ADMINISTRATIVE HANDBOOK

OF THE

MISSISSIPPI

COMMISSION ON MARINE RESOURCES

ADOPTED JUNE, 1995

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Foreword

The Administrative Handbook of the Commission on Marine Resources (Commission Handbook) is intended to provide guidance to the Commission and the Executive Director for the operation of the Department of Marine Resources.

The handbook addresses the general authority, function, policy and operating principles governing the Commission, the relationship of the Commission with the Executive Director, and the general authority, function, policy and operating principles governing the Executive Director. Every attempt has been made to assure the accuracy of the statements made within the Handbook. However, the statutes governing the Commission and the Department and the Ordinances adopted by the Commission are the authoritative sources for the rules concerning the powers of the Commission and the procedures governing the exercise of such powers. In the event of any conflict between any statement in this handbook and any statute concerning the Commission or any Ordinance adopted by the Commission, the provisions of the statutes or Ordinances are controlling.

In addition to the following policies set forth in this handbook, the Commission and the Executive Director should exercise a common sense and reasonable judgment approach, in consultation with legal counsel, in carrying out the mission of the department.

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MISSISSIPPI COMMISSION ON MARINE RESOURCES

COMMISSION GUIDELINES

Objective

These guidelines will serve to establish clearly the function of the Commission and to provide operating instructions enabling it to act effectively in carrying out its responsibilities. The Commission Handbook will serve as the bylaws of the Commission on Marine Resources and will fulfill the requirements of Miss. Code Ann. §49-15-301(6), as amended. In the event of any conflict between any statute having application to the actions of the Commission or any other Ordinances adopted by the Commission and any provision of this Handbook, the statutes and Ordinances shall control.

Policy

In accordance with the above objective, the Commission will function under the following guidelines:

Section 1.0 NAME OF THE COMMISSION

The name of this body is the Commission on Marine Resources.

Section 2.0 AUTHORITY AND FUNCTION

2.1 Authority

The general authority of the Commission on Marine Resources is created and defined in Miss. Code Ann. §49-15-301 and §49-15-303, as amended.

2.2 Functions

The functions of the Commission shall be to:

(1) Adopt, amend and repeal such regulations, ordinances and rules as may be necessary for the operation of the Department;

(2) Approve policy within jurisdiction of the Commission;

(3) Establish, appoint and provide direction to advisory committees for the Department of Marine Resources;

(4) Execute power and authority to issue all licenses, fees, and permits within jurisdiction of department, and to revoke licenses as provided by statute and rules of the Commission;

(5) Submit three (3) nominees for the position of the Executive Director to the Governor in accordance with Miss. Code Ann. §49-15-305, when a vacancy occurs in the office;

(6) Work with the Executive Director to insure that the public remains informed and understands the goals, objectives, plans and programs of the Commission and the department;

(7) Hold monthly meetings of the Commission as prescribed by law and as set by the Commission;

(8) Establish adequate controls through periodic reports from the Executive Director which are of sufficient scope to insure that:

A. all legal requirements, as set forth in statutes, rules and regulations are met;

B. established goals and objectives of the department are met;

C. approved policies are adhered to; and

D. adequate performance in all program areas is attained;

(9) Conduct hearings, gather testimony and perform other functions required to carry out its powers and duties as prescribed by statute; and

(10) Discharge such other duties, responsibilities and powers as are prescribed by statute.

Section 3.0 MEMBERSHIP

The composition, terms of office, and compensation of the Commission are prescribed by

Miss. Code Ann. §49-15-301, as amended.

3.1 Composition of the Commission

The Commission shall consist of the members as set forth in Miss. Code Ann. §49-15-301, as amended. All appointments shall be made by the Governor and confirmed by the Senate. Each member of the Commission shall take the Oath of Office prescribed by Section 268 of the Constitution. Each commissioner shall be covered by a blanket bond carried by the Department of Marine Resources.

3.2 Terms of Office

The terms of office shall be as prescribed in Miss. Code Ann. §49-15-301(2)(b), as amended.

3.3 Vacancies

The Governor shall make appointments to fill unexpired terms and such appointments shall be confirmed by the Senate. See Miss. Code Ann. §49-15-301 (2) (d), as amended.

3.4 Compensation

The members of the Commission shall receive per diem compensation, as provided by law, for each day devoted to the discharge of official duties.

In addition, the members of the Commission shall be reimbursed the actual and necessary expenses incurred in the discharge of their duties, such expenses not to exceed those limitations set forth in Miss. Code Ann. §25-3-41, as amended. Commission members are solely responsible for the accuracy of reimbursement vouchers submitted by them, and shall keep sufficiently accurate records to justify such claims. Commissioners shall use discretion in requesting expense reimbursement, insuring that all expenses are reasonable.

All requests for reimbursement of lodging, commercial travel and registration fees shall be accompanied by a receipt. No member of the Commission shall receive more in per diem than the limit provided by law.

3.5 Conflict of Interest

Conflict of interest and improper use of office are addressed in Miss. Code Ann. §25-4-101 through §25-4-119, as amended. A member of the Commission is defined as a "public servant", meaning any elected or appointed official of the government.

"Conflicts of interest" includes but is not necessarily limited to:

(1) No public servant shall use his official position to obtain pecuniary benefit for himself other than that compensation provided for by law, or to obtain pecuniary benefit for any relative or any business with which he is associated.

(2) No public servant shall be interested, directly or indirectly, during the term for which he shall have been chosen, or within one (1) year after the expiration of such term, in any contract with the state, or any district, county, city or town thereof, authorized by any law passed, or order made by any board of which he may be or may have been a member.

3.6 Financial Statements

Commission members shall complete and file in a timely manner those financial statements required by the Mississippi Ethics Commission as directed by Miss. Code Ann. §25-4-25 through §25-4-31, as amended.

3.7 Inventory of State Property

The Executive Director shall assign, in his discretion, inventory items to members of the Commission. Commission members shall be responsible for the safe keeping, care and accountability of inventory items assigned to them.

Section 4.0 OFFICERS

4.1 Enumeration

The Commission on Marine Resources shall have two officers; a Chairman and a Vice-Chairman.

4.2 Election, Term

The Commission officers shall be elected from among the Commission membership by majority vote. Terms of office shall be for a period of one (1) year, and elections shall be held annually at the July Commission meeting.

4.3 Duties

The duties of the officers of the Commission on Marine Resources are as follows:

(1) The Chairman presides over regular and special Commission meetings. Assigns special responsibilities to other Commission members on occasion when required; executes Commission documents that require such signature; performs other duties delegated by the Commission; and insures that Commission members adhere to the Commission rules and other applicable policies.

(2) In the absence of the Chairman, the Vice-Chairman presides at Commission meetings and performs all those duties usually performed by the Chairman.

Section 5.0 MEETINGS

5.1 Regular Monthly Meetings

The Commission will hold regular meetings at least once each month. Normally, the Commission will meet at the headquarters of the Department. Regular monthly meetings of the Commission will be held on the third Tuesday of each month at 9:00 a.m. at the Department of Marine Resources, 1141 Bayview Avenue, Biloxi, MS. Upon a majority vote of the commissioners in attendance at a regularly scheduled monthly meeting the Commission may change the time, day and location of a scheduled monthly meeting. Special meetings may be called when they are justified. The provisions in this Handbook on regular meetings and special meetings shall replace and supersede any prior Commission resolutions on meetings of the Commission.

5.2 Called Special Meetings

Requests for a Called Special Meeting may be made by any Commission member or the Executive Director. Such requests shall be directed to the Chairman and shall specify the reason for the special meeting. Called Special Meetings may be conducted at locations and times designated by the Chairman. The Chairman or his designee shall, at a minimum, telephone each member of the Commission and advise them of the reason for the Called Special Meeting and the time and place for conducting the meeting. Notice to the public of Called Special Meetings shall comply with the terms of Miss. Code Ann. §25-41-13, as amended. Notice of the Called Special Meeting shall be posted on the door or bulletin board outside the regular meeting room of the Commission. Any Called Special Meeting may be

scheduled to commence after providing at least (4) hours advance notice of the Called Special Meeting.

5.3 Attendance

All members of the Commission are strongly encouraged to attend each regular and special meeting of the Commission. Any member of the Commission who shall not attend three (3) consecutive regular scheduled meetings of the Commission shall be subject to removal by majority vote of the Commission.

5.4 Quorum Voting

A simple majority of the Commission shall constitute a quorum for transacting business. Each member having one (1) vote the act of a majority of the members present will constitute Commission action.

5.5 Telephone Votes

Requirement that official meetings be open to the public at all times may not be avoided by use of telephone polls among members of a public body to conduct official acts; however, recording of final vote by telephone is not prohibited when the vote is reduced to public record and all deliberations prior to the final vote have taken place in accordance with the open meetings act.

5.6 Agenda

An agenda shall govern the conduct of business of each Commission meeting. The Commission, in consultation with the Executive Director, is responsible for establishing the agenda for each regular Commission meeting. A tentative agenda containing a listing of the items of business to be transacted shall be sent by the Executive Director to each Commission member prior to each regular meeting. Every agenda shall include the item "Other Business". The tentative agenda and copies of documents that will be considered by the Commission shall be sent to each of the Commissioners not later than seven (7) days prior to each regularly scheduled meeting of the Commission.

5.7 Minutes

Accurate written minutes shall be kept for each regular or special meeting of the Commission. The Executive Director shall be responsible for insuring that such minutes are maintained. The minutes, whether in open or executive session, shall show the members present, and accurately record any final actions taken at the meeting. At each Commission meeting the minutes of the preceding meeting shall be approved and shall then become a part of the official record of the Commission to

be maintained by the Department. The minutes shall be made available for public inspection during regular business hours. Any documents or materials presented to the Commission by the Department or by any person, firm or corporation in support of or in opposition to any matter presented to the Commission requiring the approval by vote of the Commission shall also be a part of the official record of the Commission and the Executive Director shall be responsible for maintaining these as attachments to the approved minutes.

5.8 Open Meetings

All meetings of the Commission are declared to be open meetings and shall be open to the public at all times unless executive session is declared. All meetings shall be conducted in accordance with Miss. Code Ann. §25-41-1 through §25-41-17, as amended, which govern open meetings.

5.9 Executive Session

The Commission may enter into executive session for the transaction of public business as permitted in §25-41-7, as amended, and in adherence with the following procedures:

(1) A motion must be made to close the meeting in order to make a determination of the necessity for executive session;

(2) A majority vote is required in order to close the meeting;

(3) The Chairman must announce that meeting is closed to make a determination of the necessity for executive session;

(4) The only matter that can be addressed during closed session is whether or not to go into executive session to discuss a particular subject;

(5) A motion must be made to enter into executive session;

(6) A THREE-FIFTHS MAJORITY vote is required in order to go into executive session;

(7) The Chairman or his designee must announce in open meeting[2] that the Commission is going into executive session, and must state the specific reason for doing so (e.g., "The Commission has voted

[2] No additional vote shall be required to re-open the meeting for the purpose of announcing that the Commission has voted to go into executive session. It shall be sufficient to announce to the members of the public in attendance that the Commission has voted to go into executive session and the reason for the executive session.

unanimously to go into executive session to discuss the prospective purchase of land");

(8) In the executive session the Commission may discuss only the matter for which executive session was declared; and

(9) The Chairman must re-open the meeting at the close of executive session.

Mississippi Code Annotated §25-41-7(4), as amended, provides that a public body may enter into executive session for any of the following reasons:

* Transaction of business and discussion of personnel matters relating to the job performance, character, professional competence, or physical or mental health of a person holding a specific position;

* Strategy sessions or negotiations with respect to prospective litigation, litigation or issuance of an appealable order when an open meeting would have a detrimental effect on the litigating position of the public body;

* Transaction of business and discussion regarding the report, development or course of action regarding security personnel, plans or devices;

* Investigative proceedings by any public body regarding allegations of misconduct or violation of law;

* Any body of the Legislature which is meeting on matters within the jurisdiction of such body;

* Cases of extraordinary emergency which would pose immediate or irrevocable harm or damage to persons and/or property within the jurisdiction of such public body;

* Transaction of business and discussion regarding the prospective purchase, sale or leasing of lands;

* Discussions between a school board and individual students who attend a school within the jurisdiction of such school board or the parents or teachers of such students regarding problems of such students or their parents or teachers;

* Transaction of business and discussion concerning the preparation of tests for admission to practice in recognized professions;

* Transaction of business and discussions or negotiations regarding the location, relocation or expansion of a business or an industry; and

* Transaction of business and discussion regarding employment or job performance of a person in a specific position or termination of an employee holding a specific position. The exemption provided by this paragraph includes the right to enter into executive session concerning a line item in a budget which might affect the termination of an employee or employees. All other budget items shall be considered in open meetings and final budgetary adoption shall not be taken in executive session.

5.10 Conduct of Persons Attending Meetings

Commission meetings shall be conducted in an orderly manner. Commission members, department personnel and the public are all expected to conduct themselves in a courteous manner. The Commission may make and enforce reasonable rules and regulations for the conduct of persons attending its meetings.

5.11 Hearings

From time to time the Commission may conduct formal hearings into matters under its purview in harmony with the rules adopted by the Commission on public hearings and/or adversarial hearings.

5.12 Access to the Commission

The public shall have access to the Commission on matters within the Commission's purview. Persons desiring to present a matter to the Commission at a scheduled meeting shall contact the Executive Director in advance so that the matter may be placed on the agenda. Requests to be placed on the Commission's agenda must be made in writing and must be received by the Executive Director at least ten (10) days in advance of the Commission meeting. The Commission may limit the number of individuals that may address the Commission at each meeting and may limit the time of each presentation.

Individuals who have not previously submitted a matter to be placed on the agenda may address the Commission during a scheduled meeting regarding a matter that is not on the regular agenda by completing a Public Comments Sign-In sheet provided by the Commission prior to the commencement of the scheduled meeting. Those individuals who indicate on the Sign-In sheet that they wish to make oral comments will be called on to do so during the Public Comments segment of the

meeting. Any individual called on to make oral comments may waive his election to do so. The Chairman will announce before the commencement of Public 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 length of the regular agenda. Individuals called upon to make their oral comments will not be allowed to allot any unused time to another individual. The Chairman will make any additional decisions, orders and/or rulings regarding appropriate procedure which in his judgment are necessary for the orderly, fair, and efficient conduct of the scheduled meeting.

Individuals wishing to contact the Commission in writing may address their correspondence to the Commission in care of the Executive Director of the Department of Marine Resources. Correspondence should be directed to the physical address of the Department.

5.13 Rules of Order

The conduct of Commission meetings shall be guided by parliamentary procedure in general conformity with "Roberts Rules of Order". However, failure to strictly comply with parliamentary procedure shall not be cause for reversal of any Commission action. Only Commission members may raise a point of order and must do so contemporaneously with the objectionable action.

Section 6.0 COMMISSION/EXECUTIVE DIRECTOR RELATIONSHIP

6.1 Objective

To establish guidelines governing the basic relationship between the Commission and the Executive Director.

6.2 Guidelines

In performing his duties the Executive Director shall follow the following guidelines:

1. The Executive Director shall submit to the Commission for their review all policies formulated by the department and shall keep the Commission informed of plans and programs of the department;

2. The Executive Director shall be responsible for carrying out all policies adopted by the Commission;

3. Efficient management of the Department requires that the

Executive Director exercise judgment in executing the duties of the Executive Director and the policies of the Commission;

4. The Executive Director will faithfully perform his duties and the implementation of the policies of the Commission; and

5. The flow of authority for the management of the Department shall pass through the Executive Director and the Executive Director shall be the connecting link between the Commission and the Department.

In their relationship with the Executive Director the Commissioners shall follow the following guidelines:

1. Commission members shall coordinate requests for assistance from Department personnel through the Executive Director, the Deputy Director, or, if they are not available, directly through the appropriate office director;

2. The Commission acknowledges that the Executive Director must exercise judgment and gives the Executive Director that latitude of judgment and discretion that is required; and

3. The Commission shall offer guidance to the Executive Director and annually review and evaluate the performance of the Executive Director.

Section 7.0 DUTIES AND RESPONSIBILITIES OF THE EXECUTIVE DIRECTOR

7.1 Objective

The objective of this section is to clearly define the duties and responsibilities of the Executive Director as established by statute and by delegation from the Commission that give him the authority necessary to adequately direct the operations of the Department.

7.2 Policy

Subject to the general policy established by the Commission and state statute, the Executive Director shall supervise, direct, account for, organize, plan, administer, and execute the functions vested in the Department.

7.3 Authority

The general authority of the Executive Director is created and defined by Miss. Code Ann. §49-15-305, as amended. The powers and duties of the Department shall be

exercised through the Executive Director in accordance with the statutes.

7.4 Functions

The functions of the Executive Director shall include:

1. The supervision and direction of all administrative and technical activities of the department;

2. The selection of qualified professional personnel and such other technical and clerical staff as may be required for the operation of the department;

3. The coordination of all studies in the State of Mississippi concerned with the supply, development, use and conservation of marine resources;

4. The preparation of and delivery to the Legislature and the Governor on or before January 1 of each year, and at such other times as may be required by the Legislature or Governor, a full report of the work of the department, and any recommendations the department may have;

5. The establishment and implementation of cooperative agreements with any federal or state agencies or subdivisions thereof, or any public or private institution located inside or outside the State of Mississippi, or any person, cooperation or association in connection with studies and investigations pertaining to the use and conservation of marine resources, provided the agreements do not have a financial cost in excess of the amounts appropriated for such purposes by the Legislature;

6. The enforcement of all regulations and rules adopted by the commission and all licenses and permits issued by the commission;

7. The enforcement of all policies adopted by the Commission;

8. The exercise of all necessary powers not specifically conferred on the Commission;

9. The management of all fishing seasons and resources as specifically authorized by the Commission or as provided for in rules, regulations and ordinances enacted by the Commission; and

10. The issuance of orders and public notices on behalf of the Commission to facilitate actions taken by the Commission.

Section 8.0 PROCEDURES FOR ENACTING COMMISSION RULES AND REGULATIONS

8.1 Objective

The objective of this section is to establish clearly the procedures for enacting Commission rules and regulations in order to legally and effectively carry out Commission responsibilities.

8.2 Policy

It shall be the policy of the Commission to only enact rules, regulations and ordinances after careful preparation and presentation of the proposed rules, regulations or ordinances and in compliance with this section.

8.3 Notice of Intent

The Department shall present the Commission a PROPOSED Notice of Intent setting out the rule or regulation the Department or the Commission wishes to have enacted. (Note that a Notice of Intent is designated by the letter (I).) No proposed adoption of a rule, regulation or ordinance shall be acted upon by the Commission until the proposal is reduced to writing. Further, changes to existing rules, regulations and ordinances must be submitted to the Commission in advance in accordance with Section 5.6 and the proposed changes shall appear in context so that the Commission can fully evaluate the proposed amendment. The forgoing requirements may be waived if THREE-FIFTHS of the members present find that there is a compelling need to proceed immediately.

The Commission shall then vote on whether or not to adopt the Notice of Intent. If the Commission votes to adopt the Notice of Intent, the Notice of Intent is filed with the Secretary of State's Office, along with an Administrative Procedures Filing Notice. The Administrative Procedures Filing Notice designates the person to be contacted if there are comments to be made with respect to the proposed action.

8.4 Comment Period

A minimum thirty-day comment period shall follow the filing of the Notice of Intent. A public hearing shall be conducted during that period if required by statute or requested by the Commission or the Executive Director of the Department. The procedure for offering comments or contesting the making of a proposed rule or regulation are set out in Title 22, Part 15, Administrative Rules as Required by the Mississippi Administrative Procedures Law.

8.5 Final Adoption

Following the comment period, the Department reports to the Commission on the proposed rule or regulation and recommends any changes to the proposed amendment.

The Commission shall then vote on whether or not to adopt the rule or regulation with or without changes. If the Commission votes to adopt the rule or regulation, the rule or regulation shall then be filed with the Secretary of State's Office. An Administrative Procedures Filing Notice is also filed indicating the final action taken. The rule or regulation becomes effective on the date specified by the Commission, but in no event less than thirty (30) days from the date the final notice is filed.

8.6 Emergency Rules and Regulations.

An emergency rule or regulation may become effective immediately upon filing with the Secretary of State if the Commission finds that immediate adoption is necessary because of imminent peril to the public health, safety or welfare.

8.7 Petitions for Review (See also Title 22, Part 15)

After the Commission enacts a rule or regulation, any person opposed to the rule or regulation may file a Petition for Review before the Commission. Such Petition must be filed within fourteen days after the date of final adoption of the rule or regulation and must in all respects comply with Title 22, Part 15.

In acting on a Petition for Review, 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 appropriate division of the Department prior to making a final disposition (the staff shall be granted adequate time to prepare a response); (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 Review has been considered and ruled on by the Commission, no further requests for review shall be allowed.

8.8 Repeal or Amendment of Existing Rules and Regulations

The procedures stated above for enactment of a rule or regulation also apply to the repeal or amendment of a rule or regulation.

Section 9.0 COMMISSION POLICIES AND DIRECTIVES

9.1 Objective

The purpose of this section is to define commission policies and directives and to establish the procedures that the Commission will follow in adopting policies and in issuing directives to the Executive Director and the Department.

9.2 Defining "policies" and "directives"

For purposes of this section "policies" are defined as general principles adopted by the Commission to guide the Executive Director and the Department in the management of their duties to the Commission and the public. Policies are pronouncements of the Commission that are not time-limited and provide guidance on the expectations of the Commission on the operations of the Department. Policies shall not be used as a substitute for enacting rules, regulations and ordinances that affect the general public and the implementation of statutes within the purview of the Commission and the Department. For the purposes of this section "directives" are statements or requests issued by the Commission to the Executive Director and the Department concerning matters that are time-limited in that they expire with the completion or accomplishment of a particularly described task or duty. Directives are matters and tasks that will be tracked by the Executive Director and reported on to the Commission until completion.

9.2 Policies to be written

Commission policies shall be reduced to writing and formally adopted by the Commission. Policies shall be maintained, compiled and indexed by the Executive Director in a handbook of Commission policies.

9.3 Adoption of policies and directives

Commission policies and directives shall be effective upon adoption by the Commission at a regularly scheduled monthly meeting. Commission policies that are not prepared and reduced to writing prior to adoption shall, as soon as practical but no later than the next regularly scheduled Commission meeting, be committed to writing and formally adopted by the Commission. Policies shall require at least a two-thirds (2/3) vote of the commissioners in attendance for adoption and passage by the Commission. Directives shall require a majority vote of the commissioners in attendance for adoption and passage.

Section 10.0 PROCEDURES FOR AMENDING THE COMMISSION HANDBOOK

10.1 Objective

The objective of this section is to establish clearly the procedures for amending the Commission Handbook.

10.2 Policy

The Commission Handbook serves as the working bylaws of the Commission on Marine Resources. Amendments to the Commission Handbook should be made only when there is a compelling need to do so. Therefore, amendments to the Commission Handbook shall be made in accordance with the following procedure:

10.3 Justification

Only the Commission on Marine Resources can amend the Commission Handbook. Any proposal to amend the Commission Handbook must be submitted to the full Commission in writing along with the justification for the amendment.

10.4 Consideration of the Amendment

Proposed amendments to the Commission Handbook must be submitted to the Commission at a regularly scheduled monthly meeting of the Commission. The proposed amendment shall not be considered for final action by the Commission until the next regularly scheduled monthly meeting of the full Commission.

10.5 Voting on the Amendment

In order for the Commission Handbook to be amended THREE-FIFTHS of the members of the full Commission must vote in favor of the proposal.

10.6 Effective date of the Amendment

Amendments to the Commission Handbook shall be effective at the next regularly scheduled monthly meeting of the Commission.

The Administrative Handbook of the Mississippi Commission on Marine Resources was adopted and approved by the Commission on the 18th day of March, 2014.

MISSISSIPPI COMMISSION ON MARINE RESOURCES

Jimmy Taylor, Chairman

MISSISSIPPI DEPARTMENT OF MARINE RESOURCES

Jamie M. Miller, Executive Director