crab processors that comply with the terms of this Part, within the jurisdiction of the MCMR, for processing saltwater crabs or saltwater crab products.

100.04.01 Any such certification shall be issued provided the requesting applicant's facility/unit is subject to a comprehensive onsite inspection by a seafood inspector of the MDMR, using the appropriate inspection form, within the 120 day period immediately prior to the issuance or renewal of the certification.

100.04.02 All certifications shall expire annually on the last day of a month selected by the MDMR.

100.04.03 The MDMR shall issue only one certification number to a processor for a location. A processor may obtain more than one certification if each business is maintained as a separate entity and is not found in the same location.

100.04.04 The MDMR may allow separate certified crab plants to share a facility.

100.04.05 The certification number issued to each processor by the MDMR shall be unique.

101 Initial certification shall be granted provided the following standards are met:

101.01 No critical deficiencies;
101.02 Not more than 3 key deficiencies;
101.03 Not more than 5 other deficiencies;
101.04 The initial certification includes a compliance schedule to correct the deficiencies if necessary; and
101.05 Processor is properly licensed in accordance with Miss. Code Ann. §49-15-28 and §49-15-29, as amended.

102 Renewal of certification shall be at the request of the certified processor at the time specified by the MDMR. Recertification shall be granted provided the processor has:

102.01 Eliminated any critical deficiencies;
102.02 Agreed to a compliance schedule which carries forward into the next certification period no more than 4 key deficiencies and no more than 6 other deficiencies identified in previous inspections;

102.03 Addressed any new key or other deficiencies in a new or revised compliance schedule; and
102.04 Provided evidence of proper certification and licensing in accordance with this Part.

103 Any person, firm or other entity applying for certification/recertification must, in addition to complying with the provisions listed above, meet the following requirements in order to have issued and to maintain such a certification:

103.01 A processor must have available fixed cold temperature holding space adequate to hold the maximum amount of saltwater crabs or saltwater crab products received on any given day.
103.02 Available space adequate to accommodate at proper temperature the total accumulation of saltwater crabs or saltwater crab products held for more than one day under cold temperature holding space conditions.
103.03 A certified seafood processor's operational activities shall meet all seafood safety and sanitation control procedures/requirements as set out in this Part.

Chapter 07 Responsibility of Processor, Manager and Operator

100 Each certified crab plant processor, manager, and operator shall assure that all regulations as specified in this Part are strictly adhered to and that only safe and wholesome unadulterated product shall be offered for sale to the consuming public.

101 The processor shall assure that the certified crab plant is properly supervised in accordance with Chapter 15 Subchapter 110 of this Part at all times.

102 The owner of a certified crab plant shall keep all safety/sanitation and marketing (not including price information) records for a minimum of one (1) year for fresh products and a minimum of two (2) years or the shelf-life, which ever is longer, for frozen products.

103 In the event the MDMR issues a recall of saltwater crab products based upon the need to eliminate a public health risk, the processor shall fully cooperate with the MDMR in implementing the product recall. The processor shall be responsible for determining where the recalled lot or lots were moved to in the market system, contacting the receivers of the product, stopping any further market distribution of the products and removing the products from the market as directed by the MDMR and providing the MDMR proof of removal in the form of bills of lading, receipts, or some other similar documentation.

Chapter 08 Inspections

100 After initial certification or recertification, the MDMR is authorized to make unannounced inspections of the processor's facilities during periods of activity and no less frequently than once per quarter.

101 The certified crab plant may be officially inspected more frequently than once per quarter if it consistently has excessive critical and non-critical deficiencies as defined by the MDMR that are not corrected based upon a reasonable correction schedule as agreed upon by the MDMR and the certificate holder.

102 The MDMR will provide a copy of the completed inspection form to the person in-charge at the certified crab plant operation at the time of the inspection. The inspection form shall contain a listing of deficiencies by area in the operation with corresponding citation from this Part.

Chapter 09 Actions Triggered by Inspections

100 When any MDMR inspector detects a critical deficiency:

100.01 The owner/supervisor shall correct the deficiency during that inspection;
or
100.02 The processor must cease the production affected by the deficiency

101 When the processor fails to comply with (100) above, the MDMR is authorized to immediately begin actions to suspend or revoke the processor's certification.

102 Product affected by a critical deficiency shall be controlled to prevent contaminated or adulterated product from reaching consumers. When necessary the MDMR is authorized to:

102.01 Detain or seize any undistributed lots of product that may have been adulterated;
102.02 Initiate a recall of any distributed product; and
102.03 Immediately notify the enforcement officials of the Food and Drug Administration (FDA) and any other Authorities where product was distributed.

103 Temporary hold on a saltwater crab product

103.01 The MDMR, while in a certified crab plant, has the authority to place any saltwater crab product in the facility/unit on a temporary hold to prevent the designated product from leaving the facility/unit.

103.02 The saltwater crab product in the certified crab plant can only be placed on the temporary hold in cases where there is evidence, as documented on the official inspection form signed and dated by the MDMR to support such action. The inspection must show with clear and convincing evidence that the products involved are misbranded, adulterated or potentially adulterated, or that a health hazard or potential health hazard exists. A copy of the official inspection sheet, with the temporary hold order, handed to the certificate holder or the certificate holder's authorized representative, or in their absence, posted in a conspicuous place at the facility/unit, shall constitute a written notice for a temporary hold on the products.

103.03 The temporary hold shall remain in effect until the processor is notified in writing by the MDMR that the violation has been corrected and the product confiscated has been destroyed or managed in some other manner that allows the product to be safely marketed for human consumption. These corrective actions must be done to the satisfaction of the MCMR or as hereby authorized the MDMR, Executive Director, or the MDMR designee in charge of saltwater crab processing.

104 Cease and Desist Orders

104.01 After seventy-two (72) hours on temporary hold of a certified crab plants saltwater crab product a cease and desist order may be issued by the MDMR Executive Director, the Director of Marine Fisheries or the MDMR designee in charge of saltwater crab processing and remain in effect until such time that product acceptability can be verified.

104.02 In a case where any saltwater crab products involved create a health hazard or whenever adulterated or misbranded products are found, or in any case of willful refusal to certify an inspection, the MDMR may issue a Cease and Desist order effective immediately to suspend all related processing activities. This order shall be in effect until such time as proper corrective actions have been taken and the order is lifted as provided in writing.

104.03 Verification that proper corrective actions have been taken shall be provided in writing and this can be provided on the official inspection form during an official inspection of the certified crab plant.

105 Suspension or Revocation of a Seafood Processors Certificate

105.01 A certification held by a person shall be suspended or revoked by the MCMR when presented evidence as follows:

105.01.01 The certified crab plant owner, operator, or manager interfered or failed to cooperate as necessary, with the MDMR during an inspection.

105.01.02 The certificate holder interfered or prevented the temporary hold or confiscation and disposal of saltwater crab or saltwater crab products by the MDMR when the saltwater crab product was declared, in writing, an adulterated or potentially adulterated product and a public health risk or a potential public health risk by the MDMR, and the MDMR concluded that the stated foods had to be confiscated, removed from the facility/unit and properly disposed.

105.02 The suspension or revocation of a certification shall be implemented provided that the MDMR shall in all cases serve upon the holder a written notice of intent to suspend or revoke the certificate. The notice shall specify the violations and allow the holder such reasonable opportunity to correct such violations as may be agreed to by the parties before making any order of suspension/revocation effective. A copy of the official signed suspension or revocation order handed to the certification holder or the certification holder's authorized representative, or in their absence, posted in a conspicuous place in the establishment, shall constitute a written notice to suspend or revoke the certificate. A suspension/revocation of a certificate shall remain in effect until the violation has been corrected to the satisfaction of the MDMR or, in an absence of a correction satisfactory to the MDMR, to the satisfaction of the MCMR.

105.03 Upon receipt of an application from any person whose certificate has been suspended or revoked, the MDMR shall make such inspection(s) and as deemed necessary, collect samples and test them to determine compliance with the requirements of this Part.

105.04 Upon the occurrence of repeated critical health hazards to humans or violation(s) in other regulated seafood sanitation and health safety categories, the MCMR may revoke such certificate following reasonable notice to the certificate holder and an opportunity for a hearing.

Chapter 10 Performance Based Inspection Program (PBIP)

100 A PBIP may be instituted by the MDMR for any certified crab plant that meets the requirements of Chapter 06 subchapter 103 of this Part.

101 The minimum frequency of inspection under a PBIP shall be no less than one (1) inspection per certification period. The recertification inspection may qualify as the required minimum inspection frequency.

102 To be eligible for a PBIP, the processor shall have demonstrated a history of satisfactory compliance for the previous three-year (3) period. The three year (3) demonstration shall include:

102.01 Full compliance with the minimum inspection frequency shown under Chapter 08 of this Part;

102.02 Recertification of the processor by the MDMR;
102.03 Verification that no critical deficiencies, no more than one key deficiency and no more than two other deficiencies have occurred in any one inspection;
102.04 Correction of all identified deficiencies in accordance with the compliance schedule approved by the MDMR; and
102.05 No repetition of the identified deficiencies.

Chapter 11 Labeling of Saltwater Crab Products

100 All containers or packages enclosing fresh or frozen saltwater crab products shipped into or out of the State of Mississippi shall originate from a certified processor and shall be conspicuously, indelibly, and legibly labeled with the following information:
100.01 Name of the product.
100.02 Name and address of the packer, repacker or distributor.
100.03 Size of the container or package.
100.04 Certification number.
100.05 Containers of frozen saltwater crab products shall bear on the label nutritional facts as required by federal regulations unless otherwise exempt.

101 All saltwater crabs and saltwater crab products shipped by a certified processor within, into or out of the State of Mississippi shall be accompanied by a bill of lading or bill of sale with the following information:
101.01 Shipper's name, address, and certificate number.
101.02 Date of shipment.
101.03 Name and address of consignee.
101.04 Type and quantity of saltwater crabs or saltwater crab products.

102 All saltwater crabs and saltwater crab products purchased for personal consumption must be properly identified as specified in accordance with Chapter 11 of this Part, and be accompanied by a receipt or a bill of sale containing the following information, the intent being that the following information is present and available for inspection by any official of MDMR.
102.01 Name and certificate or license number of seller.
102.02 Quantity of saltwater crabs or saltwater crab products purchased.
102.03 Purchase date.

Chapter 12 Purchase and Sales Records

100 Persons, firms or corporations handling, buying, selling, or shipping saltwater crabs or saltwater crab products shall keep accurate records showing the names, addresses, and permit numbers of all persons from whom lots are received, the source of each lot (growing

area) and the names and addresses of persons to whom lots are sold or shipped and the dates of the aforementioned transactions. Persons, firms or corporations handling, buying, selling or shipping saltwater crabs or saltwater crab products shall record the number of containers of saltwater crabs or saltwater crab products and to whom or from whom the saltwater crabs or saltwater crab products were shipped, sold, bought or received. Such records shall be open to inspection at any time during operating hours, by any duly authorized representative of the MDMR.

Chapter 13 Transportation of Saltwater Crabs or Saltwater Crab Products

100 All saltwater crab products transported by a certified crab plant across the borders of the State of Mississippi, whether being imported into or exported from the State and that requires cold temperature control for health safety, must be under cold temperature holding conditions that maintain seafood safety conditions. However, this regulation shall not apply to live animals of seafood species covered under this Part, provided the holding temperature for such live animals does not create health safety risks when such live animals are processed and marketed for human consumption.

Chapter 14 Adulterated or Misbranded Saltwater Crab Products

100 No person shall within the state of Mississippi hold or pack saltwater crab products under conditions whereby the product may become adulterated and/or a known public health risk.

101 It shall be unlawful within the state of Mississippi to produce, provide for sell or purchase, offer, possess, or have in possession with intent to sell, any saltwater crabs or saltwater crab products which are adulterated or misbranded.

102 Any adulterated, misbranded, mislabeled, or unlabeled saltwater crabs or saltwater crab products under the jurisdiction and authority of the MCMR in accordance with Miss. Code Ann. §49-15-15 (c), as amended, may be impounded by the MDMR Executive Director, the Director of Marine Fisheries or the MDMR designee in charge of saltwater crab processing.

103 Marine Patrol is authorized to seize and dispose of saltwater crabs or saltwater crab products as directed by the MCMR, the MDMR Executive Director, the Director of Marine Fisheries, the Seafood Technology Bureau Director or a certified Seafood Inspector.

Chapter 15 Sanitation Requirements

100 The following are the requirements specific for processing saltwater crabs and saltwater crab products. The criticality of the requirement is noted after each as ("C"), ("K"), ("O") or ("$S^{O/K}$" or "$S^{K/C}$").

101 For the safety of water used for processing and ice production the

processor shall assure:

101.01 Process water is safe and of adequate sanitary quality; (C), and

101.02 Water used for washing, rinsing, or conveying is of safe and adequate sanitary quality; (C), and

101.03 Water used for ice manufacture is of safe and adequate sanitary quality; (C), and

101.04 No cross connections between sewer or wastewater and processing water are present. (C)

102 The processor shall maintain the condition and cleanliness of food contact surfaces in that:

102.01 Food contact surfaces are designed, fabricated, maintained and installed to be easily cleanable and capable to withstand the environment of use and cleaning compounds; (K), and

102.02 Smoothly bonded seams exist on all food contact surfaces of equipment and utensils; (K), and

102.03 The food contact surface is cleaned and sanitized before use, after interruptions, and as necessary; (K), and

102.04 Outer garments are suitable to the operation and cleaned in a manner that protects against the contamination of food, food-contact surfaces, or food packaging materials; (O), and

102.05 Gloves are impermeable, clean and sanitary. (O)

103 The processor shall prevent cross contamination of food and food contact surfaces by:

103.01 Ensuring employees conform to hygienic practices and maintain personal cleanliness adequately and as necessary to prevent contamination of food, food contact surfaces, or food packaging materials; (K), and

103.02 Washing and sanitizing hands before start of work, after absence from workstation and when hands have become contaminated; (K), and

103.03 Removing or covering jewelry that cannot be sanitized; (O), and

103.04 Storing clothing or personal items away from exposed food or where equipment or utensils are washed; (O), and

103.05 Preventing employees from eating, chewing gum, drinking or using tobacco near exposed food or food contact surfaces; (K), and

103.06 Taking precautions as necessary to protect against contamination of food, food-contact surfaces, or food packaging materials with microorganisms, or foreign substances including, but not limited to, perspiration, hair, cosmetics, tobacco, chemicals, and medicines applied to the skin; (K), and

103.07 Applying effective measures to protect finished product contamination by raw materials, other ingredients, or refuse. When raw materials, other ingredients, or refuse are unprotected, they shall not be handled simultaneously in a receiving, loading, or shipping area if that handling could result in contaminated food; ($S^{O/K}$), and

103.08 Protecting food transported by conveyor against contamination as necessary; ($S^{O/K}$), and

103.09 Practicing sanitary handling procedures; (K), and

103.10 Ensuring that the plant design reduces the potential for contamination of food, food contact surfaces, and packaging materials and prevents employees from contaminating food from clothing or personal contact; (O), and

103.11 Separating operations to prevent cross contamination of food, food-contact surfaces, and packaging materials by location, time, partition, air flow, enclosed system, or other effective means. (O)

104 The processor shall maintain hand washing, hand sanitizing and toilet facilities by:

104.01 Providing warm water at all locations for hand washing at a minimum temperature of 110°F dispensed from a hot and cold mixing or combination faucet; (K), and

104.02 Providing hand washing, and where appropriate, hand sanitizing facilities are at each location where good sanitary practice dictates their use; (K), and

104.03 Having effective hand cleaning and hand sanitizing preparations, such as a supply of hand cleansing soap, hand sanitizer, sanitary towel service or suitable drying devices present, an easily cleanable waste receptacle and handwashing signs in a language understood by the employees; (O), and

104.04 Designing and constructing devices or fixtures to protect against recontamination of clean sanitized hands; (O), and

104.05 Providing an adequate and functioning sewage disposal system; ($S^{K/C}$), and

104.06 Providing adequate, readily accessible toilet facilities maintained in a sanitary condition, in good repair at all times with self-closing doors that protect food from airborne contamination (K).

105 The processor shall protect food and food contact surfaces from adulteration by:

105.01 Assuring the design, construction, and use of equipment precludes adulteration of food with lubricants, fuel, metal fragments, contaminated water, or other contaminates; ($S^{O/K}$), and

105.02 Taking all reasonable precautions to ensure production procedures do not contribute to contamination from any source; ($S^{O/K}$), and

105.03 Holding raw materials, other ingredients, and rework in bulk, or in containers designed and constructed so as to protect against contamination and held at such temperature and relative humidity and in such a manner as to prevent adulteration of the food; ($S^{O/K}$), and

105.04 Identifying product scheduled for rework as such; (O), and

105.05 Holding liquid or dry raw materials and other ingredients received and stored in bulk form in a manner that protects against contamination; (O), and

105.06 Conducting work-in-process in a manner that protects against contamination; (K), and

105.07 Constructing, handling, and maintaining equipment, containers, and utensils used to convey, hold, or store raw materials, work-in-process, rework, or food during manufacturing or storage in a manner that protects against contamination; (O), and

105.08 Performing mechanical manufacturing steps so as to protect food against contamination; (K), and

105.09 Treating or maintaining batters, breading, sauces, gravies, dressings, and other preparations in such a manner that they are protected against contamination; (K), and

105.10 Performing in such a way the filling, assembling, packaging, and other operations such that the food is protected from contamination; (K), and

105.11 Storing and transporting finished food under conditions that will protect food against physical, chemical, and microbial contamination as well as against deterioration of the food and the container; ($S^{K/C}$), and

105.12 Assuring that drip or condensate from fixtures, ducts and pipes do not contaminate food, food-contact surfaces, and food packaging materials; ($S^{K/C}$), and

105.13 Providing adequate physical protection of food from contamination that may drip, drain, or be drawn into the food; ($S^{K/C}$), and

105.14 Providing adequate physical protection of components from contaminants that may drip, drain, or be drawn into them; ($S^{K/C}$), and

105.15 Providing aisles or working spaces between equipment and walls, that are adequately unobstructed and of adequate width to permit employees to perform their duties and to protect against contaminating food or food-contact surfaces with clothing or personal contact; (O), and

105.16 Treating compressed air or other gases mechanically introduced into food or used to clean food-contact surfaces or equipment in such a way that food is not contaminated with unlawful indirect food additives (K).

106 The processor shall properly label, store, and use toxic compounds according to the following:

106.01 Toxic cleaning compounds, sanitizing agents, and pesticides are identified, held, and stored in a manner that protects food, food contact surfaces, and food packaging materials from contamination, and all relevant regulations for their use followed; (K), and

106.02 Permitting the use of insecticides or rodenticides under precautions and restrictions that will protect against the contamination of food, food-contact surfaces, or food packaging materials. (K)

107 The processor shall control employee health conditions by:

107.01 Ensuring any person who, by medical examination or supervisory observation, is shown to have, or appears to have, an illness, open lesion, including boils, sores, or infected wounds, or other abnormal source of microbial contamination by which there is a reasonable possibility of food, food-contact surfaces, or food packaging materials becoming contaminated, be excluded from any operations which may be expected to result in such contamination until the condition is corrected; (K), and

107.02 Instructing employees to report such health conditions to their supervisor. (K)

108 The processor shall control pests by:

108.01 Excluding all pests from any area of the certified crab plant; (K), and

108.02 Providing effective measures to exclude pests from the processing areas and to protect against the contamination of food on the premises by pests; (K), and

108.03 Providing, where necessary, adequate screening or other protection against pests. (K)

109 The processor shall provide equipment and utensils used in processing such that:

109.01 Non-food contact surfaces in processing areas are constructed to be easily cleanable; (O), and

109.02 Holding, conveying, and manufacturing systems are designed and constructed to be maintained in an appropriate sanitary condition; (O), and

109.03 Freezers and cold storage compartments are fitted with an indicating thermometer, temperature measuring device, or temperature recording device and should be fitted with automatic control for regulating temperature or with an automatic alarm to indicate temperature change; (K), and

109.04 Instruments and controls used for measuring, regulating, or recording temperatures, pH, etc. shall be accurate and adequately maintained, and adequate in number for their designed use. (O)

110 All operations in the receiving, inspecting, transporting, segregating, preparing, manufacturing, packaging and storage of seafood shall be conducted in accordance with the sanitation requirements as follows to ensure that:

110.01 Raw materials and other ingredients shall either not contain levels of microorganisms that may produce poisoning or diseases in humans or they shall be pasteurized or otherwise treated to reduce levels; (K), and

110.02 Raw materials and other ingredients susceptible to contamination with natural toxins shall comply with current FDA regulations and guidelines, and action levels before incorporated into finished food; (K), and

110.03 Raw materials, other ingredients, and rework susceptible to contamination with undesirable microorganisms, pests, or extraneous material shall comply with FDA regulations, guidelines, and defect action levels; (K), and

110.04 When frozen materials/products are thawed, it is done in a manner that protects the materials/products from adulteration; ($S^{O/K}$), and

110.05 All saltwater crab or saltwater crab product manufacturing, including packaging and storage, are conducted under such conditions and controls as necessary to minimize the potential for growth of microorganism, or for the contamination of the saltwater crab or saltwater crab product ; ($S^{K/C}$), and

110.06 Saltwater crabs or saltwater crab products that can support the rapid growth of microbes are held in a manner that prevents adulteration by:

110.06.1 Maintaining refrigerated seafood at 40^0F or below as appropriate for seafood involved; (C), and

110.06.2 Maintaining frozen food in a frozen state. (K)

110.07 Methods used to destroy or prevent the growth of undesirable microbes are adequate under the conditions of manufacturing, handling, and distribution to prevent adulteration; (K), and

110.08 Effective measures are taken to protect food from inclusion of metal or other extraneous material; (O), and

110.09 Adulterated saltwater crabs or saltwater crab products are disposed of in a manner that protects other foods from contamination; ($S^{K/C}$), and

110.10 Ingredients used are free from contamination; (C), and

110.11 Heat processes are used where applicable; (C), and

110.12 Time temperature controls are in place; (C), and

110.13 Product is cooled to the adequate temperature during manufacturing; (C), and

110.14 Disposing of batters are at appropriate intervals to protect against the growth of microorganisms; (K), and

110.15 Food containers and packaging materials are safe and suitable; (O), and

110.16 Physical protection from contamination is provided; (O), and

110.17 Food manufacturing areas and equipment used in manufacturing human food are not used to manufacture non-human food-grade animal feed or inedible products, unless no possibility of contamination to human food exists. (K)

111 The processor shall take all precautions and measures to ensure the following:

111.01 Employees are wearing, where appropriate, in an effective manner, hair nets, headbands, caps, beard covers, or other hair restraints; (O),

111.02 Product handlers and supervisors receive appropriate training in proper food handling techniques and food protection principles and are informed of the danger of personal hygiene and insanitary practices; (K), and

111.03 Clearly assigned, competent supervisory personnel. (K)

112 The grounds about the certified facility under the control of the processor shall be kept in a condition that will protect against the contamination of food. The requirements for adequate maintenance of grounds include, but are not limited to:

112.01 Properly storing equipment, removing litter and waste, and cutting weeds or grass within the immediate vicinity of the facility that may constitute an attractant, breeding place, or harborage for pests. (O)

112.02 Maintaining roads, yards, and parking lots so that they do not constitute a source of contamination in areas where food is exposed. (O)

112.03 Adequately draining areas that may contribute contamination to food by seepage, foot-borne filth, or providing a breeding place for pest. (O)

112.04 Operating systems for waste treatment and disposal in an adequate manner so that they do not constitute a source of contamination in areas where food is exposed. (O)

112.05 If the plant grounds are bordered by grounds not under the operator's control and are not maintained in the manner described above, care shall

be exercised in the plant by inspection, extermination, or other means to exclude pests, dirt, and filth that may be a source of contamination. (O)

113 The plant building, fixtures, structures and other physical facilities requirements are:

113.01 The plant building, fixtures, structures and other physical facilities are maintained and repaired to prevent adulteration of food. (O)

113.02 Cleaning and sanitizing is done in manner that protects from contamination. (O)

113.03 Non-food contact surfaces are cleaned as frequently as necessary to protect from contamination. (O)

113.04 Single-service articles used, stored, handled, dispensed, and disposed of in a manner to protect against contamination of food or food contact surfaces. (O)

113.05 Storage of cleaned and sanitized portable equipment in a location that protects food contact surfaces from contamination. (O)

113.06 Adequate lighting in handwashing areas, dressing or locker rooms, and toilet facilities, and all rooms where food is examined, processed or stored and where utensils and equipment are cleaned to be provided with safety-type light bulbs or other means of protecting against food contamination in case of breakage. (O)

113.07 Floors, walls and ceilings shall be kept clean and in good repair. (O)

114 Sanitary facilities and controls shall be such that:

114.01 Plumbing is of adequate size and design, installed and maintained to carry sufficient quantities of water to required locations, able to properly convey sewage and other liquid disposable wastes from the plant, able to avoid constituting a source of contamination to food, water supplies, equipment, or utensils. ($S^{O/K}$)

114.02 Adequate floor drainage is provided in all areas where floors are subject to flood-type cleaning or where normal operations release or discharge water or other liquid waste on the floor. (O)

114.03 Refuse receptacle are constructed and maintained to protect food against contamination. (O)

114.04 Rubbish and offal are conveyed, stored, and disposed of to minimize potential for pest harborage or breeding, and protect against contamination of food, food contact surfaces, and water supply. (O)

Chapter 16 Enforcement

100 The MDMR is authorized to use any combination of fines, certification cancellations, temporary suspension of operating licenses, embargoes, product condemnations or product seizures to accomplish the implementation of this Part.

Chapter 17 Penalties

100 Any unlawful act under this Part committed by any person, firm, or corporation shall be deemed a violation of the provisions of this Part and shall constitute a misdemeanor and upon conviction, said person shall be punished in accordance with Miss. Code Ann. § 49-15-63, as amended, unless a penalty is specifically provided elsewhere in the Mississippi Code Ann. of 1972, as amended.

Chapter 18 Chapters and Subchapters Declared Separable

100 Each chapter and subchapter of this Part is hereby declared separable, and if any chapter or subchapter or part thereof shall be held invalid or unconstitutional, the balance of said Title 22 Part 21 shall remain in full force and effect.

101 Violations of more than one chapter or subchapter of this Part or part thereof shall be considered separate and punished as such.

Chapter 19 Administrative Procedures Act

100 Pursuant to the amendments to the Administrative Procedures Act § 25-43-1.101, *et seq.*, of the Mississippi Code Ann. of 1972, as amended, and the rules and regulations promulgated pursuant thereto by the Secretary of State; the former Ordinance 21.000 has been modified and the MCMR and MDMR have adopted the terminology and numbering system developed by the Secretary of State. Therefore, references to "ordinance" or to "Part" appearing in these regulations or the underlying statutes are used interchangeably and refer to the same instrument.

TITLE 22 - MISSISSIPPI DEPARTMENT OF MARINE RESOURCES
PART 21 RULES AND REGULATIONS FOR THE PREPARATION, PICKING, PACKING, SHIPPING, AND SALE OF SALTWATER CRABS AND SALTWATER CRAB PRODUCTS IN THE STATE OF MISSISSIPPI, from and after the 1st day of January 2007

Adopted this the 19th day of December 2006

MISSISSIPPI COMMISSION ON MARINE RESOURCES

By: _____
Vernon Asper, Ph.D., Chairman

MISSISSIPPI DEPARTMENT OF MARINE RESOURCES

By: _____
William W. Walker, Ph.D., Executive Director