

The Mississippi Department of Marine Resources (MDMR) does hereby give public notice that on April 21, 2020 at the regularly scheduled meeting of the Commission on Marine Resources, the Commission approved a Notice of Intent to update, modify and change below listed sections of Title 22 Part 9. Said Notice of Intent was filed with the Mississippi Secretary of State's office on April 21, 2020. A complete copy of Title 22 Part 9 and the proposed changes are available at www.dmr.ms.gov. Public comments on the proposed regulation changes will be accepted through May 18, 2020. All comments should be mailed to the MDMR, Attn: Trevor Moncrief, 1141 Bayview Avenue, Biloxi, MS 39530 or emailed to: Trevor Moncrief at publiccomments@dmr.ms.gov and delivered by 5:00 PM on May 18, 2020.

Complete description of proposed changes:

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 11 Recreational Fishing Landings Reporting Requirements

101 **Charter and Head Boat Reporting.** Charter Boat and Head Boat captains operating in Mississippi waters ~~shall be required to~~ may complete questionnaires furnished by the MDMR ~~for each trip~~. Completed questionnaires shall be furnished to an information confidentiality officer upon request. In addition to the reporting required pursuant to this paragraph, the following reporting is also required.

Mississippi Secretary of State

ADMINISTRATIVE PROCEDURES NOTICE FILING

AGENCY NAME Mississippi Department of Marine Resources		CONTACT PERSON TJ Moran	TELEPHONE NUMBER (228) 523-4184	
ADDRESS 1141 Bayview Ave.		CITY Biloxi	STATE MS	ZIP 39530
EMAIL Tj.moran@dmr.ms.gov	SUBMIT DATE 4/21/20	Name or number of rule(s): Title 22 Part 9		

Short explanation of rule/amendment/repeal and reason(s) for proposing rule/amendment/repeal: 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 Charter reporting language.

Specific legal authority authorizing the promulgation of rule: Mississippi Code Ann. § 49-15-15, APA, § 25-43-1.101 *et seq.*

List all rules repealed, amended, or suspended by the proposed rule: Title 22, Part 9: (see above summary description; complete description attached).

ORAL PROCEEDING:

- An oral proceeding is scheduled for this rule on Date: _____ Time: _____ Place: _____
- Presently, an oral proceeding is not scheduled on this rule.

If an oral proceeding is not scheduled, an oral proceeding must be held if a written request for an oral proceeding is submitted by a political subdivision, an agency or ten (10) or more persons. The written request should be submitted to the agency contact person at the above address within twenty (20) days after the filing of this notice of proposed rule adoption and should include the name, address, email address, and telephone number of the person(s) making the request; and, if you are an agent or attorney, the name, address, email address, and telephone number of the party or parties you represent. At any time within the twenty-five (25) day public comment period, written submissions including arguments, data, and views on the proposed rule/amendment/repeal may be submitted to the filing agency.

ECONOMIC IMPACT STATEMENT:

- Economic impact statement not required for this rule. Concise summary of economic impact statement attached.

TEMPORARY RULES	PROPOSED ACTION ON RULES	FINAL ACTION ON RULES
_____ Original filing _____ Renewal of effectiveness To be in effect in _____ days Effective date: _____ Immediately upon filing _____ Other (specify): _____	Action proposed: _____ New rule(s) <input checked="" type="checkbox"/> Amendment to existing rule(s) _____ Repeal of existing rule(s) _____ Adoption by reference Proposed final effective date: <input checked="" type="checkbox"/> 30 days after filing _____ Other (specify): _____	Date Proposed Rule Filed: Action taken: _____ Adopted with no changes in text _____ Adopted with changes _____ Adopted by reference _____ Withdrawn _____ Repeal adopted as proposed Effective date: _____ 30 days after filing _____ Other (specify): _____

Printed name and Title of person authorized to file rules: Joe Spraggins Executive Director

Signature of person authorized to file rules: 

OFFICIAL FILING STAMP <div style="border: 1px solid black; height: 150px; width: 100%;"></div> Accepted for filing by	DO NOT WRITE BELOW THIS LINE OFFICIAL FILING STAMP <div style="border: 1px solid black; height: 150px; width: 100%;"></div> Accepted for filing by	OFFICIAL FILING STAMP <div style="border: 1px solid black; height: 150px; width: 100%;"></div> Accepted for filing by
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The entire text of the Proposed Rule including the text of any rule being amended or changed is attached.

Complete description of proposed changes:

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 11 Recreational Fishing Landings Reporting Requirements

- 101 **Charter and Head Boat Reporting.** Charter Boat and Head Boat captains operating in Mississippi waters ~~shall be required to~~ may complete questionnaires furnished by the MDMR ~~for each trip~~. Completed questionnaires shall be furnished to an information confidentiality officer upon request. In addition to the reporting required pursuant to this paragraph, the following reporting is also required.

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 only their catch to a consumer 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 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 or transport their catch out-of-state, are hereby required to complete Mississippi trip tickets provided by the MDMR and be in possession of a fresh product permit. A completed Mississippi trip ticket is only required for the initial point of sale of the seafood product. 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.

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, including a harvest report, pertaining to such fishing each time a MDMR Confidentiality Officer request such information. In addition to the reporting required pursuant to this paragraph, the following reporting is also required.

100.01 TailsnScales Reporting for Red Snapper Recreational Harvest.

One person per vessel recreationally harvesting Red Snapper is hereby required to complete a vessel harvest report through the TailsnScales reporting system. The Captain of the vessel is responsible for ensuring that someone onboard the vessel has obtained the appropriate reporting code from the MDMR.

100.02 TailsnScales Reporting for Additional Species Recreational Harvest upon Request. When requested by the MDMR, one person per vessel shall be required to complete a vessel harvest report for any additional species through the TailsnScales system. The Captain of the vessel is responsible for ensuring that someone onboard the vessel has obtained the appropriate reporting code from the MDMR.

- 101 **Charter and Head Boat Reporting.** Charter Boat and Head Boat captains operating in Mississippi waters may complete questionnaires furnished by the MDMR. Completed questionnaires shall be furnished to an information confidentiality officer upon request. In addition to the reporting required pursuant to this paragraph, the following reporting is also required.

101.01 TailsnScales Reporting for Charter and Head Boat Red Snapper Harvest. Charter boat and head boat captains operating in waters under the jurisdiction of the MDMR or landing Red Snapper in Mississippi shall be required to complete a vessel harvest report through the TailsnScales reporting system.

101.02 TailsnScales Reporting for Additional Species Charter and Head Boat Harvest. When requested by the MDMR, Captains shall be required to complete a vessel harvest report for any additional species through the TailsnScales reporting system.

Chapter 12 Unauthorized Disclosures

- 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
_____ of _____.**

Adopted this the _____ of _____.

MISSISSIPPI COMMISSION ON MARINE RESOURCES

By: _____
Mark H. Havard III, Chairman

MISSISSIPPI DEPARTMENT OF MARINE RESOURCES

By: _____
Joe Spraggins, 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

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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.

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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 24th
day _____ of April 2017 _____.**

Adopted this the 21st day _____ of March 2017 _____.

MISSISSIPPI COMMISSION ON MARINE RESOURCES

By: _____
Richard Gollett Mark H. Havard III, Chairman

MISSISSIPPI DEPARTMENT OF MARINE RESOURCES

By: _____
Jamie M. Miller Joe Spraggins, Executive Director

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