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# Commission on Marine Resources January Meeting

January 15, 2019



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# Employment and Contracts Update January 15, 2019

# Employment Updates

- 12.01.18 - Andrew Heaton - GBNERR Resource Specialist
- 12.01.18 - Cassy Porter - GBNERR Resource Specialist
  - 12.12.18 - McKenna Coons - GBNERR Contractor

# Contracts and Procurements Update

Advertised Procurements						
<u>Office Requesting</u>	<u>Procurement Method</u>	<u>Estimated Amount</u>	<u>Term (Approximately)</u>	<u>Commodity/Service Description</u>	<u>Board Approval</u>	<u>Funding Source</u>
Marine Fisheries	Request for Applications	\$ 21,702.24	01.15.2019 - 06.30.2019	Finfish Contract Worker	OPSCR Staff Approval	100% NFWF
Property Management	Request for Applications	\$ 31,083.94	01.15.2019 - 06.30.2019	Marine Mechanic Contract Worker	OPSCR Staff Approval	100% State Funded

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Franklin Parker  
President



**Mississippi Commercial  
Fisheries United**

Jason Privett  
Vice- President

6421 Beatline Road, Long Beach, MS 39560 | [www.MSCFU.org](http://www.MSCFU.org) | [MSCFUwebs@gmail.com](mailto:MSCFUwebs@gmail.com) | 228.341.7719

**VIA PERSONAL DELIVERY AND CERTIFIED U.S. POSTAL MAIL**

October 29, 2018

Department of Marine Resources  
Executive Directors Office

OCT 30 2018

RECEIVED

Mississippi Commission on Marine Resources  
C/O General Joe Spraggins, Executive Director  
Mississippi Department of Marine Resources  
1141 Bayview Avenue, Biloxi, MS 39530

**RE: Petition for Reconsideration – Mississippi Commercial Fisheries United, Inc.  
TITLE 22 – MISSISSIPPIE DEPT. OF MARINE RESOURCES PART 20  
ADMINISTRATIVE PROCEDURES Chapter 21 Penalties, modification to  
Section 104 and adds new Section 105 (October 2018 CMR Agenda Item K1:  
Title 22 Part 20 Ch 21: Revocation of Endorsements under Certain Penalties)**

Dear Director General Spraggins,

Please find enclosed the original and twelve (12) copies of the Petition for Reconsideration of the Mississippi Commission of Marine Resource's ("MCMR") October 16, 2018 final passage of modifications to Title 22, Part 20, Chapter 21, Section 104 and addition of new Section 105, same establishing administrative penalties to include endorsements in the suspension or revocation thereof in addition to allowing the Commission the authority to revoke program requirements, such as but not limited to endorsements, tags, permits, or similar provisions for violations related to that particular program. This petition and request filed at the behest of the Board of Directors of the Mississippi Commercial Fisheries United, Inc. ("MSCFU") is timely and in compliance with Title 22, Part 15.

Sincerely,

Mississippi Commercial Fisheries United, Inc.

*Ryan Bradley*

Ryan Bradley- Executive Director

Enclosure

**BEFORE THE MISSISSIPPI COMMISSION ON MARINE RESOURCES AND  
MISSISSIPPI DEPARTMENT OF MARINE RESOURCES**

**IN THE MATTER OF THE PROMULGATION OF ENDORSEMENT REVOCATIONS  
PURSUANT TO TITLE 22, PART 20, CHAPTER 21, SECTION 104 AND 105**

**MISSISSIPPI COMMERCIAL FISHERIES UNITED, INC. PETITIONERS**

**VERSUS**

**MISSISSIPPI COMMISSION ON MARINE RESOURCES and  
MISSISSIPPI DEPARTMENT OF MARINE RESOURCES RESPONDENTS**

**PETITION FOR RECONSIDERATION**

Pursuant to the Administrative Rules promulgated by the Mississippi Commission on Marine Resources (“MCMR”) and the Mississippi Department of Marine Resources (“MDMR”), said rules specifically identified as Section 107 of Title 22, Part 15 and authorized pursuant to Miss. Code Ann § 25-43-1.101 *et seq.*, the Mississippi Commercial Fisheries United, Inc. (“MSCFU”), hereinafter referred to collectively as “Petitioners”, hereby petition MCMR to reconsider and revise Chapter 21, Sections 104 and 105 of Title 22, Part 20. The final adoption and administrative procedures notice filing of modifications and additions to Title 22, Part 20, Sections 104 and 105 is noncompliant with constitutional mandates, among other procedural complaints and thus, should be reconsidered and revised for reasons given herein. This Petition is timely and in accordance with the requirements of Title 22, Part 15, Section 107. Petitioners have standing on this matter having previously submitted written comments on the regulation during the open public comment period and because Petitioner’s organization consists of members whom are legally licensed commercial fishermen and seafood dealers/ processors in the State of Mississippi holding endorsements, permits or tags whom could be potentially seriously adversely affected by the implementation of the aforementioned regulation filed with the Mississippi Secretary of State on October 17, 2018.



## **TITLE 22, PART 20 – SECTIONS 104 AND 105**

A complete description of the proposed regulatory change challenged herein filed with Mississippi Secretary of State on October 17, 2018 is as follows:

TITLE 22- MISSISSIPPI DEPARTMENT OF MARINE RESOURCES PART 20:

ADMINISTRATIVE PROCEDURES Chapter 21 Penalties, modifications to Section 104 and adds new Section 105.

Chapter 21 Penalties:

104    Suspension or revocation of licenses ~~or~~, permits, or endorsements may be commenced in addition to seeking administrative penalties.

105    The Commission may revoke regulatory program requirements, such as but not limited to endorsements, tags, permits, or similar provisions for violations related to that particular program.

### **RELEVANT FACTS**

At the June 16, 2018 regular scheduled MCMR meeting the issue of revoking the commercial Spotted Seatrout endorsement was first mentioned when MDMR Marine Patrol Chief Keith Davis asked MCMR/ MDMR counselor Ms. Sandy Chestnut "...am I correct that the Commission can revoke the Spotted Seatrout at any time, if they find it necessary?" Mrs Chestnut replied "At this time, they cannot." Subsequently, Commissioner Mark Havard made a motion for MDMR staff to come back at the next month's meeting with recommendations to

provide provisions for the revocation of the Spotted Seatrout endorsement under certain penalties. The motion was seconded by Commissioner Trapani and the motion carried.

At the July 17, 2018 regular scheduled MCMR meeting the issue was brought forth again for discussion. MDMR Office of Fisheries Director Joe Jewell addressed the MCMR with the following statement: "The Commission could consider, at this point, all endorsements, any type of endorsement that would occur and just the Spotted Seatrout Endorsement, and maybe in the future there are other issues very similar to this one with the other endorsements." Mr. Jewell added "... We had this issue before and the Commission certainly wanted to consider those people that violate that provision most egregiously to revoke their endorsement, or incur some other penalty, other than just requiring that they report correctly, and there has been no way that the Commission can enact that." Mark Havard requested "Joe, can we make that change, now, stating that it is for all endorsements?" Commissioner Steve Bosarge countered "If the group is in agreement, I would like to make a motion that we table this until next meeting." Commissioner Havard responded "Mr Chairman, I will second your motion to table it." The motion carried with none opposed.

At the August 21, 2018 regular scheduled MCMR meeting the issue was brought forth for consideration of a Notice of Intent. The issue was listed on the August MCMR meeting agenda under item "K3: Title 22 Part 20 Chapter 21: Revocation of Spotted Seatrout Endorsement under Certain Penalties – Notice of Intent- Joe Jewell – Action". Marine Fisheries Director Joe Jewell stated: "Now, before we move on to any motion, I want to describe to the Commission sort of the intent of potential revocation... What this will impact is those individuals that choose not to abide by the rules that are established for that particular industry. It applies to those individuals that we had issues with in previous months that Marine Patrol Chief



Davis has described.” Marine Patrol Chief Keith Davis replied “For the Commission to consider this, Sandy, I have not had discussion. I don’t know anything about this regulation change.”

Counselor Sandy Chestnut replied “...The agency issues the endorsements, permits, tags, things like that, but they haven’t include any kind of provision to be able to revoke those, when those people violate and have egregious violations, using those endorsements. That is what this is adding.” The following conversation commenced shortly thereafter:

16                   KEITH DAVIS: Director Spraggins, can I have a  
17 word with you, before they take any action on this?

18                   JOE SPRAGGINS: what?

19                   KEITH DAVIS: Can you and I have a sidebar,  
20 before action is taken on this?

21                   JOE SPRAGGINS: Okay.

22                   COMMISSIONER BOSARGE: we can go ahead and  
23 proceed and just not vote on it.

*[Excerpt from MCMR Meeting Transcript; August 21, 2018, p. 146]*

Marine Fisheries Director Joe Jewell later clarified: “What Sandy was pointing out, this particular motion was presented at the July meeting that specifically addressed Chapter 7, and that would be only for the Spotted Seatrout endorsement, but the Commission wanted to consider all endorsements because you had two options on the table. What Sandy is requesting, or stating, is that she wants this specific language for all endorsements put in there and not just Spotted Seatrout.” Counselor Sandy Chestnut later added: “We have the revised motion up there. It’s a motion for Notice of Intent for modification of Title 22 Part 20 Chapter 21 Section 104, to include endorsements under certain penalties, and then, it would add Section 105 to read that the Commission may revoke regulatory program requirements such as, but not limited to

endorsements, tags, permits, or similar provisions for violations related to that particular program.” Commission Richard Gollott stated “Mr. Chairman, I make that motion.”

Commissioner Ronnie Daniels stated “I’ll second it.” The motion carried with none opposed.

On Monday, September 24, 2018 Petitioners submitted public comments during the open public comment period in regards to the proposed regulatory changes of Title 22 Part 20 Chapter 21 Section 104 and 105. These comments consisted of two full size pages in .pdf format and were submitted timely via electronic transmission (e-mail) to publiccomments@dmr.ms.gov.

At the October 16, 2018 regular scheduled MCMR meeting the aforementioned issue came up for final adoption. The action was listed on the agenda as item “K1. Title 22 Part 20 Chapter 21: Revocation of Endorsements under Certain Penalties – Final Adoption – Joe Jewell – Action”. The proposed regulation was discussed and written public comments on the matter from MSCFU were acknowledged. Commissioner Steve Bosarge said “...the comments (from MSCFU) we have in our presentation are small and difficult to read”. The proposed regulation was then voted upon by the MCMR and passed final adoption. Subsequently, an administrative procedures notice filing was submitted to the Mississippi Secretary of State on October 17, 2018. The effective date of the regulation is listed on the filing as 30 days after filing date.

### **ARGUMENT**

In passing modifications to Title 22 Part 20 Chapter 21 Section 104 and 105 the MCMR failed to consider and overlooked constitutional precedents that would deem the regulation unlawful. MSCFU asserts that the aforementioned regulation, as is currently adopted, is in violation of the Fourteenth Amendment of the United States Constitution. Additionally, MSCU



expresses procedural complaints because the MCMR did not authorize staff to bring forth recommendations to grant the MCMR authority to revoke all endorsements, tags, permits, or similar provisions for violations related to a particular program as written in the regulation's final adoption.

**I. The Regulatory Changes to Title 22 Part 20 Chapter 21 Sections 104 and addition of Section 105 Adopted by the MCMR is Unconstitutional.**

The requirement of clarity in regulation is essential to the protections provided by the Due Process Clause of the Fifth Amendment. While the Fifth Amendment originally only applied to federal courts, the U.S. Supreme Court has partially incorporated the 5<sup>th</sup> amendment to the states through the Due Process Clause of the Fourteenth Amendment. Specifically, MSCFU argues that the Commission overlooked the void for vagueness doctrine that the Courts have routinely relied upon to strike down regulations that are impermissibly vague and do not provide "fair warning" or "fair notice" or that is written in such a way so that it can be applied arbitrarily and encourages seriously discriminatory enforcement. *FCC v. Fox Television Stations, Inc.* is a reminder that the void-for-vagueness doctrine (including but not limited to its fair notice aspect) is applicable to cases that involve civil penalties and not just criminal liability. The void for vagueness doctrine addresses at least two connected but discrete due process concerns:

**Regulated parties should know what is required of them so they may act accordingly; and precision and guidance are necessary so that those enforcing the law do not act in an arbitrary or discriminatory way.**

The fundamental principle that laws regulating persons or entities must give fair notice of what conduct is required or proscribed, see, e.g., *Connally v. General Constr. Co.*, 269 U. S. 385,



391, is essential to the protections provided by the Fifth Amendment's Due Process Clause, see *United States v. Williams*, 553 U. S. 285, 304, which requires the invalidation of impermissibly vague laws. **A conviction or punishment fails to comply with due process if the statute or regulation under which it is obtained "fails to provide a person of ordinary intelligence fair notice of what is prohibited, or is so standardless that it authorizes or encourages seriously discriminatory enforcement."**

Petitioners argue that the regulation under challenge is impermissibly vague, thus unconstitutional because the regulation does not set a level of egregiousness or severity for violations of state statutes or MCMR regulations for which administrative penalties would justify the revocation of regulatory program requirements, such as but limited to endorsements, tags, permits, or similar provisions for violations related to that particular program. Additionally, details regarding the severity and longevity of the revocation are ambiguous in the regulation under request for review. For example; the regulation does not offer clarity or specificity as to how long a respondent (violation) can have his regulatory program requirement revoked. An indefinite revocation of certain privileges may be extremely adverse in certain instances and may not be consistent with penalties for similar violators.

Therefore, Petitioners argues that the vagueness of the regulation gives broad discretionary powers to the MCMR to potentially administer certain penalties to individuals in similar situations vastly different. Therefore, this regulation opens the door for unconstitutional challenges related to the equal protections clause of the Fourteenth Amendment which essentially states that persons in similar circumstances should be afforded equal justice. MSCFU argues that no such protections are evident under the currently adopted regulatory changes. Such a law has routinely been held unconstitutional. See, e.g., *Oyler v. Boles*, 368 U.S. 448, 456

(1962); *Snowden v. Hughes*, 321 U.S. 1, 8-9 (1944); *Yick Wo v. Hopkins*, 118 U.S. 356, 373-74 (1886) (...though the law itself be fair on its face, and impartial in appearance, yet, if it is applied and administered with an evil eye and unequal hand, so as practically to make unjust and illegal discriminations between persons in similar circumstances, material to their rights, the denial of equal justice is still within the prohibition of the constitution").

Petitioners argue that the regulation under review can and likely will be administered in a prejudicial manner; therefore, infringing upon the Equal Protection Clause of the Fourteenth Amendment of the United States.

## **II. The MCMR did not Authorize MDMR Staff to Bring Forth Recommendations For the Revocation of All Endorsements, Tags, Permits, or Similar Provisions under Title 22, Part 20.**

Originally, at the June 16, 2018 regular scheduled MCMR meeting the MCMR passed a motion to allow staff to come back with recommendations for the revocation of only the commercial Spotted Seatrout Endorsement. In subsequent meetings, MDMR staff came back with recommendations to include all endorsements for which Petitioners argues that MDMR staff did not have authority from the MCMR to do so. Eventually, a Notice of Intent was passed to include the revocation of endorsements, tags, permits or similar provisions for violations related to that particular program. Petitioners argue that MDMR staff and Counselor Sandy Chestnut inappropriately brought forth recommendations to the MCMR for consideration of language in the Notice of Intent that was not properly authorized by the MCMR. The MCMR authorized staff to bring back recommendations for the revocation of the Spotted Seatrout endorsement only.



## **REMEDY**

Petitioners proposes the following actions for which the MCMR could take to reconsider and revise regulatory language in the final adoption of modifications to Title 22, Part 20, Chapter 21, Sections 104 and 105:

### **I. Incorporate Similar Provisions Regarding License Revocations Found in Miss. Code Ann. § 49-15-63 into the Title 22 Part 20 Regulatory Changes.**

Petitioners request that in reconsideration of the aforementioned regulation change that the MCMR consider incorporating similar language found in state statute that governs penalties for violations of Mississippi's seafood laws and regulations. For example: according to Miss Code Ann. § 49-15-63 Section E, "In addition to any other penalties, the commission may suspend the license of any person convicted of a violation of this chapter and may suspend the license of any vessel in the violation for a period not to exceed five (5) days for the first offense. For a second offense, the commission may suspend the license of such person and vessel for a period not to exceed thirty (30 days)." Section F states: "Upon conviction of five (5) seafood violations within a five-year period the commission may revoke the license of the convicted party and the boat or vessel used in the offenses, and may prohibit indefinitely the issuance of a license to the person and boat or vessel to engage in catching or taking of any seafood from the waters of the State of Mississippi. The commission shall exercise this authority in accordance with the administrative procedures in Section 49-15-401 et seq." MSCFU asserts that the aforementioned recommendations that mirror state statute would help bring the regulation under review within the constitutional requirements.



## **II. Establish Levels of Egregiousness for Seafood Violations That are Measurable and Definable**

Petitioners requests that in reconsideration of the aforementioned regulatory change that the MCMR consider incorporating language in to the regulation that would establish levels of egregiousness for Seafood Violations that are measurable and definable. For example: the MCMR could incorporate language in to the regulation that sets minimum thresholds before allowing the revocation of endorsements, tags, permits, or similar provisions for violations related to that particular program. For instance, seafood violations must involve more than one thousand (1000) pounds of seafood or a seafood transaction in excess of Five Thousand Dollars (\$5,000) before the MCMR can consider utilizing revocation powers. Theoretically, under the current regulation, any person can be subject to revocation penalties for minor infractions such as one undersized fish or one pound of fish underreported. To meet constitutional requirements, the MCMR's regulation could benefit from the establishment of levels of severity of violation egregiousness that would trigger the MCMR's revocation powers.

### **CONCLUSION**

Petitioners contend that the aforementioned recommended actions would bring the proposed regulation within the constitutional requirements as clearly established by case law. Currently, as written, the regulatory modifications to Title 22, Part 20, Chapter 21, Section 104 and 105 are believed to be in violation of the Fourteenth Amendment of the United States

Constitution. Specifically, Petitioners argues that the aforementioned regulatory changes is in violation of the Due Process Clause and the Equal Protections Clause.

In the event the MCMR does not grant the reconsideration and revision of the regulation requested in this petition, Petitioners reserves the right to pursue all legal remedies to appeal and challenge the current regulation as it stands. Please do not hesitate to contact MSCFU's Executive Director to establish good faith negotiations to reach a harmonious resolution to this matter. This petition for reconsideration has been duly authorized by the Board of Directors of the Mississippi Commercial Fisheries United and is submitted timely with standing.

RESPECTFULLY SUBMITTED, this 29<sup>th</sup> day of October, 2018

MISSISSIPPI COMMERCIAL FISHERIES UNITED, INC.

A handwritten signature in blue ink that reads "Ryan Bradley". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

By: Ryan Bradley

Executive Director for Petitioners



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# Title 22 Part 20

## Administrative Penalty Procedures

### Chapter 21

### Paragraph 105



## Current Language

- The Commission may revoke regulatory program requirements, such as, but not limited to, endorsements, tags, permits, or similar provisions for violations related to that particular program.

# Proposed Language

- The Commission may suspend or revoke regulatory program requirements, such as, but not limited to, endorsements, tags, permits, or similar provisions for violations related to that particular program. For 1<sup>st</sup> offenses the Commission may suspend a license for up to 3 months, for 2<sup>nd</sup> offenses the Commission may suspend a license for up to 6 months and for 3<sup>rd</sup> offenses the Commission may revoke the license or suspend a license for up to 2 years. The suspensions may be scheduled for a time period coinciding with the particular fishing season in which the offense is related.



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# Resolution to rename Jailhouse Key to Ernie Zimmerman Key

Joe Jewell  
January 15, 2019

D.3.



# Commission on Marine Resources

## Resolution No. 011519-01

WHEREAS, the Mississippi Commission on Marine Resources is a duly constituted governmental entity, created to serve the Great State of Mississippi; and

WHEREAS, said service includes the management and enforcement of any matters pertaining to Mississippi's saltwater aquatic life and marine resources; and

WHEREAS, the Mississippi Commission on Marine Resources acknowledges contribution to the betterment of the fisheries of the Gulf of Mexico through significant biological, industrial, legislative, enforcement or administrative activities;

WHEREAS, Mr. Ernie Zimmerman served on the Mississippi Commission on Marine Resources from 2013 to 2016, as the recreational fishing representative, and contributed to the wise management of Mississippi's marine resources;

Whereas, Mr. Ernie Zimmerman passed away on July 18, 2016.

NOW THEREFORE BE IT RESOLVED, in a duly constituted and assembled meeting, that the Mississippi Commission on Marine Resources does hereby resolve to rename the Jailhouse Key to the Ernie Zimmerman Key.

DONE AND RESOLVED, in this duly constituted and assembled meeting, on this the 15<sup>th</sup> day of January 2019.

## MISSISSIPPI COMMISSION ON MARINE RESOURCES

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Steve Bosarge, Chairman

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Mark Havard, Vice Chairman

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Richard Gollott, Commissioner

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Ronnie Daniels, Commissioner

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Natalie Guess, Commissioner

## MISSISSIPPI DEPARTMENT OF MARINE RESOURCES

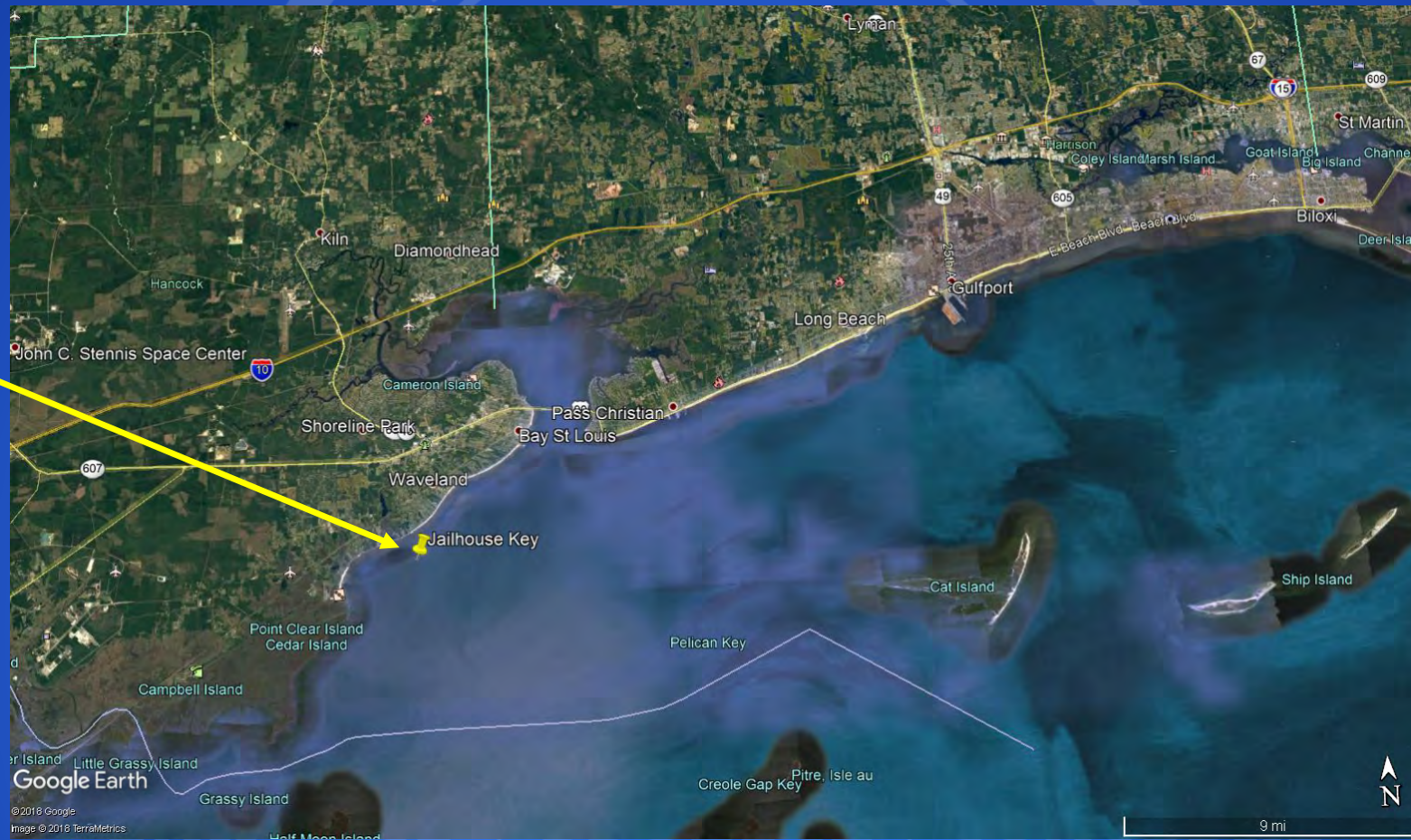
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Joe Spraggins, Executive Director

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# Ernie Zimmerman Key (Previously known as Jailhouse Key)



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# Required:

A motion to proceed with adoption of renaming the Jailhouse Key to the Ernie Zimmerman Key.



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# Marine Patrol Updates

Keith Davis

Chief of Law Enforcement



The background features a large, faint, light blue seal of the Mississippi Department of Marine Resources. The seal is circular with a double border. The outer border contains the text "MISSISSIPPI" at the top and "DEPARTMENT OF MARINE RESOURCES" at the bottom, separated by two stars. The inner circle depicts a bird in flight over stylized waves.

# Annual Report

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# Accomplishments

- Success of the Tails N' Scales Program through persistent enforcement presence and effort
- Increase patrols on piers and harbors through a directive patrol initiative
- Marine Patrol officers were instrumental in saving numerous lives on the water
- Major reduction in boating accidents and water related deaths
- Increased Boat and Water Safety Certifications by 100% from last year

The background features a large, faint, circular seal of the Mississippi Department of Marine Resources. The seal contains the text "MISSISSIPPI" at the top and "DEPARTMENT OF MARINE RESOURCES" at the bottom, separated by two stars. The central image of the seal depicts a bird in flight over stylized waves.

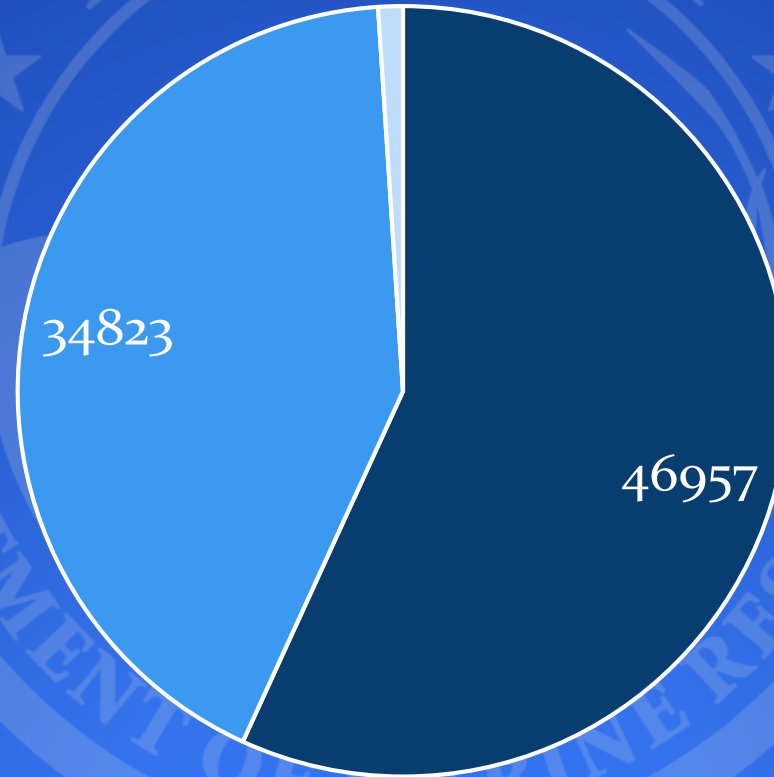
# Enforcement Efforts

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# 2016

82,633 licenses sold

853 = .01%



■ Licenses Sold   ■ Enforcement Stops   ■ Citations

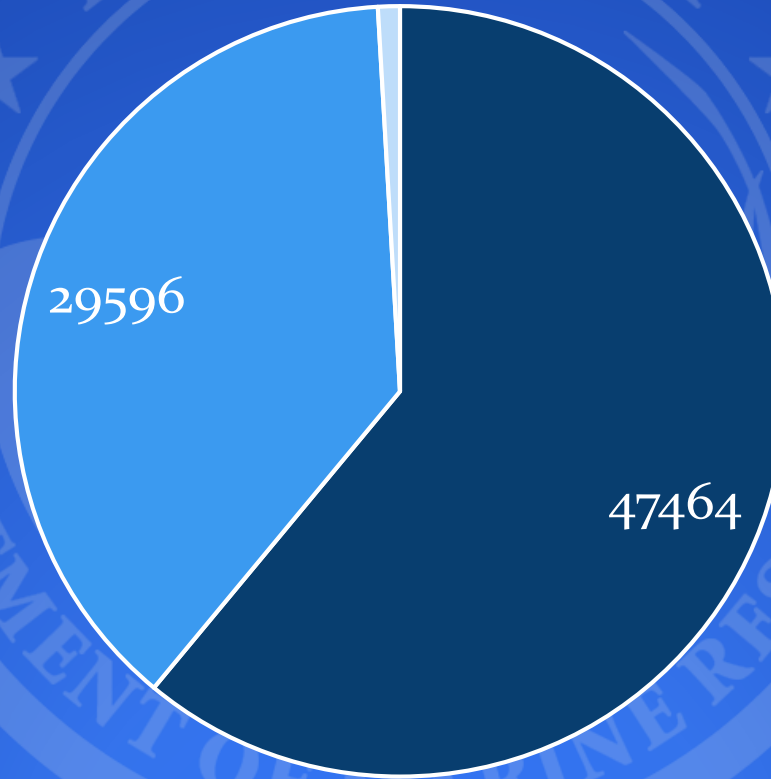
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# 2017

77,774 licenses sold

714 = .009%



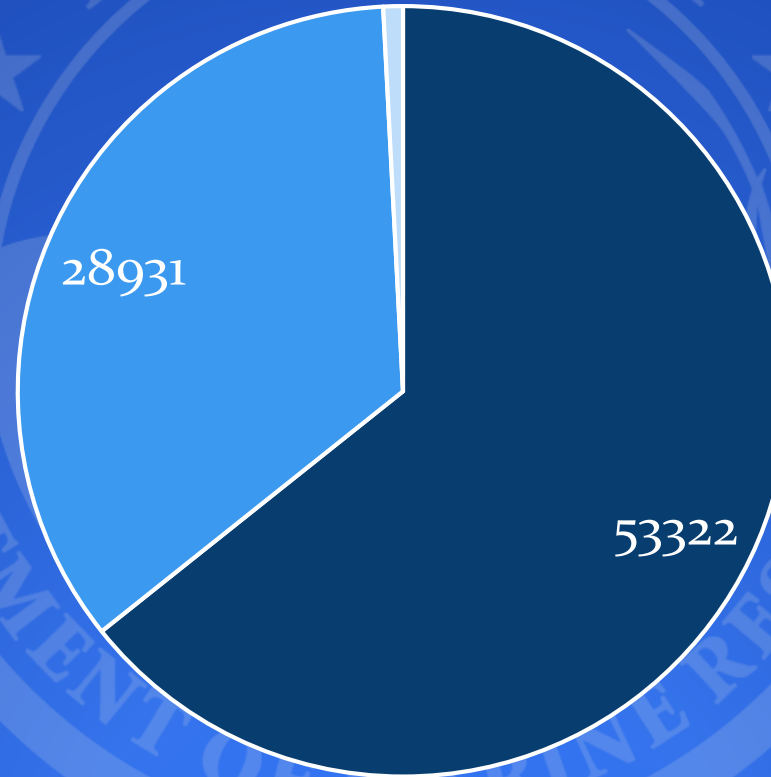
■ Licenses Sold ■ Enforcement Stops ■ Citations

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# 2018

80,996 licenses sold

681 = .008%

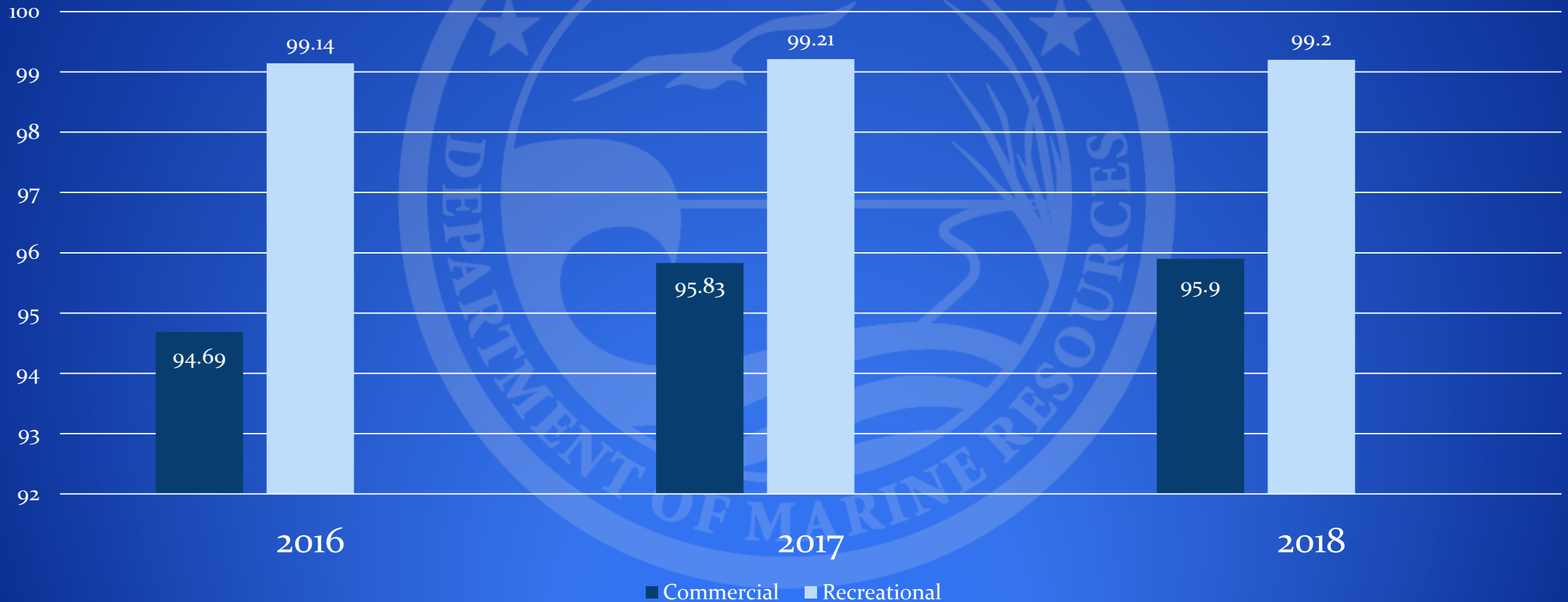


■ Licenses Sold   ■ Enforcement Stops   ■ Citations

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# Compliance Percentages

(license sales to citations)



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# Priorities for 2019

1. Implement a 2019 Marine Litter Campaign focusing on reducing marine debris in the Mississippi Sound
2. Increase enforcement presence to reduce the amount of recreationally harvested seafood introduced to restaurants and commercial markets
3. Increase Public Safety Measures on the Mississippi Gulf Coast by participating in the Homeland Security Port Security Agreement and increasing officer presence in the Port of Gulfport and the Port of Pascagoula
4. Implement a Records Management System (RMS) that will allow Marine Patrol to properly record all law enforcement activity electronically and enhance the ability to begin the process of accreditation

The background features a large, faint, circular seal of the Mississippi Department of Marine Resources. The seal contains the text "MISSISSIPPI" at the top and "DEPARTMENT OF MARINE RESOURCES" at the bottom, separated by two stars. In the center of the seal is a stylized illustration of a pelican feeding its young in a nest, with waves below.

# Marine Litter Campaign

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# NOTICE



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# NOTICE

## Title 22 Part 10

A Regulation to Establish Rules to Prohibit the Disposal of Plastics and Other Garbage in Marine Waters and to Require Disposal Facilities (on vessels and at certain access areas.) 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.**

*Mississippi Department of Marine Resources*



# Why?

- Marine litter poses a significant threat to oceans and estuaries
- Several regional partners are conducting Marine Litter education and awareness campaigns
- Marine Patrol has noted an increase in Marine Litter citations
- Gain voluntary compliance

## Mississippi Coastal Cleanup 2018 Top 10 Trash Items

1. Cigarette butts **57,855** 
2. Food wrappers **12,251** 
3. Plastic beverage bottles **11,295** 
4. Plastic bottle caps **8,845** 
5. Beverage cans **5,761** 
6. Glass bottles **4,436** 
7. Metal bottle caps **4,076** 
8. Straws **3,884** 
9. Foam cups & plates **3,840** 
10. Cigar tips **3,831** 



*Table 1. Examples of marine debris decomposition rates.*

Type of Debris	Decomposition Rate
Paper towel	2-4 weeks
Newspaper	6 weeks
Apple core	2 months
Cardboard box	2 months
Cotton shirt	2-5 months
Waxed carton	3 months
Plastic grocery bag	10-20 years*
Foam cup	50 years*
Aluminum can	200 years
Disposable diaper	450 years*
Plastic beverage bottle	450 years*
Fishing line	600 years*
MSU Coastal Research & Extension Center	



# Marine Mammals and Turtles



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# Marine Sanitation Devices



- Required on all vessels engaged in oyster harvest or transportation
- Discharge prohibited in the territorial marine waters of the State of Mississippi

The background features a large, faint, circular seal of the Mississippi Department of Marine Resources. The seal contains the text "MISSISSIPPI" at the top and "DEPARTMENT OF MARINE RESOURCES" at the bottom, separated by two stars. The central image of the seal depicts a fish jumping over a stylized wave.

# Fleet Updates

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# Old Decals



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# New Decals



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**MARINE PATROL MARINE PATROL**  
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# Mississippi Department of Marine Resources

## FY2020 Tidelands Trust Fund

### Legislative Forum

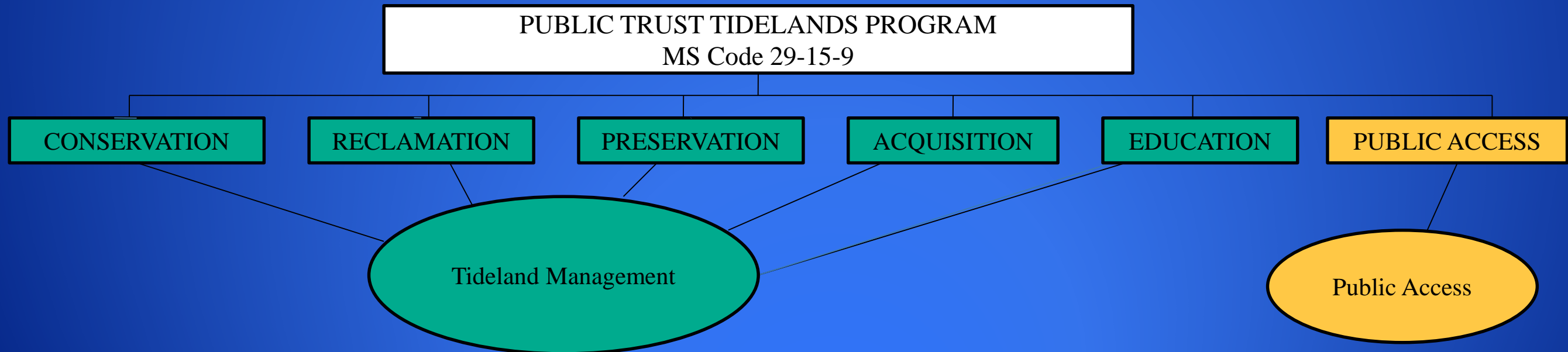


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# Public Trust Tidelands Act

## *Mississippi Code of 1972, Section 29-15-9*

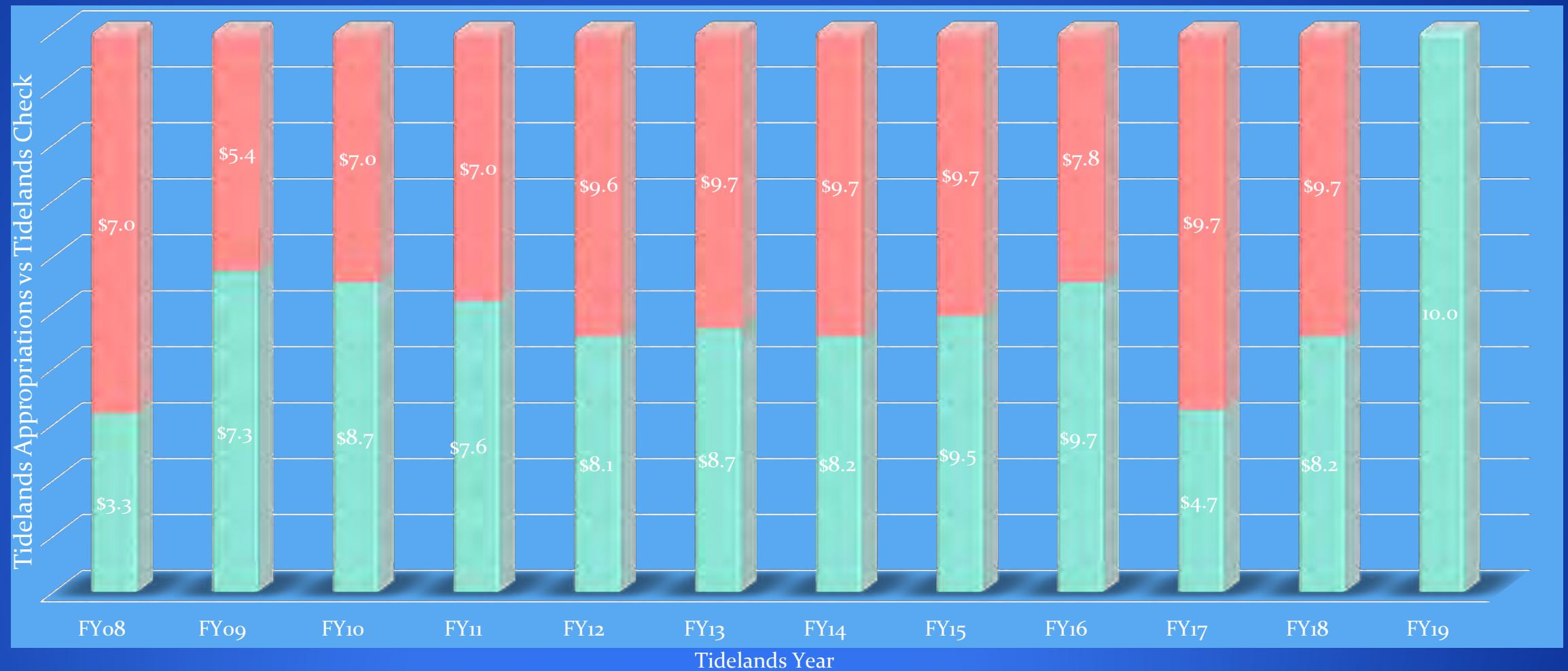
Any funds derived from lease rentals of tidelands and submerged lands, except those funds derived from mineral leases, or funds previously specifically designated to be applied to other agencies, shall be transferred to the special fund. However, funds derived from lease rentals may be used to cover the administrative cost incurred by the Secretary of State. Any remaining funds derived from lease rentals shall be disbursed pro rata to the local taxing authorities for the replacement of lost ad valorem taxes, if any. Then, any remaining funds shall be disbursed to the commission for new and extra programs of tidelands management, such as conservation, reclamation, preservation acquisition, education, or the enhancement of public access to the public trust tidelands or public improvement projects as they relate to those lands.





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# Tidelands Funding History







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# Tidelands FY2021 Schedule

Date	Description
May 31, 2019	Request for Proposals
July 1, 2019	Deadline for Proposals
July - Aug 2019	Compliance Review
September - October 2019	Merit Review
November 2019	Recommendations and CMR Approval of Ranked Proposals
December 2019	Legislative Forum
January 2020	Projects/Report to Legislature
April 2020	FY2019 Appropriations
November 2020	Check from SOS Office
November - December 2020	Projects Awarded



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# Tidelands Trust Fund

## FY2020 Proposal Results

**131 APPLICATIONS SUBMITTED**  
**\$38,954,493**

**57 PUBLIC ACCESS**  
**\$24,729,731**

**28 Submitted by Cities**  
**\$17,393,391**

**16 Submitted by Counties**  
**\$4,708,930**

**13 Miscellaneous**  
**\$2,627,410**

**74 TIDELANDS MANAGEMENT**  
**\$14,224,762**

**26 Submitted by MDMR**  
**\$4,709,299**

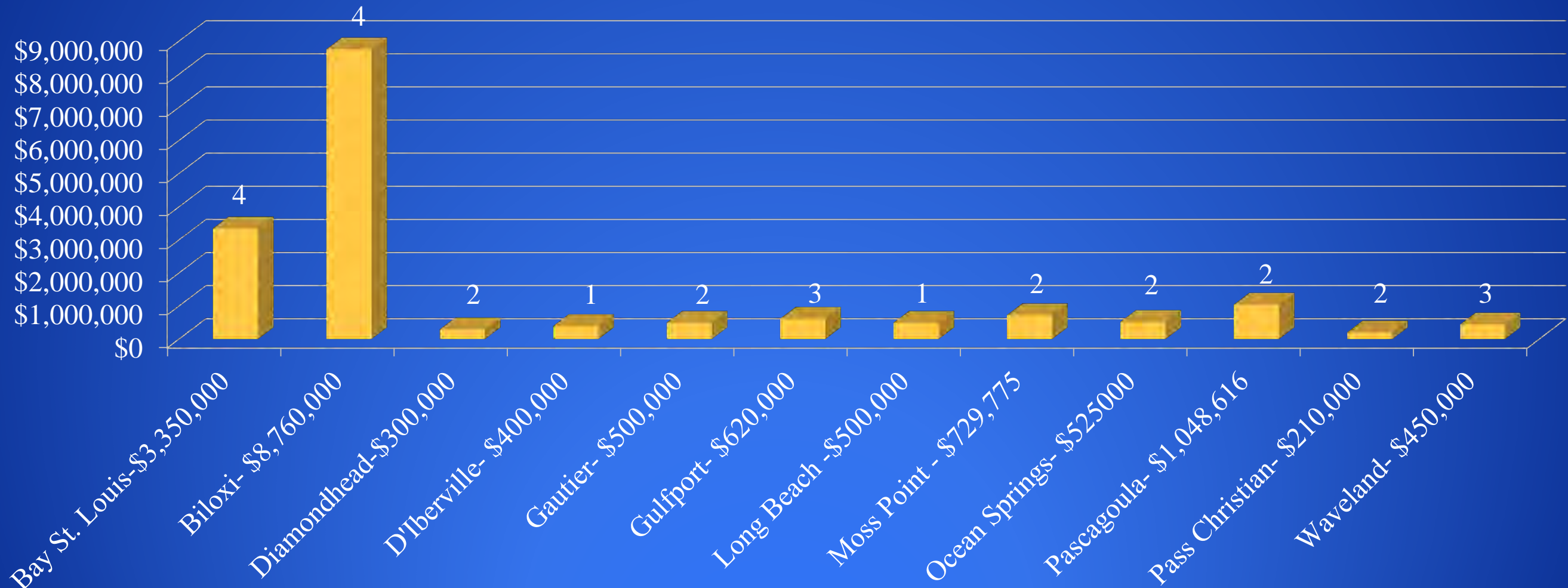
**38 Submitted by Universities**  
**\$7,929,958**

**10 Miscellaneous**  
**\$1,585,505**

*Appropriated for FY2019: \$10,000,000*



# FY2020 Tidelands Trust Fund Project Proposal Breakdown by City – Public Access



Total Number of Proposals Received: 28 at \$17,393,391

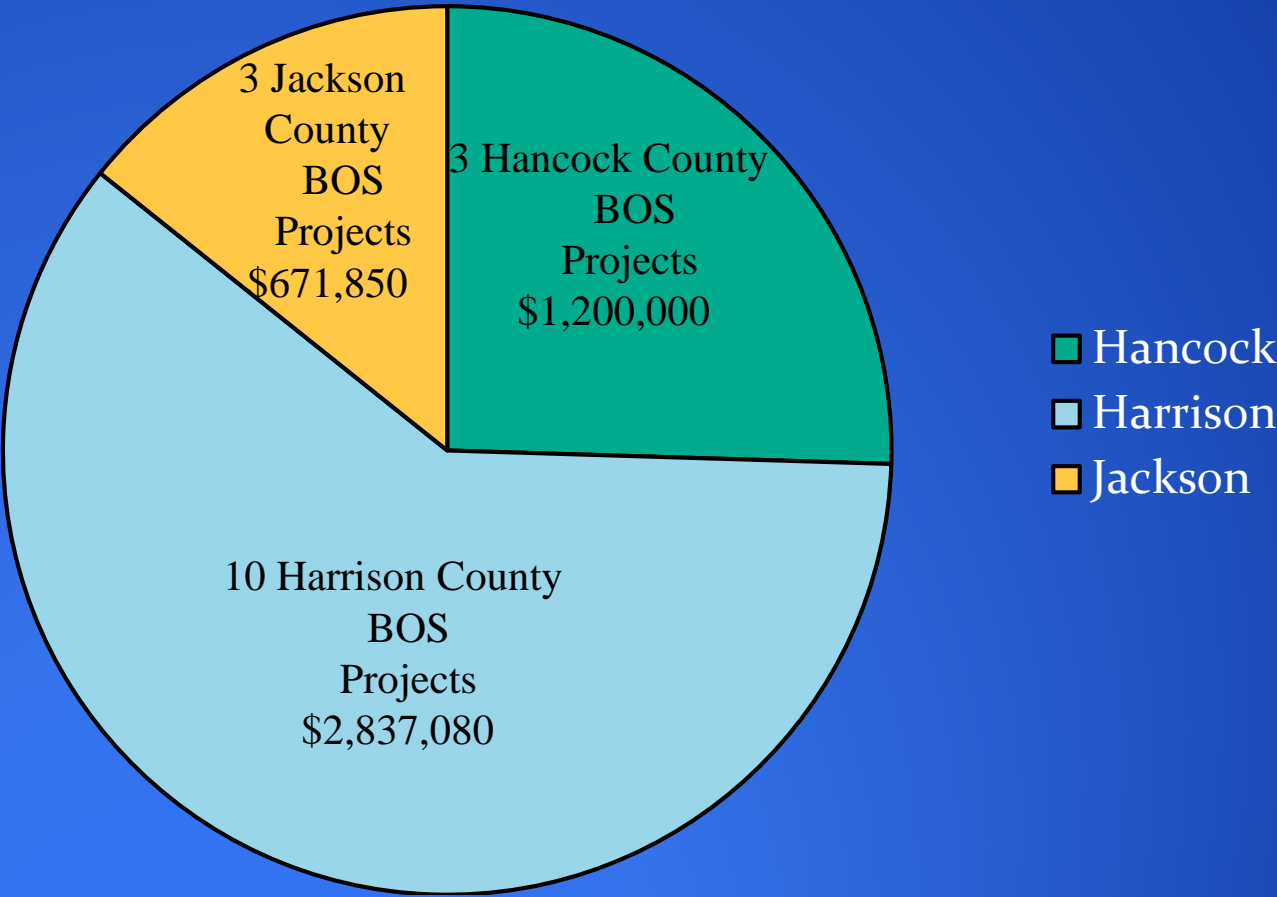




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# FY2020 Tidelands Public Access Proposals

by County Board of Supervisors



Total Number of Proposals Received: 16 at \$ 4,708.930



# FY2020 Tidelands Public Access Proposals by MISC Projects *13 MISC - \$ 2,627,410*

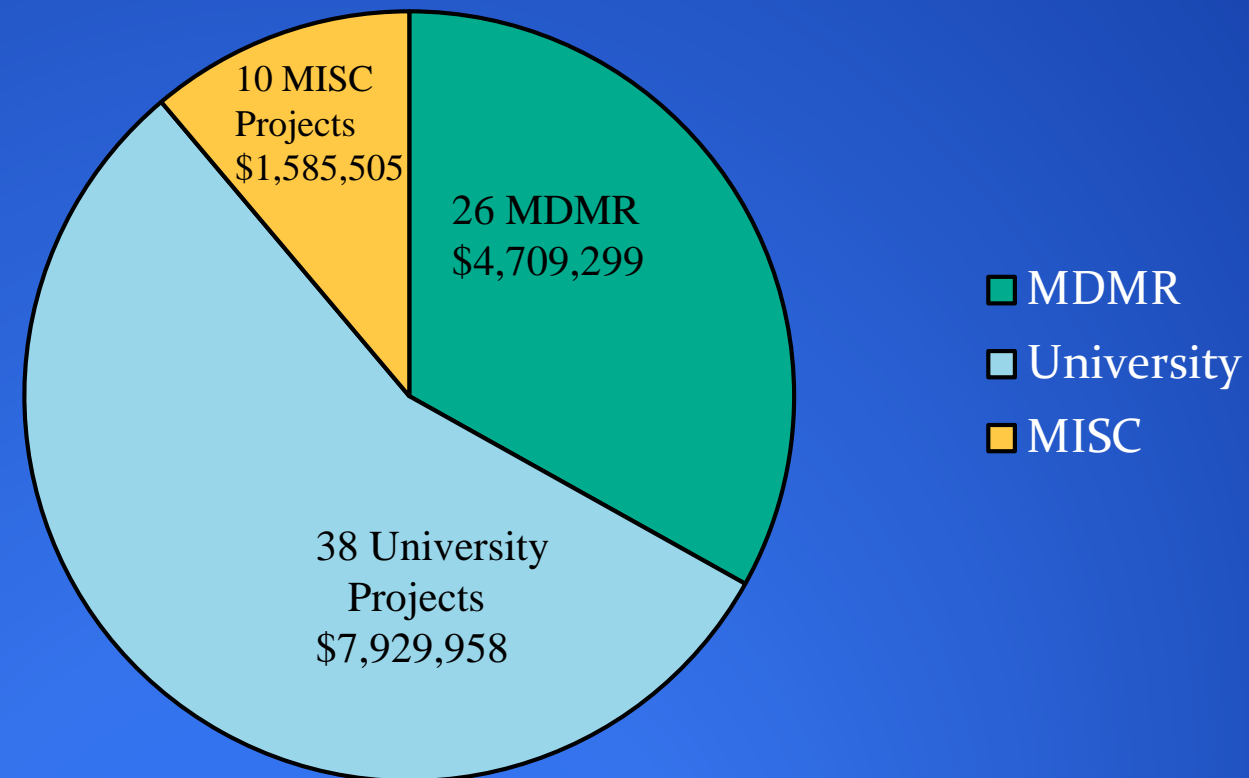
<u>Projects</u>	<u>Requested Funding</u>
•Alcorn State University	\$ 89,100
•Infinity Science Center	\$ 241,000
•Land Trust for the Mississippi Coastal Plain	\$ 68,000
•Lynn Meadows Discovery Center	\$ 407,310
•Maritime & Seafood Industry Museum (2)	\$ 150,000
•MDMR	\$ 80,000
•Mississippi Gulf Coast Community College (2)	\$ 685,000
•MS Wildlife Federation	\$ 50,000
•MS Maritime Museum	\$ 67,000
•Ocean Springs High School	\$ 290,000
•USM	\$ 500,000
*Total Number of MISC Public Access projects (15)	\$ 2,627,410



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# FY2020 Tidelands Management Proposals

## Distribution of Managed Proposals



Total Number of Proposals Received: 74 at \$14,224,762





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# Mississippi

## Department of Marine Resources

Agency Financial Results

as of December 31, 2018

Commission on Marine Resources  
January 15, 2019

## Key Metrics:

- State Revenue of \$4.2M
- Agency Revenue of \$17.4M
- State Net Income of \$958K
- Agency Net Income of \$7.3M

MISSISSIPPI DEPARTMENT OF MARINE RESOURCES					
Income Statement - Fiscal Year 2019					
As of December 31, 2018					
	State	Federal : NFWF:	Operating Subtotal	Tidelands	Total DMR
<b>Revenue:</b>					
Transfer in from Other Governments	-	-	-	10,000,000	10,000,000
Off-road Fuel Tax	3,050,000	-	3,050,000	-	3,050,000
Federal/NonFederal Grants	3,200	2,715,213	2,718,413	-	2,718,413
Sales Revenue	477,659	147	477,806	1,188	478,994
Indirect Cost Recovery	349,682	-	349,682	-	349,682
Other Revenue	385,727	265,327	651,054	178,748	829,803
Current Budget Year Revenue:	4,266,268	2,980,688	7,246,956	10,179,936	17,426,892
<b>Expenditures:</b>					
Salaries, Wages, Fringe	2,596,844	1,076,384	3,673,228	499,287	4,172,516
Travel	12,344	24,719	37,063	14,089	51,152
Contractual Services	328,794	673,520	1,002,314	395,222	1,397,535
Commodities	162,428	686,564	848,992	93,185	942,177
Other than Equipment	-	-	-	-	-
Equipment	183,785	49,058	232,843	14,949	247,792
Vehicles	-	12,048	12,048	-	12,048
Wireless Devices	351	433	785	274	1,058
Subsidies, Loans, and Grants	23,667	1,139,551	1,163,218	2,048,262	3,211,480
Current Budget Year Expenditures:	3,308,214	3,662,277	6,970,490	3,065,268	10,035,758
<b>Current Budget Year Net Income/(Loss):</b>	\$ 958,054	\$ (681,589)	\$ 276,465	\$ 7,114,669	\$ 7,391,134

# Financial Budget Comparison

- After six months of Fiscal Year 2019:

MISSISSIPPI DEPARTMENT OF MARINE RESOURCES									
2019 Budget Comparison									
As of December 31, 2018									
	Actual Year to Date Expenditures			Budget Year Totals			Percent Remaining		
	Operating	Tidelands	Total	Operating	Tidelands	Total	Operating	Tidelands	Total
Expenditures:									
Salaries, Wages, Fringe	\$ 3,673,228	\$ 499,287	\$ 4,172,516	\$ 10,897,765	\$ 1,012,526	\$ 11,910,291	66.3%	50.7%	65.0%
Travel	37,063	14,089	51,152	325,487	30,000	355,487	88.6%	53.0%	85.6%
Contractual Services	1,002,314	395,222	1,397,535	9,601,848	1,627,590	11,229,438	89.6%	75.7%	87.6%
Commodities	848,992	93,185	942,177	3,355,674	450,000	3,805,674	74.7%	79.3%	75.2%
Equipment	232,843	14,949	247,792	1,109,408	225,000	1,334,408	79.0%	93.4%	81.4%
Vehicles	12,048	-	12,048	170,000	-	170,000	92.9%	0.0%	0.0%
Wireless Devices	785	274	1,058	6,250	500	6,750	87.4%	0.0%	84.3%
Subsidies, Loans, and Grants	1,163,218	2,048,262	3,211,480	13,456,150	6,654,384	20,110,534	91.4%	69.2%	84.0%
Total Expenditures:	\$ 6,970,490	\$3,065,268	\$ 10,035,758	\$ 38,992,667	\$ 10,000,000	\$ 48,992,667	82.1%	69.3%	79.5%

- Operating Funds have 82.1% of Budget remaining
- Tidelands Trust Fund has 69.3% of Budget remaining





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# For-Hire Reporting Program Update

Trevor Moncrief  
January 15, 2019

K.1.

# Background

- In the past year, CMR has inquired about the viability of using an electronic reporting program to monitor Spotted Seatrout recreational landings in Mississippi waters.
- This survey can provide a better estimate of recreational fishing effort for spotted seatrout along with other targeted species of priority.
- This presentation will give an overall outline of a simple electronic reporting system to monitor the recreational charter for-hire inshore fishery.

# For-Hire Electronic Logbook

- Simple app for tablet or phone built in-house to record information on targeted species (species of priority)
- Base information collection
  - Number of fish caught
  - Number of anglers
  - Hours fished
  - Landing site

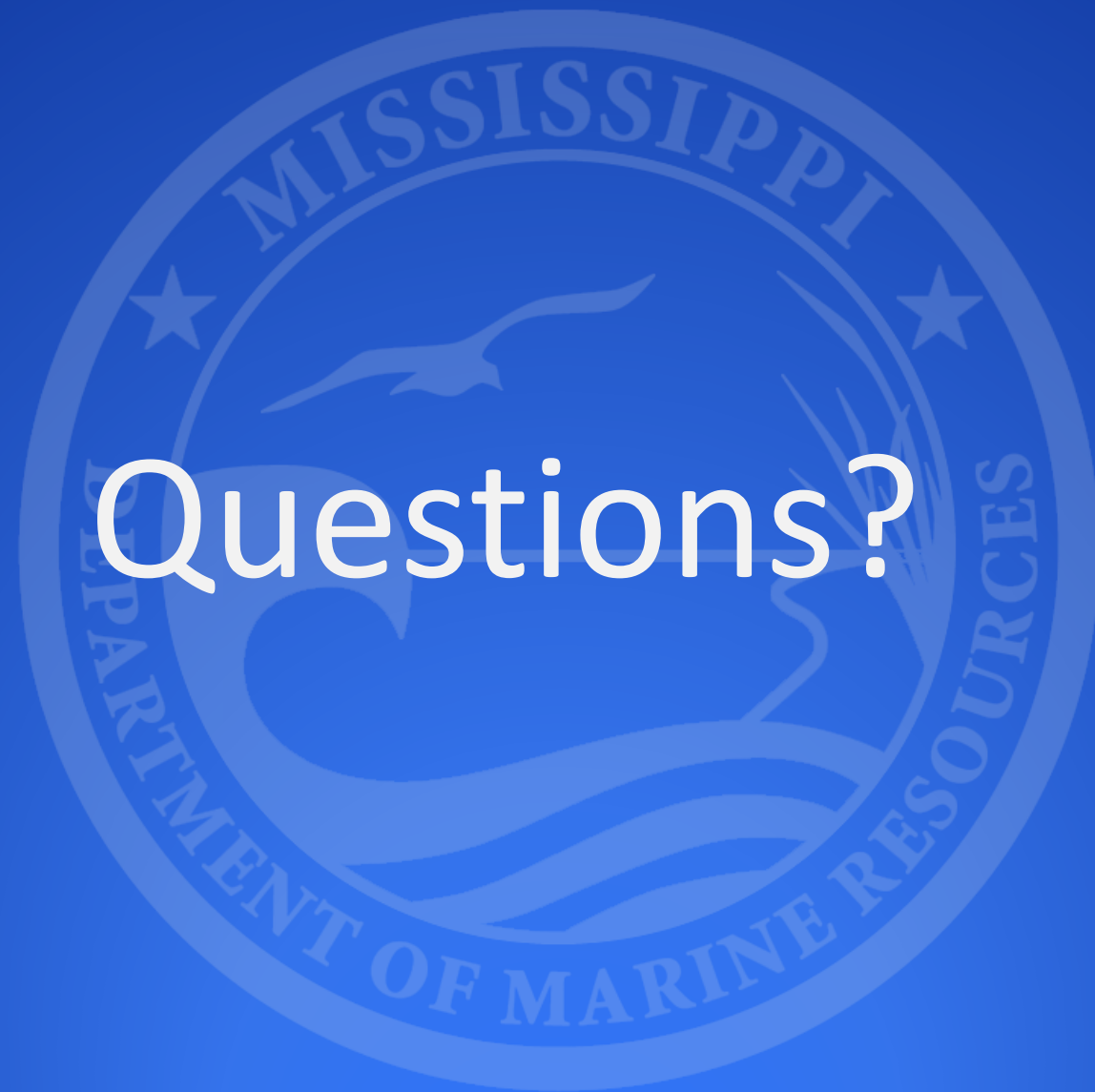


# Additional Options for Consideration

- Hail in/Hail out procedure
- Area fish harvested (by species or for Spotted Seatrout only)
- Economic variables (gas, bait, etc.)
- Passenger demographics (age, distance traveled, etc.)
- Additional options

# For-Hire Electronic Logbook

- Species of Priority
  - Spotted Seatrout
  - Red Drum
  - Black Drum
  - Flounder
  - Sheepshead
  - Tripletail
  - Sand Seatrout (White Trout)
  - Kingfish (Ground Mullet)
  - Any additional species (Sharks etc.)



Questions?

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# State and Federal Fisheries Compliance Information

Trevor Moncrief  
January 15, 2019

# Background

- At the December 2018 CMR meeting the following motion was made regarding state and federal compliance:
  - **Motion:** Come back with information regarding all species that the state does not currently follow federal guidelines.
- This presentation will outline the current differences between state and federal regulation in regards to Mississippi's fisheries.

# State Water Designation

- The territorial line for state and federal waters is 3 miles south of the barrier islands and follows the curvature of the islands.
- This line does not include reef fish (9 nautical miles south) and Red Snapper (200 nautical miles south under the current EFP).



# Commercial

	State	Federal
Spanish Mackerel	14"	12"
Cobia*	No Take	2pp-33"FL
Red Drum	60,000 lbs. annually	No Take
Hogfish	12"	14"

\*Designated as Gamefish per State Statute 49-15-76

# Recreational

	State	Federal
Red Drum	3pp-18"- 30" (1 over 30")	No Take
Vermilion Snapper	20 in aggregate	10pp (within 20 reef fish aggregate)
Red Grouper	4 in aggregate	2pp
Hogfish	12"	14"
Spanish Mackerel	No min. size limit	12"
Swordfish	No Regulations	47" Lower jaw fork length (LJFL)

# Sharks\*\*

	State	Federal*
Small Coastals	25"TL-4pp	54"FL-1pv
Large Coastals/Pelagics	37"TL-1pp/3pv	54"FL-1pv

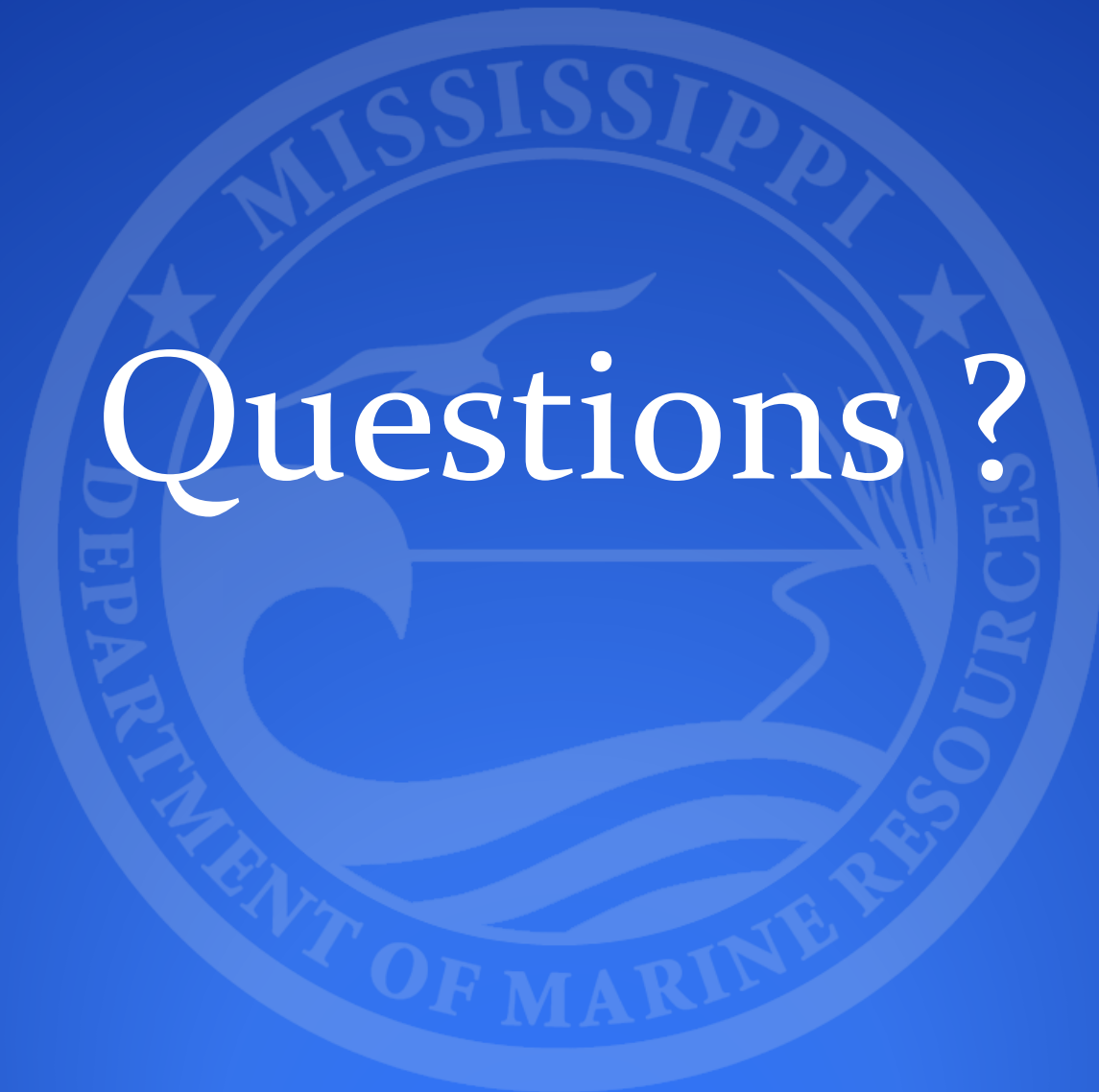
\*Must possess shark endorsement on HMS permit

\*\* Commercial shark harvest regulated by federal quota



# Additional federal shark regulations

SIZE/BAG LIMITS AND SEASONS				
Permits	Species	Minimum Size <sup>66</sup> (FL)	Trip Bag Limit <sup>67</sup>	Season
HMS Angling, Charter/Headboat, Atlantic Tunas General Category*, or Swordfish General Commercial*	Atlantic sharpnose	None	1 per person	Jan. 1 - Dec. 31
	Bonnethead	None	1 per person	
	Smoothhound Sharks	None	None	
	Hammerheads (Great, Smooth, and Scalloped)	78"	1 per vessel	
	Shortfin mako	83"		
	All other sharks***	54"		



# Questions ?

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# Title 22 Part 5: No New Nets into the Fishery

Matt Hill  
January 15, 2019

K.3.



# Overview

- The following motion was made in the December CMR meeting regarding nets.
  - **Motion:** No new nets can be introduced into the fishery.
- This presentation will outline the specific changes to Title 22 Part 5 regarding this motion.

# Title 22 Part 5 Chapter 4

## Commercial Net Closure Areas and Gear-Size-Restrictions

101 On and after April 1, 2019, no nets that are undefined in sections of this part or any other MCMR part shall be allowed for use within the fishery. Any net that has not been approved by the MCMR by the March 18, 2019 MCMR meeting must be approved and defined by the MCMR prior to use within the fishery.

# Required:

A motion to proceed with a Notice of Intent for regulatory changes to Title 22 Part 5 Chapter 4 Section 101 regarding the entry of new nets within the fishery





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# Spotted Seatrout Total Allowable Catch (TAC) Update

Matt Hill

January 15, 2019

K.4.

# Background

- In the past year, CMR has inquired about the viability of managing recreational Spotted Seatrout landings in Mississippi waters through the use of a TAC (Total Allowable Catch).
- This presentation will outline the potential use of a TAC for the Spotted Seatrout fishery.

# Total Allowable Catch

- Abbreviated as TAC, Total Allowable Catch is a tool used to establish maximum fishing limits during a certain timeframe for individually managed species.
- The TAC can be used interchangeably with Annual Catch Limit (ACL) if the timeframe is yearly.



# Statutes Regarding the Establishment of TACs

## State Statute 49-15-2

Any fishery management plan, and any regulation promulgated to implement that plan or promulgated under the state seafood laws, shall be consistent with the following standards for fishery conservation and management:

- (a) Conservation and management measures shall be based upon the best scientific information available;
- (b) If it becomes necessary to allocate or assign fishing privileges among various fishermen, that allocation shall be (i) fair and equitable to those fishermen, (ii) reasonably calculated to promote conservation, and (iii) carried out in a manner that no particular individual, corporation or other entity acquires an excessive share of the privileges;
- (c) Conservation and management measures shall, where practicable, consider efficiency in the utilization of fishery resources, but no measure shall have economic allocation as its sole purpose;
- (d) Conservation and management measures shall take into account and allow for variations among, and contingencies in, fisheries, fishery resources, and catches;
- (e) Conservation and management measures shall, where practicable, minimize costs and avoid unnecessary duplication;
- (f) Conservation and management measures shall, consistent with the conservation requirements of this state (including the prevention of overfishing and rebuilding of overfished stocks), take into account the importance of fishery resources to fishing communities in order to (i) provide for the sustained participation of the communities, and (ii) to the extent practicable, minimize adverse economic impacts on those communities;
- (g) Conservation and management measures shall, to the extent practicable, (i) minimize bycatch, and (ii) to the extent bycatch cannot be avoided, minimize the mortality of that bycatch; and
- (h) Conservation and management measures shall, to the extent practicable, promote the safety of human life at sea.

# State Regulation Regarding the Establishment of TACs

## Title 22 Part 5 Chapter 7 - 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.

# TAC Calculation

- Based on multi-year averages of historical landings through MRIP
- Both the FES and APAIS calibrated numbers were used for this calculation
- Post 2017- APAIS calibrations will only be available through back-calibrations from FES
- Average landings were converted to daily harvest metrics
- Projections will be made based on daily catch rates from previous year



# Recreational Spotted Seatrout Harvest Averages

APAIS Estimates		FES Estimates	
Year	Combined Recreational Harvest	Year	Combined Recreational Harvest
2008	840,013	2008	2,176,031
2009	1,464,151	2009	2,905,320
2010	896,121	2010	2,250,514
2011	1,228,122	2011	2,294,758
2012	1,036,328	2012	1,839,391
2013	1,199,387	2013	2,244,643
2014	556,975	2014	1,535,624
2015	1,345,644	2015	2,869,641
2016	2,122,569	2016	5,246,131
2017	725,520	2017	2,562,344
<b>10 Year Average</b>	<b>1,141,483</b>	<b>10 year average</b>	<b>2,592,440</b>
<b>5 year average</b>	<b>1,190,019</b>	<b>5 year average</b>	<b>2,891,677</b>
<b>3 year average</b>	<b>1,397,911</b>	<b>3 year average</b>	<b>3,559,372</b>

Source - <https://www.st.nmfs.noaa.gov/recreational-fisheries/data-and-documentation/queries/index>

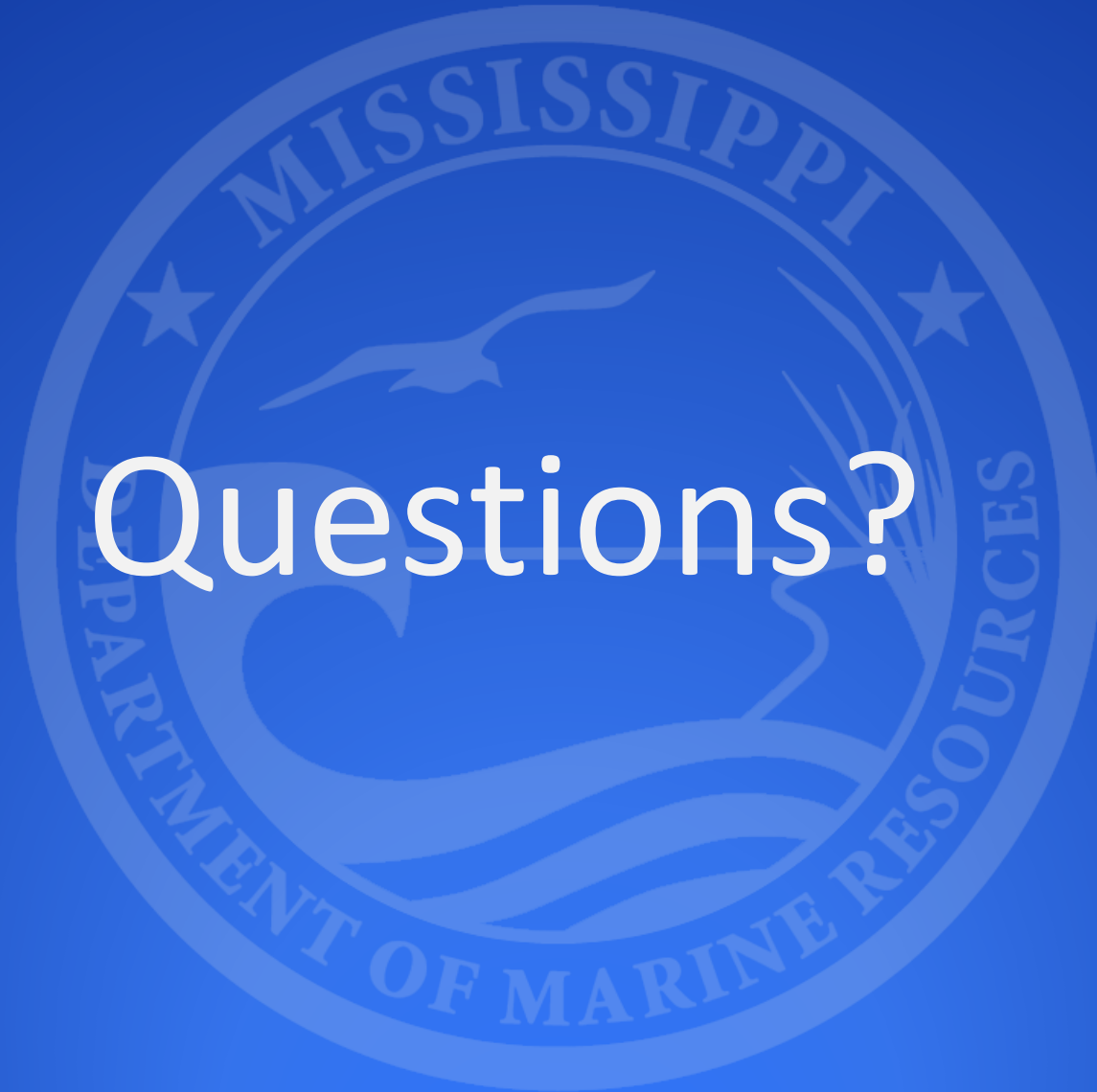
# Catch Rates and Season Projection

## APAIS Calibrated Harvest

- 2017 Case Example
  - 5 year average – 1,190,019 lbs.
  - 5 year average daily catch rate – 3,260 lbs./day
- Using 2016 daily catch rates to project 2017 season
  - Harvest – 2,122,569 lbs.
  - Daily catch rate – 5,815.3 lbs./day
- Season Projection – 204 days

## FES Calibrated Harvest

- 2017 Case Example
  - 5 year average – 2,891,677 lbs.
  - 5 year average daily catch rate – 7,922 lbs./day
- Using 2016 daily catch rates to project 2017 season
  - Harvest – 5,246,131 lbs.
  - Daily catch rate – 14,373 lbs./day
- Season Projection – 201 days



Questions?

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# Reconsideration of the Derelict Crab Trap Removal Program

Rick Burris

January 15, 2019

# Background

- At the December 2018 CMR meeting the following motion was made regarding the 2019 Derelict Crab Trap Cleanup:
  - **Motion:** Approval to establish a closed season for the use of crab traps in the public waters of this state for the purpose of conducting a derelict crab trap clean-up from February 7-16, 2019.

# Closure Dates and Cleanup Logistical Options

- Potential Date Changes
  - February 14 – 23
  - February 21 – March 2
  - February 28 – March 8
  - Additional options
- Re-Establishment of Closure area(s)
  - 1/2 mile from the main shoreline
  - 100 foot from the main shore line
  - Additional options



## K.5. Motion:

### Required Grant Petition for Reconsideration

Approval to establish a closed season for the use of crab traps within  $\frac{1}{2}$  mile of the main shoreline for the purpose of conducting a derelict crab trap clean-up from February 7-16, 2019.



Date: January 7, 2019

To: Commission Marine Resources

From: Mississippi Crab Fishermen

We the fishermen would like to ask the commission to reconsider the derelict crab trap cleanup. We would ask that you make the closure a half mile from the shore. This will allow the fishermen to continue to fish. The month of February is one of the highest paying months for our product. With the east coast cold and no product being caught there, our crabs are shipped to the northeast for a much higher price than the summer months. Meaning we the fishermen make much more money. With the recent flooding of our rivers already hurting us making the crabs hard to catch this closure will put a harder strain on us the fishermen.

We pray that you take the above information under consideration to allow us to make a living. We would ask that you consider a closure during the summer months. These months the demand for cabs is not as high as February. This will also allow the DMR to have more volunteers to perform the task, being it is warmer.

Attached is signatures from Mississippi Commercial licensed fishermen



Michael Fournier

Michael Fournier

~~Thomas Fournier~~  
John

Thomas Fournier

JOHN BUE

James Nechaise

JAMES NECHAISE

Kevin Black

Kevin Black

Clarence Green

Clarence Green

Thao

TAO TRAN

Robert Metz

Robert METZ

Adam Metz

Adam METZ

Bruce A. Sellier Jr.

Bruce A. Sellier Jr.

LONG D LAM

LONG D LAM

Larry Pearson

LARRY PEARSON

Glenn Pearson

Glenn Pearson

Brent Pearson

Brent Pearson

Stephan Airhart

Stephan Airhart

David Vanderwood

David Vanderwood

Arroa Dutton

Arroa Dutton

Lloyd Martin

Lloyd MARTIN





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# Title 22 Part 5

## Commercial Net Endorsement – Information Only

Matt Hill  
January 15, 2019

# Background

June 19<sup>th</sup> the CMR made a motion to accept staff's proposed regulatory changes and bring the changes forward in July for notice of intent. The notice of intent motion failed in July. This presentation is intended for informational purposes only.

## Title 22 Part 5

### Chapter 04 Commercial Net Closure and Gear Size Restrictions

#### Section 101 Subsection 101.11

Individuals using a gill net, trammel net, or haul seine to commercially harvest finfish must possess a finfish net endorsement (\$10.00) in addition to a current applicable harvester's license. To qualify for this endorsement an application must be completed. For the 2019 fishing season the fisher must present documentation that a minimum of thirty-five (35) percent of their earned income came from commercial harvest of finfish in a previous tax year between 2013-2018. Documentation shall be a copy of the appropriate filed IRS tax form showing the applicant's earned income for one of those years. A Marine Fisheries Trip Ticket officer will then run a sales summary for the year chosen using trip tickets to determine if the eligibility requirement has been met. This endorsement will be valid for a one-year period at which time a new application with qualifying documents for the previous tax year shall be submitted for a new endorsement. The endorsement will be valid from January 1<sup>st</sup> – December 31<sup>st</sup> each year.



## Title 22 Part 5

### Chapter 04 Commercial Net Closure and Gear Size Restrictions

#### Section 101 Subsection 101.12

Individuals qualifying for the finfish net endorsement must have nets inspected and tagged on an annual basis. The tags associated with each net will be valid from January 1<sup>st</sup> – December 31<sup>st</sup> each year.

# Questions

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