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 seafood, as defined in Mississippi Code Ann. § 49-13-3, in the waters under the territorial jurisdiction of the State of Mississippi, it is necessary to obtain information on seafood 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 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 05 Fresh Product Permit/Secondary Fresh Product Permit

100 A licensed commercial fisherman may only sell to a seafood dealer/processor. A validly licensed commercial fisherman may sell their catch to a consumer within the state if they have in their possession a fresh product permit obtained from the MDMR. A secondary fresh product permit may be obtained from the MDMR for a commercial fisherman's spouse or family member that will allow them to sell their catch to consumers while the commercial fisherman continues to fish. There will be no fee for this permit.

Chapter 06 Seafood Reporting Requirements

100 Unless otherwise specified, each seafood dealer/processor is hereby required to complete Mississippi trip tickets provided by the MDMR. Commercial fishermen, who sell their catch to individuals other than a Mississippi dealer/processor, are hereby required to complete Mississippi trip tickets provided by the MDMR and be in possession of a fresh product permit. Commercial fishermen who sell their catch to anyone other than a Mississippi licensed dealer/processor or transport their catch out-of-state are required to purchase and possess a Dealer/Processor License and are required to comply with all regulations governing Mississippi dealers/processors. All trip tickets shall be returned to the MDMR or electronically submitted on or before the 10th of each month for actual transactions from every commercial fisherman during the preceding month. A trip ticket

summary form that states the total trips taken in a given month shall be submitted by the 10th of each month by the seafood dealer/processor or commercial fisherman. The fisherman is required to provide to the dealer complete and accurate information necessary for the completion of the fisherman portion of the trip ticket. This may include, but is not limited to, commercial fisherman's name, valid license number, date and area of harvest, trip and fishing time, proper vessel identification, gear, quantity, and size of gear used, and applicable mesh size (if any) of gear used, seafood dealer's name, date of purchase, dealer license number, port and county product was landed, species being purchased, weight or any other applicable standard, condition of product, count or market grade of purchased seafood product, and price paid per unit (pound or number) per species. The seafood dealer/processor or fisherman is required to verify the accuracy of the tickets by signing each ticket.

101 Menhaden seafood dealers/processors shall provide information on catch in accordance with the requirements of the National Marine Fisheries Service.

102 Seafood dealers/processors that purchase only shrimp species from commercial fishermen shall be exempt from trip ticket requirement, however, said dealer must provide to the MDMR or authorized port agent 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 for the shrimp caught by trip. If the seafood dealer obtains species other than shrimp from a commercial fisherman a trip ticket must be completed in accordance with the Mississippi trip ticket seafood reporting requirements. Upon request, dealers/ processors shall provide fishermen a completed trip ticket at the time of transaction.

Chapter 07 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 08 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 09 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 10 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 Mississippi 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 11 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 12 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 Mississippi. Code Ann. § 49-15-63, as amended.

Chapter 13 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 Mississippi Code Ann. § 49-15-63, as amended, unless a penalty is specifically provided elsewhere in the Mississippi Code Ann. of 1972, as amended.

Chapter 14 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 15 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 2012.

Adopted this the 18th day of October 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 § 49-13-3, § 49-15-15 and § 79-23-1

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 seafood, as defined in Mississippi Code Ann. § 49-13-3, ~~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 seafood ~~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~~ <u>04</u> 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 05 Fresh Product Permit/Secondary Fresh Product Permit ~~07 Crab Landings Reporting Requirements~~

100 A licensed commercial fisherman may only sell to a seafood dealer/processor. A validly licensed commercial fisherman may sell their catch to a consumer within the state if they have in their possession a fresh product permit obtained from the MDMR. A secondary fresh product permit may be obtained from the MDMR for a commercial fisherman's spouse or family member that will allow them to sell their catch to consumers while the commercial fisherman continues to fish. There will be no fee for this permit.

~~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~~ 06 Seafood ~~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.~~

100 Unless otherwise specified, each seafood dealer/processor is hereby required to complete Mississippi trip tickets provided by the MDMR. Commercial fishermen, who sell their catch to individuals other than a Mississippi dealer/processor, are hereby required to complete Mississippi trip tickets provided by the MDMR and be in possession of a fresh product permit. Commercial fishermen who sell their catch to anyone other than a Mississippi licensed dealer/processor or transport their catch out-of-state are required to purchase and possess a Dealer/Processor License and are required to comply with all regulations governing Mississippi dealers/processors. All trip tickets shall be returned to the MDMR or electronically submitted on or before the 10th of each month for actual transactions from every commercial fisherman during the preceding month. A trip ticket

summary form that states the total trips taken in a given month shall be submitted by the 10th of each month by the seafood dealer/processor or commercial fisherman. The fisherman is required to provide to the dealer complete and accurate information necessary for the completion of the fisherman portion of the trip ticket. This may include, but is not limited to, commercial fisherman's name, valid license number, date and area of harvest, trip and fishing time, proper vessel identification, gear, quantity, and size of gear used, and applicable mesh size (if any) of gear used, seafood dealer's name, date of purchase, dealer license number, port and county product was landed, species being purchased, weight or any other applicable standard, condition of product, count or market grade of purchased seafood product, and price paid per unit (pound or number) per species. The seafood dealer/processor or fisherman is required to verify the accuracy of the tickets by signing each ticket.

101 Menhaden seafood dealers/processors shall provide information on catch in accordance with the requirements of the National Marine Fisheries Service.

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Chapter ~~12~~ 10 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 Mississippi 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.

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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.

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Chapter ~~15~~ 13 Penalties

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Chapter ~~16~~ 14 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~~ 15 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~~ January 2012.

Adopted this the ~~19th day of 2006~~ 18th day of October 2011.

MISSISSIPPI COMMISSION ON MARINE RESOURCES

By: /s/ Vernon Asper
Vernon Asper, Ph.D., Chairman

MISSISSIPPI DEPARTMENT OF MARINE RESOURCES

By: /s/ William W. Walker
William W. Walker, Ph.D., Executive Director

Source: Miss. Code Ann § 49-13-3, § 49-15-15 and § 79-23-1