

The Mississippi Department of Marine Resources (MDMR) does hereby give public notice that on June 15, 2021 at the regularly scheduled meeting of the Mississippi Advisory Commission on Marine Resources (MACMR), the Commission recommended approval of and the Executive Director approved a Notice of Intent to update, modify and change below listed sections of Title 22 Part 1 and 17. Said Notice of Intent was filed with the Mississippi Secretary of State's office on June 16, 2021. A complete copy of Title 22 Part 1 and 17 and the proposed changes are available at www.dmr.ms.gov. Public comments on the proposed regulation changes will be accepted through July 13, 2021. All comments should be mailed to the MDMR, Attn: Rick Burris, 1141 Bayview Avenue, Biloxi, MS 39530 or emailed to: Rick Burris at publiccomments@dmr.ms.gov and delivered by 5:00 PM on July 13, 2021.

Complete description of proposed changes:

TITLE 22 – MISSISSIPPI DEPARTMENT OF MARINE RESOURCES, PART 1 RULES AND REGULATIONS FOR SHELLFISH HARVESTING, TAGGING, LANDING, UNLOADING, TRANSPORTING, RELAYING, MANAGEMENT, AREA CLASSIFICATION, AND OTHER SHELLFISH RELATED ACTIVITIES IN THE STATE, AND THE LEASING OF TERRITORIAL WATERS UNDER THE JURISDICTION OF THE STATE OF MISSISSIPPI

Chapter 01 Introduction

Purpose

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

Chapter 02 Justification and Authority

~~(Deleted this Chapter because these statements are already stated in Mississippi Code and does not need to be restated.)~~

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

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

- ~~102 The MCMR is required by Miss. Code Ann. § 49-15-15 (1) (c), as amended, to regulate all seafood sanitation and processing programs.~~
- ~~103 The MCMR is required by Miss. Code Ann. § 49-15-44, as amended, to prohibit the sale or possession of illegal oysters as defined in Miss. Code Ann. § 49-15-3(e), as amended.~~
- ~~104 All beds, banks and accumulations of all shells being under the bottom of, or under the tidewaters within the territorial jurisdiction of the State of Mississippi are declared to be the property of the State of Mississippi under the jurisdiction of the MCMR as provided for in Miss. Code Ann. § 49-15-7, as amended.~~
- ~~105 Miss. Code Ann. § 49-15-36(3), as amended, requires the MCMR to promulgate regulations regarding the closing of oyster reefs which are determined to be restricted.~~
- ~~106 Miss. Code Ann. § 49-15-27, as amended, grants the MCMR authority to lease bottoms.~~
- ~~107 Miss. Code Ann. § 49-15-29, as amended, authorizes the MCMR to assess and collect certain taxes and license fees.~~
- ~~108 Miss. Code Ann. § 49-15-30, as amended, authorizes the MCMR to promulgate regulations for nonresident permits.~~
- ~~109 Miss. Code Ann. § 49-15-37, as amended, authorizes the cultivation of oyster reefs and removal of oysters from restricted areas through the MCMR.~~
- ~~110 Miss. Code Ann. § 49-15-39, as amended, provides for dredging limits and designation of reefs reserved for tonging by the MCMR.~~
- ~~111 Miss. Code Ann. § 49-15-41, as amended, prohibits oyster harvesting at night.~~
- ~~112 Miss. Code Ann. § 49-15-42, as amended, addresses tagging, landing and unloading of oysters.~~
- ~~113 Miss. Code Ann. § 49-15-43, as amended, addresses the packaging of oysters.~~
- ~~114 Miss. Code Ann. § 49-15-45, as amended, provides that certain municipalities may enforce oyster regulations.~~
- ~~115 Miss. Code Ann. § 49-15-46 (3), as amended, requires that all oysters harvested in Mississippi shall be tagged.~~
- ~~116 Miss. Code Ann. § 49-15-63, as amended, addresses general penalties for violation of these regulations.~~

Chapter 03 Definitions

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

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

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

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

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

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

as a month, day and year, not to exceed fourteen (14) days from the date shucked. Containers of frozen shucked shellfish shall show the date the product was shucked and the date frozen, labeled as "DATE SHUCKED" and "DATE FROZEN" followed by the date expressed as the month, day, and year. Shucked product previously frozen must be labeled with the wording "PREVIOUSLY FROZEN".

- 106 **PROHIBITED AREA**—Waters that are prohibited for the harvest of shellfish for any purpose except depletion. A prohibited shellfish growing area is a closed area for the harvesting of shellfish at all times.
- 107 **RESTRICTED AREA**—Closed area waters from which shellfish may be harvested only if permitted and subjected to a suitable and effective purification process as determined and permitted by the MCMR.
- 108 **SANITARY SURVEY**—The evaluation of all actual and potential pollution sources and environmental factors having a bearing on shellfish growing area water quality.
- 109 **SHALL**—Is used to state mandatory requirements.
- 110 **SHELLFISH**—All edible molluscan shellfish species of oysters, clams, mussels, or scallops; either shucked or in the shell; fresh or frozen; whole or in part.
- 111 **SHELLSTOCK**—Shellfish in the shell.
- 112 **SHOULD**—Is used to state recommended or advisory procedures or to identify recommended equipment.
- 113 **UNCLASSIFIED AREA**—Waters that are presently unclassified and from which the harvest of shellfish is prohibited pending classification of the area as prohibited, restricted, conditionally approved, or approved based on a sanitary survey of the area and granting of permission to harvest shellfish in accordance with the respective classification by the MCMR or as hereby authorized the MDMR, its Executive Director, Director of Marine Fisheries, Bureau Director, Program Coordinator or other MDMR designee.

Chapter 04 Legally Harvested and Properly Tagged Shellfish

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

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

~~101.01 It shall be unlawful for harvesters to fail to tag shellstock at the time of landing with the following indelible, legible information (as required by Mississippi Code § 49-15-46(3) as amended).~~

~~101.01.01 Harvester's name.~~

~~101.01.02 Harvester's license number.~~

~~101.01.03 Date of harvest.~~

~~101.01.04 Harvest location(s).~~

~~101.01.05 Mississippi shellstock dealer's name and permit number.~~

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

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

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

~~102.01 Name and permit or license number of seller.~~

~~102.02 Quantity of shellfish purchased.~~

~~102.03 Purchase date.~~

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

Chapter 05 Possession of Illegal Molluscan Shellfish

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

Chapter 06 Shellfish Harvesting Requirements/Specifications

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

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

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

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

~~102.01 A ten percent (10%) tolerance by number shall be allowed in relation to any culling.~~

~~102.01.01 The ten percent (10%) tolerance shall be determined from a representative sample of the total catch.~~

~~102.01.02 A representative sample is defined for the purposes herein as ten percent (10%) of the total catch.~~

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

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

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

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

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

Chapter 07 Dredge Specifications

~~100 It is unlawful for any person, firm, or corporation to take or attempt to take any oysters from the waters under the territorial jurisdiction of the State of Mississippi by the use of a dredge having a weight in excess of 115 pounds and the tooth bar cannot have more than 16 teeth and the teeth on the tooth bar cannot exceed five inches unless otherwise permitted by the MCMR or as hereby authorized the MDMR, its Executive Director, Director of Marine Fisheries, Bureau Director, Program Coordinator or other MDMR designee.~~

~~101 No person, firm or corporation may use more than two such dredges.~~

~~102 It shall be unlawful for any person, firm, or corporation to take or attempt to take any oysters from the waters under the territorial jurisdiction of the State of Mississippi by the use of a basket dredge. A basket dredge is a type of oyster dredge, also known as a “self-dumping dredge” that utilizes a rigid framed basket, instead of a flexible bag made out of rope or chain, to retain the harvested oysters.~~

~~Chapter 08 Shellfish Area Openings and Closings~~

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

~~— 100.01 The Opening Order shall include:~~

~~100.01.01 The date that oyster season shall open.~~

~~100.01.02 A description of shellfish growing areas to open.~~

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

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

~~100.01.05 Sack limits or quotas.~~

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

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

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

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

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

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

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

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

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

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

- ~~— 103.01 Sample closed areas in accordance with state statute until oysters or other shellfish are free of pollutants in accordance with the respective Management Plan and state statute.~~
- ~~— 103.02 Provide notification of the reopening through standard media news releases, and by recorded telephone messages.~~

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

~~Chapter 09 Harvester License and Check Stations~~

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

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

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

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

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

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

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

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

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

~~101.04 The MDMR trip ticket shall indicate the checkout time and must remain with the catch until final disposition and be available for inspection with the molluscan~~

shellfish by any authorized Marine Patrol Officer or MDMR staff in charge of the regulatory molluscan shellfish handling and processing responsibilities.

~~Chapter 10 Resident Recreational and Non-Resident Requirements~~

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

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

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

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

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

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

~~Chapter 11 Closed Shell or Culch Plant Areas~~

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

~~Chapter 12 Adulterated, Misbranded, or Unlabeled Shellfish and Products~~

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

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

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

Chapter 13 Transportation of Shellstock by Vessel

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

- ~~100.01 Before entering Mississippi territorial waters apply to the Department for a transport permit.~~
- ~~100.02 Comply with all permit conditions required by the Department.~~
- ~~100.03 Properly tag shellstock as described in this Part.~~
- ~~100.04 Mechanically refrigerate shellstock within four (4) hours after landing such that the product is maintained at 45° F. (7.2° C.) or less.~~
- ~~100.05 The Executive Director is hereby authorized to establish earlier checkout times, additional tagging requirements and additional time to temperature requirements of shellstock as may be required or necessary.~~

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

~~102 Failure to comply with the above shall be unlawful.~~

Chapter 14 Tonging Line

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

~~101 It shall be unlawful for any person, firm or corporation engaged in the catching of oysters on a tonging reef, as described in Chapter 14.100, to have on board the boat or vessel an oyster~~

dredge, unless that area is temporarily open to dredging for a special management season by order of the MCMR, or allowed for a lease holder harvesting oysters from their lease area by a valid lease harvest permit.

Chapter 15 Marine Sanitation Devices

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

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

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

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

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

Chapter 16 Management Documents Associated With This Part

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

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

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

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

~~103.01 No procedure or guideline of the NSSP or ISSC, which is or may be in conflict with any provisions of Mississippi Code has or should be in the future applied or enforced by the MDMR.~~

~~103.02 No procedure or guideline of the NSSP or ISSC, which is more stringent than any relevant federal regulation or law, has or should be applied by the MDMR.~~

~~103.03 The MDMR may, consistent with its existing practice, dispute any proposed or adopted procedure or guideline of the ISSC, in accordance with the procedures laid down therefore by said Conference, when, in the opinion of the MDMR, any such proposed guideline or regulation would appear to be unnecessary for the accomplishment of the goals of the ISSC, or scientifically invalid, or unduly and unnecessarily burdensome upon the State of Mississippi's molluscan shellfish industry, or for any other reason deemed proper by the MDMR.~~

~~104 In managing and maintaining its' Management Plan for Shellfish Growing Waters, the MDMR may modify or change area specific management provisions of Chapter 17 of this Part, or the classification and description of shellfish growing area waters in Chapter 18 of this Part in accordance with this Chapter. Area specific management provisions and the classification and description of shellfish growing area waters will be maintained and published as Legal Notices.~~

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

Chapter 17 Management Plan for Shellfish Growing Waters

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

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

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

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

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

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

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

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

~~103.01.03 When the geometric mean of the seawater from compliant sampling stations in the area exceed a fecal coliform most probable number (MPN) of 14 per 100 ml. and/or more than 10 percent of the samples exceed a MPN of 43 for a 5-tube 3-dilution test.~~

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

~~103.01.05.01 **AREA I "B" CONDITIONALLY APPROVED WATERS**~~

~~The Pearl River is equal to or exceeds 10 feet as measured at the Pearl River, Louisiana gauge, and/or, when one (1) or more inches of rainfall occurs in any 24 consecutive hours as measured at the Waveland and/or Bay St. Louis (NASA) NOAA rainfall gauges.~~

~~103.01.05.02 **AREA II "A", II "B" or II "D" CONDITIONALLY**~~

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

~~103.01.05.03 **AREA II "C" CONDITIONALLY APPROVED WATERS**~~

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

~~103.01.05.04 Area V "A" CONDITIONALLY APPROVED WATERS—
When half (1/2) an inch or more inches of rainfall occurs in any
24 consecutive hours as measured at the Keesler Air Force Base
gauge.~~

~~103.01.05.05 Area VI "B" CONDITIONALLY APPROVED WATERS—
When one (1) or more inches of rainfall occurs in any 24
consecutive hours as measured at the rainfall gauge located at
Jackson County Public Works Department in Gautier, MS.~~

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

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

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

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

~~103.03 Whenever any shellfish growing water area is closed under the provisions listed
above, said waters are hereby deemed not safe and sanitary, and oyster reefs lying in
said closed waters are hereby deemed and determined to be contaminated or
otherwise unfit for consumption.~~

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

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

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

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

- ~~104.04~~ When rainfall has subsided and microbiological analysis of seawater samples indicate that the seawater is again acceptable and that the shellfish have gone through a sufficient time interval to permit natural biological cleansing.
- ~~104.05~~ When, following a delay in the "opening" of the area for oyster season or following a "closure" of the area due to any one or more of the environmental conditions listed above, seawater samples shall be collected from each compliant sampling station in the area for microbiological analysis in accordance with state statute. The seawater shall be deemed acceptable when the microbiological analysis of compliant stations in the area indicates a geometric mean fecal coliform MPN of 14 per 100 ml of water or less. This shall be deemed a sufficient time interval to permit natural biological cleansing; however, if oyster meats are sampled for verification, the results shall be less than a fecal coliform MPN of 230 per 100 grams of meat.
- ~~104.06~~ When there is no evidence of the existence of marine biotoxins or other biological, chemical or radiological agents in excess of tolerances set for such biotoxins, biological, chemical or radiological agents in the seawater and oyster meat samples taken from the area.
- ~~104.07~~ When the following area specific criteria or when other area specific criteria as published by the MDMR are met:
- ~~104.07.01~~ **AREA I "B", II "A", II "B" or II "D" CONDITIONALLY APPROVED WATERS**—The Pearl River has receded to less than 10 feet or has crested as measured at the Pearl River, Louisiana gauge, and/or the microbiological analysis of seawater samples indicate that the seawater is again acceptable and the shellfish have gone through a sufficient time interval to permit natural biological cleansing.
- ~~104.07.02~~ **AREA II "C" CONDITIONALLY APPROVED WATERS**—The Pearl River has receded to less than 12.5 feet or has crested as measured at the Pearl River, Louisiana gauge, and/or the microbiological analysis of seawater samples indicate that the seawater is again acceptable and the shellfish have gone through a sufficient time interval to permit natural biological cleansing.
- ~~104.07.03~~ **AREA V "A" CONDITIONALLY APPROVED WATERS**—The microbiological analysis of the seawater samples indicate that the seawater is again acceptable and the shellfish have gone through a sufficient time interval to permit natural biological cleansing.
- ~~104.07.04~~ **AREA VI "B" CONDITIONALLY APPROVED WATERS**—The microbiological analysis of the seawater samples indicate that the seawater is again acceptable and the shellfish have gone through a sufficient time interval to permit natural biological cleansing.
- ~~104.08~~ When the above criteria are in compliance, the MCMR or as hereby authorized the MDMR, its Executive Director, Deputy Director, Director of Marine Fisheries, Bureau Director or Biological Program Coordinator thereof, may open subject area to shellfish harvesting.
- ~~105~~ All **UNCLASSIFIED AREAS** are closed to the harvest of shellfish pending classification of the area as **PROHIBITED, RESTRICTED, CONDITIONALLY APPROVED, or APPROVED** based on a sanitary survey of the area and granting of permission to harvest

shellfish in accordance with the respective classification by the MCMR or as authorized in this Part; the MDMR, its Executive Director, Director of Marine Fisheries, Bureau Director or Biological Program Coordinator.

Chapter 18 Classification and Description of Shellfish Growing Areas Waters

100 Prohibited Areas

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

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

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

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

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

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

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

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

~~100.03.01 All waters between a LINE running parallel to and 0.5 nautical mile west of the center of the Gulfport Ship Channel and a LINE running parallel to and 0.5 nautical mile east of the center of the Gulfport Ship Channel for the full length of the Gulfport Ship Channel.~~

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

~~100.04.01 All waters between a LINE running parallel to and 250 feet west of the center of the Broadwater Channel and a LINE running parallel to and 250 feet east of the center of said Channel for the full length of the Broadwater Channel.~~

- ~~100.04.02 All waters between a LINE running parallel to and 250 feet west of the center of Biloxi Channel and a LINE running parallel to and 250 feet east of the Biloxi Channel for the full length of said Channel.~~
- ~~100.04.03 All waters including Biloxi Channel between the mainland shoreline and Deer Island as defined by the following line: A line commencing at the southeastern most tip of Point Caddie (Coast Guard Point) in the City of Biloxi, Mississippi, thence, directly south to the north shore of Deer Island, thence, following the meanderings of the Deer Island shoreline northwestward to the west end of Deer Island, thence, due west toward Biloxi Channel Light 12, (Fl. R. 2.5 sec. 17 Ft. 3M "12") intersecting the Biloxi Channel east prohibiting line herein established, thence, north along said prohibiting line to the mainland shoreline and along said mainland shoreline to the point of beginning.~~
- ~~100.04.04 All waters of the Biloxi Back Bay and tributaries of Biloxi Back Bay north of the U.S. Highway 90 Bridge.~~
- ~~100.04.05 All waters of the Ocean Springs Small Craft Harbor, Channel, and Bayou.~~
- ~~100.05 The following waters of **AREA VI (6)** are **PROHIBITED**:~~
- ~~100.05.01 All waters of the Pascagoula River system north of the CSX railroad bridge to the boundary of **AREA VI**.~~
- ~~100.05.02 All waters east of the Singing River Island Bridge to the western most boundary of **AREA VI**.~~
- ~~100.06 The following waters of **AREA VII (7)** are **PROHIBITED**:~~
- ~~100.06.01 All waters north of a line running east to west along the north side of the U.S. Highway 90 Pascagoula River Bridge from a point on the west bank of the East Pascagoula River to a point on the west bank of the West Pascagoula River including the East Pascagoula River, the West Pascagoula River, Marsh Lake, and all associated tributaries.~~
- ~~100.06.02 All waters enclosed by the following described line:~~
- ~~100.06.02.01 The line is the western boundary of Area VII commencing from a point on the west bank of the East Pascagoula River and the north side and east end of the U.S. Highway 90 Pascagoula River Bridge, thence, running south along said west bank to the Pascagoula Bay at the mouth of the East Pascagoula Channel, thence, running along said west spoil bank line southeastward to a point on a line running due east from Round Island North Spit Light 2 (Fl. R. 4 sec. 17ft. "2"), thence, running due west on said east-west line for 0.5 nautical mile from the west spoil bank line, thence, running southeastward, parallel to and remaining 0.5 nautical mile west from the west spoil bank line of the Pascagoula Channel to a point of directional change, thence, running southward, parallel to and remaining 0.5 nautical mile west from the west spoil bank line of the Pascagoula Channel to a point due west of the western tip of Petit Bois Island, thence, running due east from said point to a point 0.5 nautical mile east from the east spoil bank line of the Pascagoula Ship Channel, thence, running northward, parallel to and remaining 0.5 nautical mile east from~~

the east spoil bank line of the Pascagoula Ship Channel, to a point due east of Pascagoula Channel Lighted Buoy 28, (R. "28" Fl. R. 2.5 sec.), thence, running northeastward to that southernmost tip of that part of the Grande Batture Islands just south of L'Isle Chaude Bay, thence, running westward to the northern shore of the mouth of Brown Bayou on Pt. aux Chenes, thence, after enclosing the waters of Brown Bayou, running southwestward following the meanderings of the shoreline and enclosing shoreline tributaries, natural or manmade, around Pt. aux Chenes to the eastern shore of Bayou Cassotte, thence, after enclosing the waters and tributaries of Bayou Cassotte, running northwestward following the meanderings of the shoreline to the eastern shore of Bayou Chico, thence, after enclosing the waters and tributaries of Bayou Chico, running westward following the meanderings of the shoreline and enclosing tributaries, manmade or natural, to the eastern shore of the mouth of the East Pascagoula River, thence, running northward following the east bank of the East Pascagoula River and enclosing the waters of each of its' tributaries, natural or manmade, to a point on the north side and east end of the U.S. Highway 90 Pascagoula River Bridge, thence, running westward along the north side of said Bridge to a point on the west bank of the East Pascagoula River and the north side and east end of said Bridge, which is the **POINT OF BEGINNING**. These herein described prohibited waters include: the East Pascagoula River, the Pascagoula Channel and adjacent waters, Bayou Chico, Bayou Cassotte, the Bayou Cassotte Ship Channel and adjacent waters, and adjacent waters of Pt. Aux Chenes around to and including Brown Bayou.

101 Unclassified Areas

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

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

102 Restricted Areas

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

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

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

~~102.01.02.01~~ The line commences at the mouth of the Pearl River on the Mississippi/Louisiana state line and running due south to a point

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

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

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

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

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

~~102.03.01~~ All waters of Biloxi Bay and Davis Bayou, and its' tributaries except, for those waters classified as **PROHIBITED, CONDITIONALLY APPROVED, or APPROVED.**

~~102.03.02~~ Area V "B" enclosed by the following described line:

~~102.03.03 Starting at a point on the northernmost boundary of the Biloxi East Access Channel (Latitude 30.402386 Longitude 88.842264); thence running northeasterly along the most direct line to a point 750 feet from the Ocean Springs front beach shoreline (Latitude 30.406441 Longitude 88.838109); thence southeasterly, following the meanderings of the shoreline, 750 feet therefrom, to a point 750 feet from the shoreline at a point (Latitude 30.3929 Longitude 88.8114); thence running southerly in the most direct line to the northern most point on the shoreline at Marsh Point; thence following the meandering shoreline around Marsh Point in a southeasterly direction to a point adjacent to the southern shoreline of Marsh Point (Latitude 30.374581 Longitude 88.842264); thence southwesterly in the most direct line to a point (Latitude 30.369903 Longitude 88.7999863) Channel Marker 18 in Biloxi East Access Channel; thence running northwesterly along the northernmost boundary of the Biloxi East Access Channel (Latitude 30.402386 Longitude 88.842264), said the POINT OF THE BEGINNING. This area includes the public reef known as Shearwater Reef.~~

~~102.04 The following waters of **AREA VI (6)** are **RESTRICTED**:~~

~~102.04.01 AREA VI "A" enclosed by the following described line:~~

~~102.04.01.01 The line commences at the Lake Mars Boat Launch (Latitude 30.360893 Longitude 88.764220) running due east following the meanderings of the mainland shoreline to a point (Latitude 30.377615 Longitude 88.610933) on the CSX Railroad Bridge following the CSX Railroad Bridge east to a point (Latitude 30.376293 Longitude 88.604185); thence proceeding south along the meanderings of the mainland shoreline to a point (Latitude 30.361541 Longitude 88.584336) on the Singing River Bridge; thence proceeding south along the western boundary of said Bridge to a point (Latitude 30.338510 Longitude 88.582114); thence proceeding south following the meandering shoreline of Singing River Island to a point (Latitude 30.323815 Longitude 88.574723); thence running southeasterly to a point (Latitude 30.279013 Longitude 88.53495); thence proceeding south to a point (Latitude 30.223857 Longitude 88.528741); thence proceeding west to a point (Latitude 30.223858 Longitude 88.537121); thence proceeding north to a point (Latitude 30.257444 Longitude 88.542928); thence proceeding northwest to a point (Latitude 30.322604 Longitude 88.583315); thence running west to a point (Latitude 30.330218 Longitude 88.765587); thence running north to the POINT OF BEGINNING. This area includes the public reefs known as Pascagoula Causeway and West Pascagoula.~~

~~102.05 The following waters of **AREA VIII (8)** are **RESTRICTED**:~~

~~102.05.01 All waters of Bayou Cumbest.~~

~~102.05.02 All waters of Bayou Heron and its tributaries and all waters of Mattie Clark Bayou and its tributaries.~~

~~102.05.03 All waters of Bang's Lake, North Bayou and Bangs Bayou and their tributaries south of Latitude 30°23.000'N.~~

~~102.05.04 All waters and tributaries of Point Aux Chenes Bay and Mississippi Sound north of a line beginning at a point on the western shoreline of Point Aux Chenes Bay north of Brown Bayou at Latitude 30°20.500'N and running due east to the Mississippi/Alabama state line boundary; including all waters and tributaries of L'Isle Chaude Bay, Jose Bay, Grand Bay, North and South Rigolets, Middle Bay, Jose Bayou, Graw Point Bay, Crooked Bayou, Southwest Bayou, Clay Bayou and Middle Bayou, unless otherwise classified.~~

~~103 Conditionally Approved Areas~~

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

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

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

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

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

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

point one (1) nautical mile south of the CSX Railroad Bridge across St. Louis Bay, on a line drawn between the Mississippi Square Handkerchief Shoal Light 2 (FL R 4s 17ft 4M "2") and a point on the CSX Railroad Bridge across St. Louis Bay at the center of the swing span, thence northeasterly following said line to a point on the CSX Railroad Bridge across St. Louis Bay at the center of the swing span, said point being the **POINT OF BEGINNING**. This area includes portions of the public reefs known as Henderson Point and Pass Christian.

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

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

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

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

~~“4P”) and Mississippi Sound Pass Marianne Light 15P (Fl G. 4s 17ft. 5M “15P”), thence running north-northeasterly from said Pass Marianne Light 15P, thence running northeasterly to Mississippi Sound Pass Marianne Buoy 12P, thence running northeasterly to the Mississippi Sound Pass Marianne Merrill Shell Bank Light (Fl W 6s 30ft. 4M), thence running northerly to Mississippi Sound Pass Marianne Buoy 6P, thence running northeasterly to Mississippi Sound Pass Marianne Light 4P (Fl R 2.5s 17ft 3M “4P”), thence running easterly to Mississippi Sound Pass Marianne Buoy 2P, thence running easterly to Mississippi Sound Marianne Channel Lighted Buoy 3 (Fl G 4s 4M “3”), thence running northeasterly from said Marianne Channel Lighted Buoy 3 to a point of intersection on the Mississippi Intra-coastal Waterway with a line drawn north-northwesterly from the westernmost tip of Cat Island and a point 700 feet seaward of the southernmost point on the mainland shoreline due south of Menge Avenue in Pass Christian, MS, thence running north-northwesterly along said line to the **POINT OF BEGINNING**. This area includes the northern portion of Pass Marianne reef and southern portions of the Pass Christian reef.~~

~~103.02.03.02 **AREA II “C”** shall be further sub-divided as follows:~~

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

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

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

~~103.02.04 **AREA II “D”** enclosed by the following described line:~~

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

~~103.02.05 **AREA V “A”** enclosed by the following described line:~~

~~103.02.05.01 Starting at a point 750 feet east of the eastern most point of shoreline at Point Cadet Marina; thence running north-easterly~~

along the most direct line to a point (Latitude 30.402081 Longitude 88.842577) thence running southeasterly along the southernmost boundary of the Biloxi East Access Channel, to a point (Latitude 30.368859 Longitude 88.801177) Channel Marker 17; thence southwesterly to the southernmost tip of Deer Island; thence following the northern shoreline of Deer Island, to a point due south of the beginning point 750 feet east of the eastern most shoreline at Point Cadet in Biloxi Bay; thence running due north to said point, the point of beginning. This area includes the public reef(s) known as Biloxi Bay Reef.

~~103.02.06 AREA VI "B" enclosed by the following described line:~~

~~103.02.06.01 The line commences at the northwestern most point (Latitude 30.327367 Longitude 88.698183); thence running east to a point (Latitude 30.322604 Longitude 88.583315); thence proceeding southeasterly to a point (Latitude 30.277430 Longitude 88.544702); thence running west to a point (Latitude 30.284142 Longitude 88.698114); thence running north to the POINT OF BEGINNING.~~

104 Approved Areas

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

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

~~104.01.01.01 The line commences at a point on the boundary line between Mississippi and Louisiana at Longitude 89°20.000'W, thence running easterly along said state line to a point due south of the westernmost tip of Cat Island, thence running due north to the westernmost tip of Cat Island, thence running north-northwesterly along a line drawn between the westernmost tip of Cat Island and a point 700 feet seaward of the southernmost point on the mainland shoreline due south of Menge Avenue in Pass Christian, MS, thence continuing along said line to a point of intersection with the Mississippi Intracoastal Waterway thence running southwesterly to Mississippi Sound Marianne Channel Lighted Buoy 3 (F1 G 4s 4M "3"), thence running westerly to Mississippi Sound Pass Marianne Buoy 2P, thence running westerly to Mississippi Sound Pass Marianne Light 4P (F1 R 2.5s 17ft 3M "4P"), thence running southwesterly to Mississippi Sound Pass Marianne Buoy 6P, thence running westerly to the Mississippi Sound Pass Marianne Merrill Shell Bank Light (F1 W 6s 30ft. 4M), thence running southwesterly to Mississippi Sound Pass Marianne Buoy 12P, thence running southwesterly to Mississippi Sound Pass Marianne Light 15P (F1 G. 4s 17ft. 5M "15P"), and from said Pass Marianne Light 15P running southwesterly along a line drawn through Mississippi Sound Pass~~

Marianne Light 4P and Pass Marianne Light 15P to a point of intersection with Longitude 89°20.000'W, thence running southerly along Longitude 89°20.000'W to a point on the boundary line between Mississippi and Louisiana, said point being the **POINT OF BEGINNING**. This area includes the public reefs known as Telegraph, and Buoy reefs, the Shell Keys referred to as Pelican, Fletcher's, and Umbrella, and the southern portion of Pass Marianne reef.

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

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

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

Chapter 19 Regulations for Relaying Activities

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

~~100.01 Applications are available from the MDMR.~~

~~100.02 Applications will be reviewed by the MDMR staff for compliance with application guidelines and requested information.~~

~~100.03 When all application guidelines are met and requested information provided, the applicant's intent to relay will be advertised once a week for two consecutive weeks in a newspaper of general circulation in the county or counties closest to the intended activity.~~

~~100.04 Written public comment will be received by the MDMR for a period of fifteen (15) days from the first date of advertisement.~~

~~100.05 A recommendation will be made to the MCMR to grant or deny the permit at the next regularly scheduled MCMR meeting following the fifteen-day period, and applicants will be notified in writing of the MCMR actions.~~

~~100.06 All applicants must:~~

~~100.06.01 Hold a valid lease of oyster bedding grounds in the State of Mississippi.~~

~~100.06.02 Have been a resident of the State of Mississippi for at least five (5) years.~~

~~100.06.03 Have a valid Mississippi shellfish license.~~

~~101 Approval of Relaying Permit~~

~~101.01 If the MCMR approves the relaying permit application, a relaying permit will be issued.~~

~~101.01.01 Said permit shall specify any specific conditions under which the relaying is permitted in addition to those conditions specified in Miss. Code Ann. § 49-15-37, as amended, any other applicable section of the Statute, or any Title, Part or public notice adopted by the MCMR.~~

~~101.01.02 Permittee must comply with the following guidelines:~~

~~101.01.02.01 Permittee must hold a valid lease of oyster bedding grounds in the State of Mississippi.~~

~~101.01.02.02 Permittee shall not relay shellfish from one restricted area to another restricted area.~~

~~101.01.02.03 Permittee must fulfill all permit requirements as established by the MCMR.~~

~~102 Harvesting of Relayed Shellfish~~

~~102.01 Harvesting of shellfish is permitted only during daylight hours and with the most efficient gear possible, consistent with conservation considerations, and in such a way not to damage the reef.~~

~~102.01.01 This includes permission to use two (2) dredges per boat in restricted areas and on private leased grounds.~~

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

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

~~103 Bonding~~

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

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

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

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

~~104 Relaying Procedures~~

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

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

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

~~104.01.01.02 The permittee shall pay to the MCMR an amount equal to the compensation regularly received by such Officer or designated~~

official for the time such Officer or designated official actually spends performing the above described duties.

~~105 Permission to Harvest Relayed Shellfish~~

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

~~106 Time Periods Between Relaying and Harvesting of Relayed Shellfish~~

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

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

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

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

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

~~107 Protection from Contamination~~

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

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

unloading and prior to leaving the permitted approved or conditionally approved area.

108 Relaying Records

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

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

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

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

Chapter 20 Penalties

(This chapter was deleted. These statements are no longer necessary.)

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

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

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

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

Chapter 21 Chapters and Subchapters Declared Separable

(This chapter was deleted. This statement is no longer necessary.)

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

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

Chapter 22 Administrative Procedures Act

(This chapter was deleted. This statement is no longer necessary.)

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

~~TITLE 22 — MISSISSIPPI DEPARTMENT OF MARINE RESOURCES~~

~~PART 17 REGULATION OF MOLLUSCAN SHELLFISH LANDING, UNLOADING, TRANSPORTING, PROCESSING, BUYING, SELLING, OPENING, AND OTHER MOLLUSCAN SHELLFISH RELATED ACTIVITIES IN THE STATE OF MISSISSIPPI~~

~~Chapter 01 Introduction~~

(Moved to Part 1, Chapter 1, Introduction)

Purpose

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

~~Chapter 02 Justification and Authority~~

(Deleted this Chapter because these statements are already written in Miss Code and it is not necessary to restate.)

~~100 The Mississippi Commission on Marine Resources (herein after referred to as the “Commission”) has determined that it is in the best interest of the State of Mississippi and necessary for the protection, conservation, and propagation of all molluscan shellfish in the waters under the territorial jurisdiction of the State of Mississippi to regulate the landing, unloading, transporting, processing, buying, selling, opening, and other molluscan shellfish related activities in the state.~~

~~101 The Commission is required by Miss. Code Ann. § 49-15-15 (1) (c) to regulate all seafood sanitation and processing programs.~~

~~102 The Commission is required by Miss. Code Ann. § 49-15-44 to prohibit the sale or possession of illegal oysters as defined in Miss. Code Ann. § 49-15-3 (e).~~

~~103 Miss. Code Ann. § 49-15-28, addresses seafood wholesale licensing.~~

~~104 Miss. Code Ann. § 49-15-29, authorizes the Commission to assess and collect certain taxes and license fees.~~

~~105 Miss. Code Ann. § 49-15-30, authorizes the Commission to promulgate regulations for nonresident certificates.~~

~~106 Miss. Code Ann. § 49-15-42, addresses tagging, landing and unloading of oysters.~~

~~107 Miss. Code Ann. § 49-15-43, addresses the packaging of oysters.~~

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

109 Miss. Code Ann. § 49-15-46 (4), requires all oysters harvested in Mississippi shall be tagged.

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

Chapter 03 Definitions

(All definitions were moved to Part 1, Chapter 2, Definitions and dispersed through the chapter in alphabetical order. Duplicate definitions were deleted.)

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

~~101 **ADEQUATELY ICED**—means the containers holding the molluscan shellfish have enough ice on the molluscan shellfish to provide cooling to achieve required internal temperature as defined in the most current version of the Interstate Shellfish Sanitation Conference's (ISSC) National Shellfish Sanitation Program (NSSP) Model Ordinance.~~

~~102 **CERTIFIED INTERSTATE SHELLFISH SHIPPER**—An individual, firm or corporation who has been issued a numbered license and certification by the Commission or the Mississippi Department of Marine Resources (DMR), its Executive Director, Director of Marine Fisheries, Seafood Technology Bureau Director or other DMR designee for molluscan shellfish handling and processing, or a non-resident individual, firm or corporation who has been issued a numbered license and certification by the non-resident's appropriate State Shellfish Control Authority indicating that the individual, firm or corporation operates in compliance with the sanitation and program regulations of the NSSP, and is therefore eligible to participate in the interstate shipment of molluscan shellfish.~~

~~103 **CERTIFIED SHELLFISH PLANT**—A certified shellfish plant is defined as a shellfish plant which complies with the provisions of this Part and which possesses a valid shellfish processing plant license and certification from the Commission or the DMR, its Executive Director, Director of Marine Fisheries, Seafood Technology Bureau Director or other DMR designee for shellfish handling and processing. A certified shellfish plant is recognized as a Certified Interstate/Intrastate Shellfish Shipper. A certified shellfish plant is designated as either a: Shellstock Shipper (SS), Shucker-Packer (SP), Repacker (RP) or Reshipper (RS).~~

~~104 **ILLEGAL MOLLUSCAN SHELLFISH**—All molluscan shellstock, molluscan shellfish, obtained from uncertified shops or dealers or from an unlicensed harvester, molluscan shellstock obtained from waters not declared safe and sanitary by the DMR and offered for~~

~~sale or sold, and shucked molluscan shellfish obtained from uncertified shops or dealers (Miss Code Ann. §49-15-3(e)).~~

~~105 **INTERSTATE COMMERCE**—The movement of a shipment or service across state or international borders; or the intent to continue a movement within a state that originated from another state or country.~~

~~106 **INTRASTATE COMMERCE**—The movement that originates in a single state, moves in that state only and delivers in that originating state.~~

~~107 **LANDED**—The point at which molluscan shellfish first are brought to a point of land after being harvested and are no longer transported by boat or vessel.~~

~~108 **MOLLUSCAN SHELLFISH**—All edible molluscan shellfish species of oysters, clams, mussels, or scallops; either shucked or in the shell; fresh or frozen; whole or in part.~~

~~109 **MISBRANDED**—Shucked molluscan shellfish shall be deemed to be misbranded if its labeling is false or misleading in any way, or if it does not bear a label in accordance to Chapter 11 (Labeling and Tagging of Molluscan Shellfish) of this Part.~~

~~110 **REPACKER (RP)**—A person other than the original certified shucker-packer who repacks shucked molluscan shellfish into other containers. A repacker may also repack and ship shellstock. A repacker shall not shuck molluscan shellfish.~~

~~111 **RESHIPPER (RS)**—A person who purchases shucked molluscan shellfish or shellstock from other certified shippers and sells the product without repacking or relabeling to other certified shippers, wholesalers, or retailers.~~

~~112 **SHALL**—Is used to state mandatory requirements.~~

~~113 **SHELLSTOCK**—Molluscan shellfish in the shell.~~

~~114 **SHELLSTOCK SHIPPER (SS)**—A person who grows, harvests, buys, or repacks and sells shellstock. They are not authorized to shuck molluscan shellfish or to repack shucked molluscan shellfish. A shellstock shipper may also ship shucked molluscan shellfish~~

~~115 **SHOULD**—Is used to state recommended or advisory procedures or to identify recommended equipment.~~

~~116 **SHUCKER-PACKER (SP)**—A person who shucks and packs molluscan shellfish. A shucker-packer may act as a shellstock shipper or reshipper or may repack molluscan shellfish originating from other certified dealers.~~

Chapter 04 Requirements for Non-Residents

(This chapter was moved to Part 1, Chapter 3 and reworded for clarification)

~~100 As provided for in Miss. Code Ann. § 49-15-30, it shall be unlawful for any nonresidents buying, selling, transporting, or handling molluscan shellfish in the State of Mississippi to fail to:~~

~~100.01 Purchase or pay all fees and licenses required of a Mississippi resident engaged in a similar or like activity in said nonresident's state.~~

~~100.02 Purchase or pay all additional fees and licenses required of a Mississippi resident engaged in a similar or like activity in Mississippi.~~

Chapter 05 Transfer of Tagged Molluscan Shellfish

~~(This chapter was moved to Part 1, Chapter 4, Rule 4.5)~~

~~100 When molluscan shellfish are transferred from a licensed harvester to a certified dealer or from a certified dealer's mobile unit to another certified dealer's mobile unit, the transfer of tagged molluscan shellfish shall take place across transfer facilities or locations that are periodically monitored by DMR for sanitary conditions or at a certified dealer's facility that is inspected by the DMR. There shall be no such transfers at any other locations except for emergency conditions as declared by the certified dealer and approved by the DMR. It shall be unlawful to fail to comply with the terms of this section.~~

Chapter 06 Molluscan Shellfish Handling and/or Processing Facilities

~~(Number 100 was moved to Part 1, Chapter 9, Rule 9.3)~~

~~100 Any person, firm, corporation or business desiring to alter an existing or construct a new molluscan shellfish handling/transporting/processing facility shall acquire a Mississippi Certified Shellfish Sanitation or Processing Plant license and certification from the DMR to operate any such facility, should contact the DMR staff in charge of the regulatory molluscan shellfish handling and processing responsibilities. The DMR staff shall be contacted prior to handling or processing any molluscan shellfish in any fashion in any altered or new molluscan shellfish handling/transporting/processing facility. It shall be unlawful to fail to comply with the terms of this section.~~

~~(Number 101 was moved to Part 1, Chapter 1, Introduction)~~

~~101 The DMR shall manage the State of Mississippi's molluscan shellfish sanitation program according to the relevant specifications stated in the current NSSP Model Ordinance Guidelines/ISSC, and according to Commission Title and Parts that are not in conflict with these specifications and according to the applicable statutes of the State of Mississippi. The current NSSP Model Ordinance is available from the ISSC website: <http://www.issc.org>.~~

~~(Number 101 was moved to Part 1, Chapter 9, Rule 9.5 and reworded for clarification)~~

~~102 The DMR's management includes inspections of the certified facilities in accordance with relevant NSSP/ISSC sanitation/health safety specifications and issuance to certified dealers itemized statements of compliances and non-compliances with these specifications. For the cited excessive non-compliances, the DMR shall provide the processor a schedule of corrections to bring the facilities into compliance according to the current and applicable NSSP/ISSC specifications. Otherwise, certification shall not be issued or renewed, and will~~

~~be considered revoked. It shall be unlawful to operate a processing or shipping facility without a current valid license and certification.~~

(Number 103 was moved to Part 1, Chapter 3, Rule 3.1)

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

~~103.01 No procedure or guideline of the NSSP/ISSC, which is or may be in conflict with any statute of the Legislature of the State of Mississippi has or should be in the future applied or enforced by the DMR.~~

~~103.02 No procedure or guideline of the NSSP/ISSC which may be more stringent than any relevant federal regulation or law has or should be applied by the DMR.~~

~~103.03 The DMR may, consistent with its existing practice, dispute any proposed or adopted procedure or guideline of the NSSP/ISSC, in accordance with the procedures laid down therefore by said Conference; when, in the opinion of the DMR, any such proposed guideline or regulation would appear to be unnecessary for the accomplishment of the goals of the NSSP/ISSC, or scientifically invalid, or unduly and unnecessarily burdensome upon the State of Mississippi's molluscan shellfish industry, or for any other reason deemed proper by the DMR.~~

~~Chapter 07 Legally Harvested and Properly Tagged~~

(This chapter was moved to Part 1, Chapter 4, Rule 4.1 and reworded for clarification)

~~100 It shall be unlawful for any person, firm, or corporation to possess, land, handle, unload, open, sell or offer for sale or transport any molluscan shellfish taken from the waters under the territorial jurisdiction of the State of Mississippi except those molluscan shellfish taken legally and properly tagged from an area declared open to molluscan shellfish harvesting by public order of the Commission or as hereby authorized by the DMR, its Executive Director, Director of Marine Fisheries, Seafood Technology Bureau Director or other DMR designee in accordance with the procedures outlined in the most current version of Title 22 Part I (Oyster Harvesting) and as provided for in Miss. Code Ann. § 49-15-42.~~

~~Chapter 08 Possession of Illegal Molluscan Shellfish~~

(Deleted this Chapter. This statement is a duplicate of Mississippi Code)

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

~~Chapter 09 Processing Plant Requirements for License and Certification~~

(Number 100 was deleted because it is already stated in Mississippi Code and does not need to be restated.)

~~100 As provided in Miss. Code Ann. § 49-15-15 (1)(c), in the three coastal counties, the shellfish sanitation program regulating processing plants and molluscan shellfish sold in retail stores~~

~~operating in conjunction with a processing plant or seafood market that primarily deals with seafood is under the exclusive authority of the Commission.~~

(Number 101 was moved to Part 1, Chapter 9, Rule 9.1)

~~101 It shall be unlawful for any person, firm or corporation to engage in handling, shucking, packaging, repackaging, or shipping molluscan shellfish for sale, who does not possess a dealer's or processor's license and certification from the Commission or as hereby authorized by the DMR, its Executive Director, Director of Marine Fisheries, Seafood Technology Bureau Director or other DMR designee in charge of molluscan shellfish handling and processing. The license and certification must be renewed annually. This does not apply to a restaurant or similar establishment, which may shuck and serve, under sanitary conditions, raw oysters at a half-shell bar for consumption on the premises.~~

(Number 102 was moved to Part 1, Chapter 9, Rule 9.2)

~~102 Each certified molluscan shellfish seafood facility shall follow the provisions as described in the general requirements for dealers in the current NSSP Model Ordinance Guidelines.~~

(Number 103 was moved to Part 1, Chapter 9, Rule 9.7)

~~103 A license and certification held by a person shall be suspended or revoked by the Commission when it has reason to believe that a public health hazard exists or whenever the holder has violated any of the requirements of this regulation or whenever the holder has interfered with a representative of the DMR in the performance of duties.~~

(Number 104 was moved to Part 1, Chapter 9, Rule 9.7)

~~104 The DMR shall in all cases serve upon the holder a written notice of intent to suspend the license and certification. The notice shall specify the violations and afford the holder such reasonable opportunity to correct such violations as may be agreed to by the parties or in absence of agreement fixed by the Commission before making any order of suspension effective. A copy of the inspection sheet handed to the license and certification holder or his authorized representative, or in their absence, posted in a conspicuous place in the establishment, shall constitute a written notice to suspend the license and certification.~~

(Number 105 was moved to Part 1, Chapter 9, Rule 9.7)

~~105 A suspension of license and certification shall remain in effect until the violation has been corrected to the satisfaction of the Commission. In a case where the molluscan shellfish and molluscan shellfish products involved create a health hazard or whenever adulterated or misbranded molluscan shellfish and/or molluscan shellfish products are found, or in any case of willful refusal to permit an inspection, the DMR, its Executive Director, Seafood Technology Bureau Director, or other DMR personnel designated by the DMR Executive Director, may issue a Cease and Desist order effective immediately to suspend all related molluscan shellfish activities. This order shall be in effect until such time as proper corrective actions have been taken and the order is officially lifted.~~

(Number 105 was moved to Part 1, Chapter 9, Rule 9.7)

~~106 Upon request for reapplication, from any person whose license and certification has been suspended, the Commission or as hereby authorized DMR officers, the DMR shall make~~

such inspection(s) and/or collect samples as deemed necessary to determine compliance with the requirement of this regulation. Upon repeated violations, the Commission may revoke a license and certification following reasonable notice to the license and certification holder and an opportunity for a hearing.

Chapter 10 Adulterated, Misbranded, or Unlabeled Molluscan Shellfish and Molluscan Shellfish Products Prohibited

(This chapter was moved to Part 1, Chapter 6, Rule 6.3)

~~100 It shall be unlawful for any person within the state of Mississippi, under the jurisdiction and authority of the Commission in accordance with Miss. Code Ann. 49-15-15 (1) (c) to provide, purchase, sell, offer, possess, or expose for sale, or have in possession with intent to sell, any raw molluscan shellfish and molluscan shellfish products which are adulterated, misbranded, mislabeled or unlabeled.~~

~~101 No person shall hold or pack molluscan shellfish under conditions whereby the molluscan shellfish may become adulterated.~~

~~102 Any adulterated, misbranded, mislabeled, or unlabeled molluscan shellfish or molluscan shellfish products under the jurisdiction and authority of the Commission in accordance with Miss. Code Ann. 49-15-15 (1) (c), may be impounded by the direction of the Commission or as hereby authorized by the DMR, its Executive Director, Director of Marine Fisheries, Seafood Technology Bureau Director or other DMR designee in charge of molluscan shellfish handling and processing, or Marine Patrol Officer.~~

~~103 Seizure and disposal of molluscan shellfish products shall be carried out by a Marine Patrol Officer as directed by the Commission, or as hereby authorized by the DMR Executive Director, Director of Marine Fisheries, Seafood Technology Bureau Director or Certified Seafood Officer, in charge of molluscan shellfish handling and processing.~~

Chapter 11 Labeling and Tagging of Molluscan Shellfish

(This chapter was moved to Part 1, Chapter 5)

~~100 All containers or packages enclosing fresh shucked or frozen raw shucked molluscan shellfish and shucked molluscan shellfish products shipped within, into or out of the State of Mississippi shall originate from a certified dealer and shall be conspicuously, indelibly, and legibly labeled with the following information:~~

~~100.01 Name of the product.~~

~~100.02 Name and address of the packer, repacker, or distributor.~~

~~100.03 Size of container.~~

~~100.04 Certification number.~~

~~100.05 Net drained weight when packed.~~

- ~~100.06 On packages containing sixty-four (64) fluid ounces or more shall have on the lid and sidewall or bottom the "DATE SHUCKED" indicated as the number of the day, month and year or the month, day and year.~~
- ~~100.07 On packages of less than sixty-four (64) fluid ounces of fresh product labeled with the wording "SELL BY" followed by a date expressed as a month, day and year, not to exceed seventeen (17) days from the date shucked.~~
- ~~100.08 Containers of frozen shucked molluscan shellfish shall show the date the product was shucked and the date frozen, labeled as "DATE SHUCKED" and "DATE FROZEN" followed by the date expressed as the month, day, and year. Shucked product previously frozen must be labeled with the wording "PREVIOUSLY FROZEN".~~

~~101 All molluscan shellfish shipped within, into or out of the State of Mississippi by a certified dealer shall be tagged with the following indelible, legible information:~~

- ~~101.01 Dealer's name~~
- ~~101.02 Dealer's address~~
- ~~101.03 Dealer certification number and original shellstock shipper's certification number~~
- ~~101.04 Date of harvest~~
- ~~101.05 Harvest area~~

~~102 When both the harvester and dealer tags appear on the container, the dealer's tag is not required to duplicate the information on the harvester's tag.~~

~~103 It shall be unlawful for any molluscan shellfish harvested from Mississippi waters or landed in the state and shipped into interstate commerce to originate from other than a Mississippi Certified Dealer.~~

~~104 If the molluscan shellfish is removed from the original container by the dealer, the tag on the new container shall meet the requirements in Chapter 11 of this Part.~~

~~105 All molluscan shellfish and shucked molluscan shellfish shipped by a certified dealer within, into or out of the State of Mississippi shall be accompanied by a bill of lading or bill of sale with the following information:~~

- ~~105.01 Shipper's name, address, and certification number.~~
- ~~105.02 Date of shipment.~~
- ~~105.03 Name and address of consignee.~~
- ~~105.04 Type and quantity of molluscan shellfish products.~~
- ~~105.05 Bulk tagging of shellstock is permitted when conducted in accordance with current NSSP guidelines as described in the most current version of the NSSP's Model Ordinance.~~

~~106 The Executive Director may establish additional labeling and tagging requirements as may be required or necessary according to the most recent labeling/tagging changes in the current version of the ISSC's NSSP Model Ordinance.~~

Chapter 12 Purchase and Sales Records / Molluscan Shellfish Tag Retention

~~(This chapter was moved to Part 1, Chapter 6)~~

~~100 Persons, firms or corporations handling, shucking, buying, selling, or shipping molluscan shellfish shall keep accurate records showing the names, addresses, and certification numbers of all persons from whom lots of molluscan shellfish are received, the source of each lot (growing area) and the names and addresses of persons to whom lots are sold or shipped and the dates of the aforementioned transactions. Shellfish tags are required to be attached to containers until containers are empty and thereafter kept on record for at least ninety (90) days. Persons, firms or corporations handling, shucking, buying, selling or shipping shellstock shall record the tag number of each container of shellstock and to whom or from whom the shellstock were shipped, sold, bought or received. Such records shall be open to inspection at any time during operating hours, by any duly authorized representative of the DMR, including Officers of the Marine Patrol.~~

Chapter 13 Shipping and Transportation of Molluscan Shellfish

~~(This chapter was moved to Part 1, Chapter 7)~~

~~100 Licensed harvesters may transport their own daily harvested shellstock intrastate unrefrigerated, within the time limits under the most recent time/temperature changes in the current version of the ISSC's NSSP Model Ordinance.~~

~~101 Interstate shipping of molluscan shellfish shall only be through a certified seafood dealer or processor and no molluscan shellfish shall enter or exit the state of Mississippi unrefrigerated.~~

~~102 It shall be unlawful for shellstock to fail to be transported in refrigerated trucks when the shellstock have been previously refrigerated.~~

~~103 When mechanical refrigeration units are used, the units shall:~~

~~103.01 Be equipped with automatic controls; and~~

~~103.02 Maintain the ambient air temperature in the storage area at temperatures consistent with the requirements in the most recent time/temperature changes in the current version of the ISSC's NSSP Model Ordinance.~~

~~104 All ice used in the processing, storage, or transportation of shellstock or shucked molluscan shellfish shall:~~

~~104.01 Be made on-site from potable water in a commercial ice machine; or~~

~~104.02 Come from a facility sanctioned by the DMR or the appropriate regulatory agency.~~

~~105 Dealers and Processors shall ship all molluscan shellfish:~~

~~105.01 Adequately iced as defined in the most current version of the ISSC's NSSP Model Ordinance; or~~

~~105.02 In mechanically refrigerated conveyances which are equipped with automatic temperature controls that maintain the ambient air temperature in the storage area at temperatures consistent with the most recent time/temperature changes in the current version of the ISSC's NSSP Model Ordinance.~~

~~106 It shall be unlawful for any transportation of shucked molluscan shellfish to fail to be in either mechanically refrigerated vehicles or adequately iced as defined in the most current version of the ISSC's NSSP Model Ordinance and protected from contamination.~~

~~107 It shall be unlawful for any molluscan shellfish, whether refrigerated or not, to be unprotected from sun and contamination during transport. Dogs, cats, birds, and other animals shall not be allowed in any vehicle or vessel used to transport molluscan shellfish.~~

~~108 All vehicles transporting shucked molluscan shellfish intrastate must be properly licensed in accordance with Miss. Code Ann. 49-15-28 and 49-15-29.~~

~~109 Frozen molluscan shellfish shall be transported in such a manner as to remain frozen solid and the temperature of the product maintained at 0°F (-17.8°C) or less.~~

~~110 Other than documented common carriers, all mechanically refrigerated transport vehicles used by DMR-certified dealers for transporting molluscan shellfish must be certified and inspected by the DMR.~~

~~111 It shall be unlawful to open containers of shucked molluscan shellfish in transit, except for inspection by an official of the DMR or other duly authorized official.~~

~~112 The Executive Director may establish other time and temperature controls on the shipping and transportation of shellstock as may be required or necessary according to the most recent time/temperature changes in the current version of the ISSC's NSSP Model Ordinance.~~

Chapter 14 Receiving and Storage of Molluscan Shellfish

(This chapter was moved to Part 1 Chapter 6)

~~100 Dealers receiving shellstock from a harvester shall only accept shellstock that is accompanied by documentation from the harvester demonstrating that the shellstock was harvested under the most recent time/temperature changes in the current version of the ISSC's NSSP Model Ordinance.~~

- ~~101 When the dealer is also the harvester, molluscan shellfish shall be placed in a mechanically refrigerated unit within the requirements of the most recent time/temperature changes in the current version of the ISSC's NSSP Model Ordinance.~~
- ~~102 Molluscan Shellfish dealers and processors shall place molluscan shellfish under temperature control within the requirements of the most recent time/temperature changes in the current version of the ISSC's NSSP Model Ordinance.~~
- ~~103 Molluscan Shellfish shall be stored in a mechanically refrigerated conveyance or unit which is equipped with automatic temperature controls and maintains the ambient air temperature in the storage area consistent with the requirements of the most recent time/temperature changes in the current version of the ISSC's NSSP Model Ordinance.~~
- ~~104 Shucked molluscan shellfish may be stored adequately iced as defined in the most current version of the ISSC's NSSP Model Ordinance provided that the ice is from a DMR approved water source and is free of contaminants.~~
- ~~105 Frozen molluscan shellfish shall be stored in such a manner as to remain frozen solid and the temperature of the product maintained at 0°F (-17.8°C) or less.~~
- ~~106 Once placed under temperature control and until sale to the final processor or consumer, it shall be unlawful to fail to keep molluscan shellfish:~~
- ~~106.01 Adequately iced as defined in the most current version of the ISSC's NSSP Model Ordinance; or~~
 - ~~106.02 Placed and stored in a storage area or conveyance maintained according to the most recent time/temperature changes in the current version of the ISSC's NSSP Model Ordinance; and~~
 - ~~106.03 Without ice, mechanical refrigeration or other approved methods of refrigeration for more than two (2) hours at points of transfer.~~
- ~~107 Shellstock oysters shall be packed in clean barrels, sacks, hampers, or other measurable containers.~~
- ~~108 The Executive Director may establish other time and temperature controls on receiving and storing shellstock as may be required or necessary according to the most recent time/temperature changes in the current version of the ISSC's NSSP Model Ordinance.~~

Chapter 15 Recreationally Harvested Shellstock or Molluscan Shellfish Purchased for Personal Consumption

(This chapter was moved to Part 1, Chapter 5, Rule 5.3)

- ~~100 Chapters 13 & 14 of this Part shall not apply to recreationally harvested shellstock or molluscan shellfish purchased for personal consumption from a licensed and certified establishment or individual. All molluscan shellfish purchased for personal consumption must be properly labeled as specified in this Part, and be accompanied by a receipt or a bill~~

of sale containing the following information, the intent being that the following information is present and available for inspection by any official of DMR:

- 100.01 Name, license and certification number of seller
- 100.02 Quantity of molluscan shellfish purchased
- 100.03 Purchase date

Chapter 16 Molluscan Shellfish Recall

(This chapter was moved to Part 1, Chapter 6, Rule 6.4)

~~100 When molluscan shellfish have been landed and have moved into or through the handling, processing and/or marketing system and have been determined by the DMR as subjected to contamination that threatens imminent peril to public health, such oysters shall be recalled. The recalled oysters shall be properly disposed of under the supervision of the DMR to prevent human consumption.~~

Chapter 17 Depuration

(This chapter was moved to Part 1, Chapter 11, Rule 11.1)

~~100 Depuration of shellstock is permitted as described in the current NSSP Model Ordinance guidelines.~~

Chapter 18 Post Harvest Processing

(This chapter was moved to Part 1, Chapter 9, Rule 9.4)

~~100 Post Harvest Processing is permitted as described in the current NSSP Model Ordinance guidelines.~~

Chapter 19 Responsibility

(This chapter was moved to Part 1, Chapter 9, Rule 9.6)

~~100 It shall be the duty and responsibility of each owner, manager, and operator of a certified molluscan shellfish plant to insure that all regulations pertaining thereto are strictly adhered to and that only safe, wholesome, unadulterated molluscan shellfish shall be offered for sale to the consuming public. It shall be his duty and responsibility to see that his plant is properly supervised at all times and all molluscan shellfish can be identified, whether shellstock or shucked molluscan shellfish, to ensure that they were harvested from approved growing waters and that they have been handled and processed in a sanitary manner. Each owner shall be subject to penalties under this Part and Miss. Code Ann.~~

Chapter 20 Penalties

(This chapter was deleted. These statements are no longer necessary.)

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

~~49-15-63 unless a penalty is specifically provided elsewhere in the Mississippi Code of 1972, Annotated.~~

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

~~102 Any molluscan shellfish in violation of any section of this Part shall be subject to confiscation and disposal of such molluscan shellfish by direction of any designated Marine Patrol Officer of the DMR.~~

~~Chapter 21 Sections and Subsections Declared Separable~~

~~(This chapter was deleted. These statements are no longer necessary.)~~

~~100 Each section and subsection of this Part is hereby declared separable, and if any section or subsection or part thereof shall be held invalid or unconstitutional, the balance of said Title 22 Part 17 shall remain in full force and effect.~~

~~Chapter 22 Administrative Procedures Act~~

~~(This chapter was deleted. This statement is no longer necessary.)~~

~~100 Pursuant to the amendments to the Administrative Procedures Act, Section 25-43-101.1, et seq., of the Mississippi Code of 1972, and the rules and regulations promulgated pursuant thereto by the Secretary of State; the former Ordinance 17.001 has been modified and the commission and department have adopted the terminology and numbering system developed by the Secretary of State. Therefore, references to "ordinance" or to "Part" appearing in these regulations or the underlying statutes are used interchangeably and refer to the same instrument.~~

~~Title 22 — MISSISSIPPI DEPARTMENT OF MARINE RESOURCES, Part 17
REGULATION OF MOLLUSCAN SHELLFISH LANDING, UNLOADING,
TRANSPORTING, PROCESSING, BUYING, SELLING, OPENING, AND OTHER
MOLLUSCAN SHELLFISH RELATED ACTIVITIES IN THE STATE OF MISSISSIPPI,~~
shall be in effect and be in force from and after the 1st day of November, 2012.

~~Adopted this the 18th day of September, 2012.~~

~~MISSISSIPPI COMMISSION ON MARINE RESOURCES~~

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

~~MISSISSIPPI DEPARTMENT OF MARINE RESOURCES~~

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

TITLE 22 – MISSISSIPPI DEPARTMENT OF MARINE RESOURCES

PART 1 RULES AND REGULATIONS FOR MOLLUSCAN SHELLFISH RELATED ACTIVITIES

Introduction

This Part establishes the minimum requirements necessary to regulate the intrastate and interstate commerce of molluscan shellfish and to establish a program to protect the public health of consumers by assuring the harvesting, sale and shipment of shellfish from safe sources and assuring shellfish have not been adulterated during shellfish related activities in the state.

This Part also establishes the requirements for molluscan shellfish aquaculture activities in marine waters that require a permit under the provisions of the Coastal Wetlands Protection Act and the Mississippi Aquaculture Act of 1988.

The Mississippi Department of Marine Resources (MDMR) follows the guidance of the Interstate Shellfish Sanitation Conference (ISSC) National Shellfish Sanitation Program (NSSP) Guide for the Control of Molluscan Shellfish (hereafter referred to as the NSSP Model Ordinance) for the management of all molluscan shellfish related activities within the State of Mississippi. The most current version of this document may be found at the following website: <https://www.issc.org/>. The MDMR Shellfish Bureau maintains a document titled *Molluscan Shellfish Growing Waters Management Plan* which outlines the plan for management of shellfish related activities. This document can be found on the MDMR webpage at dmr.ms.gov/shellfish/.

Any unlawful act under this Part by any person, firm or corporation is subject to the penalties provided by law.

Source: MISS. CODE ANN. §§49-15-15, 49-15-36, 49-15-303, 49-15-304, 49-27-1, 79-22-1; NSSP Model Ordinance, 2019 Version

Definitions

Rule 2.1 Definitions

- A. ADEQUATELY ICED –The amount and application of the ice is sufficient to ensure that immediate cooling begins and continues for all shellfish. If ice slurry is used and the shellfish are submerged, the presence of ice in the slurry indicates adequate icing.
- B. ADULTERATED – Molluscan shellfish will be deemed contaminated if any foreign substance has been added to, mixed in, or packed with molluscan shellfish to increase its bulk or weight, reduce its quality, or make it appear better or of

greater value.

- C. APPROVED AREA – Molluscan shellfish growing waters classification used to identify a growing area where harvest of shellfish for direct marketing is allowed.
- D. AQUACULTURE INTERMEDIATE SIZE SHELLSTOCK – Molluscan shellstock which measures 26 mm or more and 50 mm or less in size (more than 1 inch and less than 2 inches) from end to end.
- E. AQUACULTURE MARKET SIZE SHELLSTOCK – Molluscan shellstock which measures 51 mm or more (2 inches or greater) from end to end.
- F. AQUACULTURE SEED – Molluscan shellstock which measures 0 to 25 mm in length (1 inch or less) from end to end, used for cultivation in controlled conditions.
- G. AUTHORITY – The State shellfish control administration or its designated agents, which are responsible for the enforcement of all rules and regulations pertaining to molluscan shellfish related activities.
- H. BASKET DREDGE – A type of molluscan shellfish dredge, also known as a “self-dumping dredge” that utilizes a rigid framed basket, instead of a flexible rope or chain bag, to retain the harvested molluscan shellfish.
- I. BULK TAGGING – When a single lot of shellstock is sold, multiple containers may be combined on a wrapped pallet or other type of containment and the unit tagged with a single tag in accordance with the most current version of the NSSP Model Ordinance.
- J. CERTIFIED INTERSTATE SHELLFISH SHIPPER – An individual, firm or corporation who has been issued a numbered license and certification by the MDMR for molluscan shellfish handling and processing. In addition, nonresidents who have been issued a license and certification from their respective state shellfish control authority are eligible to participate in the interstate shipment of molluscan shellfish.
- K. CERTIFIED SHELLFISH PLANT – A molluscan shellfish facility which possesses a valid shellfish processing plant license and certification from the MDMR for shellfish handling and processing. A certified shellfish plant is recognized as a Certified Interstate/Intrastate Shellfish Shipper. A certified shellfish plant is designated as either a: Shellstock Shipper (SS), Shucker- Packer (SP), Repacker (RP) or Reshipper (RS).
- L. COMMERCIAL MOLLUSCAN SHELLFISH AQUACULTURE PERMIT – A permit issued by the MDMR Shellfish Bureau to a Mississippi aquaculture harvester. The harvester must have an active commercial aquaculture harvesters license. The permit includes endorsements allowable for the harvester including grow-out and seed purchases, seed nursery, wet storage, intermediate shellstock

grow-out, off-site cultivation, bulk tagging, and transport of shellstock across state lines. The permit must be renewed annually at the start of the calendar year.

- M. COMMERCIAL MOLLUSCAN SHELLFISH LEASE PERMIT – A permit issued by the MDMR Shellfish Bureau to an active, on-bottom, private lease holder. The permit includes endorsements allowable for the harvester including harvest of molluscan shellfish and cultch material deployment on the lease. The permit must be renewed annually at the start of the calendar year.
- N. COMMERCIAL MOLLUSCAN SHELLSTOCK TRANSPORT PERMIT – A permit issued by the MDMR Shellfish Bureau to a Mississippi Certified Dealer and/or Processor for the transportation of shellstock by a marine vessel from waters outside of the state of Mississippi into the state of Mississippi. The permit must be renewed annually at the start of the calendar year.
- O. CONDITIONALLY APPROVED AREA – Molluscan shellfish growing waters classification that meets the criteria for approved classification except under certain environmental conditions such as rainfall and river stage. Conditions specific to each area are described in the MDMR Shellfish Bureau management plan.
- P. DEPURATION – The process of reducing the pathogenic organisms that may be present in shellstock by using a controlled aquatic environment as the treatment process.
- Q. ILLEGAL MOLLUSCAN SHELLFISH – All untagged molluscan shellstock, molluscan shellfish obtained from uncertified shops or dealers or from an unlicensed harvester, molluscan shellstock obtained from waters not declared safe and sanitary by the MDMR and offered for sale or sold, and shucked molluscan shellfish obtained from uncertified shops or dealers.
- R. INTERSTATE COMMERCE – The movement of a shipment or service across state or international borders; or the intent to continue a movement within a state that originated from another state or country.
- S. INTRASTATE COMMERCE – The movement that originates in a single state, moves in that state only and delivers in that originating state.
- T. ISLANDS – All islands in the territorial waters of the State of Mississippi, which include, but are not limited to: Petit Bois, Horn, Ship, Cat, Round and Deer Islands.
- U. LANDED – The point at which shellstock is put on land or a dock.
- V. MARINA – Any water area with a structure (docks, basin, floating docks, etc.) which is used for docking and constructed to provide temporary or permanent docking space for more than ten (10) boats.
- W. MISBRANDED – Molluscan shellfish labeled with false or misleading information in any way or with a missing label.

- X. MOLLUSCAN SHELLFISH – All bivalve species of oysters, clams, mussels, or scallops in the shell, shucked, fresh, frozen or in part.
- Y. OFF-BOTTOM AQUACULTURE – Molluscan shellfish aquaculture operations in marine waters that utilize the water column or do not otherwise fall within the definition of on-bottom aquaculture.
- Z. ON-BOTTOM AQUACULTURE – Molluscan shellfish aquaculture operations in marine waters that use natural shell, spat on shell, or other approved cultch material deployed on the water bottoms, without employing racks, cages, or other containers or support structures.
- AA. PROHIBITED AREA – Molluscan shellfish growing waters classification where the harvest of shellstock for any purpose is not permitted, except depletion, gathering of seed or nursery culture for aquaculture.
- BB. PUBLIC REEF – On-bottom molluscan shellfish reefs, either natural, historic, or created by the state that are managed by the state.
- CC. REPACKER (RP) – Any person, firm, or corporation other than the original certified shucker-packer who repacks shucked molluscan shellfish into other containers. A Repacker may also repack and ship shellstock. A Repacker is not permitted to shuck molluscan shellfish.
- DD. RESHIPPER (RS) – Any person, firm, or corporation who purchases shucked molluscan shellfish or shellstock from a certified shipper and sells the product, without repacking or relabeling, to other certified shippers, wholesalers, or retailers.
- EE. RESTRICTED AREA – Molluscan shellfish growing waters classification used to identify a growing area where harvesting shall be by special license and the shellstock, following harvest, is subjected to a suitable and effective treatment process through relaying or depuration.
- FF. RETAILER – Anyone who sells molluscan shellfish to the end user and has had no part in the processing of molluscan shellfish as defined by Miss. Code Ann. 49-15-28.
- GG. SANITARY SURVEY – The evaluation of all actual and potential pollution sources and environmental factors having a bearing on shellfish growing water quality.
- HH. SEED – Shellstock which measures less than three (3) inches from end to end.
- II. SHELLFISH RELATED ACTIVITIES – Any activity involving molluscan shellfish including, but not limited to: buying, cultivation, growing, harvesting, landing, opening, packing, processing, relaying, repacking, reshipping, selling, shipping, tagging, transplanting, transporting, or unloading.

- JJ. SHELLSTOCK – Live molluscan shellfish in the shell.
- KK. SHELLSTOCK SHIPPER (SS) – A person who grows, harvests, buys, or repacks and sells shellstock. They are not authorized to shuck molluscan shellfish or to repack shucked molluscan shellfish. A shellstock shipper may also buy, repack, and sell in-shell product as well as ship shucked molluscan shellfish.
- LL. SHORELINE – The area where the water contacts the land including the mainland and all offshore and barrier islands.
- MM. SHOULD – Used to state recommended or advisory procedures or to identify recommended equipment.
- NN. SHUCKER-PACKER (SP) – Any person, firm, or corporation that shucks and packs molluscan shellfish. A shucker-packer may act as a shellstock shipper or reshipper or may repack molluscan shellfish originating from other certified dealers.
- OO. TAG – a label attached to molluscan shellfish containers for the purpose of identification.
1. WHITE TAG – Shellstock that is commercially harvested from growing areas classified as approved or conditionally approved, in the open status, and under conditions that allow for direct marketing for raw consumption.
 2. GREEN TAG – Shellstock that is commercially harvested from growing areas classified as approved, conditionally approved, or restricted in the open status and under conditions that allow for shucking by a certified dealer or post-harvest processing only as defined in the most current version of the NSSP Model Ordinance.
 3. RED TAG – Shellstock harvested for personal use and sale is prohibited.
 4. PURPLE TAG – Shellstock that is being cultivated by a molluscan shellfish aquaculture harvester and will be returned to the harvester's sublease. Sale is prohibited.
- PP. UNCLASSIFIED AREA – Waters that are not classified as molluscan shellfish growing waters and from which the harvest of shellfish is prohibited pending classification by the MDMR based on a sanitary survey of the area.
- QQ. WET STORAGE – The storage, by a dealer, of shellstock from growing areas in the approved classification or in the open status of the conditionally approved classification in containers or floats in natural bodies of water or in tanks containing natural or synthetic seawater at any permitted land-based activity or facility.
- RR. WHOLESALE – A person, firm or corporation that purchases and resells

molluscan shellfish to a licensed retailer or other wholesaler.

Source: MISS. CODE ANN. § 49-1-1; NSSP Model Ordinance § II-B

Management and Classification of Molluscan Shellfish Growing Waters

Rule 3.1 The implementation of the requirements by the MDMR as specified herein is subject to the following:

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

Source: MISS. CODE ANN. §§49-15-15, 49-15-36, 49-15-303, 49-15-304; NSSP Model Ordinance § II-I

Rule 3.2 Nonresidents participating in molluscan shellfish related activities in the State of Mississippi must pay all fees and licenses set forth by the MDMR. This excludes the purchase of molluscan shellfish for personal consumption.

Source: MISS. CODE ANN. §§49-15-15, 49-15-30, 49-15-303, 49-15-304; NSSP Model Ordinance § II-VIII

Rule 3.3 Management Plan for Shellfish Growing Waters

- A. The MDMR will maintain a management plan in accordance with the most current version of the NSSP Model Ordinance. This plan will include the classification of shellfish growing waters, the criteria for conditionally approved growing waters, the opening and closing criteria for growing areas within the State of Mississippi, and other relevant information.
- B. The MDMR will supply a copy of the current time and temperature table by request.
- C. The MDMR may modify or change the area specific growing waters management provisions and the classifications and descriptions of shellfish growing waters as necessary and will update the molluscan shellfish management plan when a change

occurs.

Source: MISS. CODE ANN. §§49-15-15, 49-15-36, 49-15-27, 49-15-63, 49-15-303, 49-15-304; NSSP Model Ordinance §§ II-II, II-IV, II-VIII, IV-II

Rule 3.4 Tonging Line – Except as otherwise provided for leased bottoms, all waters north of a line herein described must be defined as tonging reefs. Beginning at a point on the southern shore at the mouth of Bayou Caddy, thence proceeding to a point one (1) nautical mile due east of said point, thence proceeding northeasterly, following the meandering of the shoreline one (1) nautical mile there from, and maintaining one (1) nautical mile off the CSX railroad bridge, thence proceeding easterly following the meandering of the shoreline one (1) nautical mile there from, to a point on Longitude 89°15.139'W, thence proceeding due south to a point at Latitude 30°17.138'N, Longitude 89°15.139'W, thence proceeding due east to a point at Latitude 30°17.138'N, Longitude 89°14.340'W, thence proceeding due north to a point at Longitude 89°14.340'W one (1) nautical mile from the shoreline, thence proceeding easterly following the meandering of the shoreline one (1) nautical mile from the shoreline to the intersection of the Alabama State line.

Source: MISS. CODE ANN. §§49-15-3, 49-15-39; NSSP Model Ordinance §§ II-IV, III-IV, IV-II

Rule 3.5 Shellfish Growing Waters Openings and Closings

- A. The MDMR will set the opening date of oyster season on public reefs in an opening order in accordance with the most current version of the NSSP Model Ordinance. The opening order will include:
1. Opening date
 2. Open molluscan shellfish growing areas
 3. Check station location(s)
 4. Oyster hotline number
 5. Sack limits and/or quotas
 6. Reference to the rules and regulations of molluscan shellfish related activities
- B. The MDMR will notify the public when an area opens or closes for the harvest of molluscan shellfish.
- C. A twenty-four (24) hour recorded telephone message of closures and openings will be provided when possible.
- D. If a closure is necessitated by a rainfall event or rise in river stage occurring after 4:00 p.m., the closure will be effective no later than 4:00 p.m. the following day.
- E. If a closure is necessitated by a rainfall event or rise in river stage occurring prior to

4:00 p.m., the closure will be effective no later than 4:00 p.m. that day.

- F. Whenever sampling data indicates this time frame sequence is not adequate to protect public health, the area will be closed immediately, and any shellfish taken from the area may be required to be returned to the water.
- G. If a closure is necessitated by any polluting event which threatens public health, closure will be immediate, and any harvested molluscan shellfish deemed contaminated by an MDMR Authority must be destroyed or returned to the water.
- H. When any one or more of the following criteria are found to exist, the MDMR will delay opening or close the area, or affected portions thereof, to shellfish harvesting.
 - 1. When area specific closing criteria as published by the MDMR are met or exceeded.
 - 2. When hurricanes, storms, localized flooding, or other natural disasters strike the area.
 - 3. When reports concerning chemical spills, discharge of hazardous wastes, and/or discharge of raw untreated sewage, poorly treated sewage from malfunctioning city sewage collection system pump stations, chemical plants or users, harbors, shipping terminals, marinas, ships, barges, or the sinking or grounding of vessels carrying hazardous cargoes are substantiated.
 - 4. When there is evidence of the existence of marine biotoxins or other biological, chemical, or radiological agents in the seawater or shellfish in the area exceeding recognized acceptable limits. Designated MDMR personnel will perform monitoring of the closing criteria.
- I. If a controlling gauge for rainfall or river stage reading is missing or unavailable, evaluation of all available information will be utilized to determine if the closing criteria has been met or exceeded, in which case, the area will be closed in accordance with this Part.
- J. When molluscan shellfish growing waters are closed under the provisions listed, the affected waters are deemed not safe and molluscan shellfish reefs within these closed waters are deemed contaminated or otherwise unfit for consumption.
- K. Seawater samples will be collected from each compliant sampling station in the area for microbiological analysis.
- L. Seawater will be deemed acceptable when microbiological analysis of compliant stations in the area indicates a geometric mean fecal coliform MPN of 14 per 100 ml of water or less. This shall be deemed a sufficient time interval to permit natural biological cleansing.
- M. When shellfish tissue is sampled for verification, the results shall be less than a

fecal coliform MPN of 230 per 100 grams of meat.

- N. Areas may be opened or reopened for the harvest of molluscan shellfish by the MDMR:
1. When rainfall has subsided, and microbiological analysis of seawater samples indicate that the seawater is again acceptable and that the shellfish have gone through a sufficient time interval to permit natural biological cleansing.
 2. When any raw sewage spills or discharges are diluted to the point that they are within accepted standards as determined by microbiological analysis of seawater samples collected at the site of the spill or discharge in accordance with the most current version of the NSSP Model Ordinance.
 3. When rainfall, hurricanes, storms, localized flooding or any natural disasters have subsided; microbiological analysis of seawater and/or molluscan shellfish tissue samples indicate that the seawater is again acceptable; and the shellfish have gone through a sufficient time interval to permit natural biological cleansing in accordance with the most current version of the NSSP Model Ordinance.
 4. When any chemicals or hazardous waste residuals remaining in the seawater or molluscan shellfish tissue are less than the tolerance set for such substances by the federal agencies responsible; or, when such residuals are judged to be non-hazardous to public health by the MDMR.
 5. When there is no evidence of the existence of marine biotoxins or other biological, chemical, or radiological agents in excess of tolerances set for such biotoxins, biological, chemical or radiological agents in the seawater and molluscan shellfish tissue samples taken from the area in accordance with the most current version of the NSSP Model Ordinance.

Source: MISS. CODE ANN. §§ 49-15-15, 49-15-36, 49-15-303, 49-15-304; NSSP Model Ordinance §§ II-IV, III-IV-.03, IV-II-.02

Rule 3.6 Approved Classification of Molluscan Shellfish Growing Waters

- A. Approved growing waters are areas where the growing and harvesting of shellfish for direct market is allowed by the MDMR Authority.
- B. Approved growing waters may be opened and closed to the direct harvest of shellfish by the MDMR Authority in accordance with the most current version of the NSSP Model Ordinance.
- C. An area is considered approved when a sanitary survey shows that there are not pathogenic micro-organisms, poisonous and deleterious substances present in dangerous concentrations and where bacteriological quality of the water of every sampling station does not exceed a fecal coliform median or geometric mean in

accordance with the most current version of the NSSP Model Ordinance.

Source: MISS. CODE ANN. §§ 49-15-15, 49-15-36, 49-15-303, 49-15-304; NSSP Model Ordinance §§ II-IV, II-VII, III-IV, IV-II

Rule 3.7 Conditionally Approved Classification of Molluscan Shellfish Growing Waters

- A. An area is considered conditionally approved when a sanitary survey of the area, conducted by an MDMR Authority, shows that the area meets the conditions of approved growing waters except under certain environmental conditions such as heavy rainfall or river stage.
- B. All molluscan shellfish growing waters classified as conditionally approved may be open for the direct harvest of shellfish by the MDMR provided that water quality meets the conditions defined for that area.
- C. During any closure of a conditionally approved area, the MDMR will sample the water of the closed area until shellfish are free of pollutants in accordance with the respective growing waters management plan.

Source: MISS. CODE ANN. §§ 49-15-15, 49-15-36, 49-15-303, 49-15-304; NSSP Model Ordinance §§ II-IV, II-VII, III-IV, IV-II

Rule 3.8 Restricted Classification of Molluscan Shellfish Growing Waters

- A. All molluscan shellfish growing waters classified as restricted are closed to the direct harvest of shellfish.
- B. The MDMR may permit relaying or depuration operations of these areas after a sufficient study determines that the shellfish will depurate to the required levels within a specified period of time, and that the growing waters in these areas meet the requirements to be classified as restricted to relaying and/or depuration in accordance with the most current version of the NSSP Model Ordinance.

Source: MISS. CODE ANN. §§ 49-15-15, 49-15-36, 49-15-303, 49-15-304; NSSP Model Ordinance §§ II-IV, II-VII, III-IV, IV-II

Rule 3.9 Prohibited Classification of Molluscan Shellfish Growing Waters - All molluscan shellfish growing waters classified as prohibited are closed to the harvest of molluscan shellfish at all times.

Source: MISS. CODE ANN. §§ 49-15-15, 49-15-36, 49-15-303, 49-15-304; NSSP Model Ordinance §§ II-IV, II-VII, III-IV, IV-II

Rule 3.10 Unclassified Waters – All waters deemed unclassified by the MDMR are closed to the harvest of molluscan shellfish pending a sanitary survey of the area.

Source: MISS. CODE ANN. §§ 49-15-15, 49-15-36, 49-15-303, 49-15-304; NSSP Model

Ordinance § II-IV

Harvesting, Landing and Transfer of Molluscan Shellfish

Rule 4.1 Harvesting Molluscan Shellfish

- A. A license issued by the MDMR is required to take molluscan shellfish from the waters under the territorial jurisdiction of the State of Mississippi.
- B. All molluscan shellfish taken from waters of the territorial jurisdiction of the State of Mississippi must:
 - 1. Be properly tagged and taken legally from an area declared open for harvest by the MDMR Authority.
 - 2. Be accompanied by a trip ticket that indicate the check-out time, must remain with the catch until final delivery and must be available for inspection with the molluscan shellfish by an MDMR Authority.
- C. Nonresident recreational harvest of molluscan shellfish is not permitted in the State of Mississippi.
- D. Dredge Specifications
 - 1. Harvesters are permitted to use a dredge that weighs 115 pounds or less and has a tooth bar with 16 or less teeth. All dredge teeth must be five (5) inches or less.
 - 2. Harvesters are permitted to use a hand dredge that weighs 40 pounds or less and have a tooth bar with 10 or less teeth. All dredge teeth must be five and one quarter (5¼) inches or less. When using a hand dredge, it is illegal to use a mechanical advantage retrieval system. A hand dredge must be retrieved by hand.
 - 3. Basket dredges are not permitted for use in Mississippi waters.
 - 4. Harvesters are not permitted to use more than two (2) dredges.
- E. Marine Sanitation Device (MSD)
 - 1. All boats or vessels used in the harvest or transport of shellfish are required to have onboard, a functional, approved marine sanitation device (MSD), portable toilet or other sewage disposal receptacle to contain human sewage.
 - 2. The MSD must meet the requirements set forth by the most current version of the NSSP Model Ordinance.

Source: MISS. CODE ANN. §§ 49-15-15, 49-15-42, 49-15-303, 49-15-304, 97-15-30; NSSP Model Ordinance §§ II-VIII, III-VIII, IV-II

Rule 4.2 Harvesting Molluscan Shellfish from Public Reefs

- A. All molluscan shellstock taken from public reefs by any person, firm or corporation must measure three (3) inches or more from end to end. End to end measurement is the greatest length from the hinge to the bill. It is unlawful for any person, firm, or corporation to purchase, sell or possess molluscan shellfish harvested from public reefs that are under the legal-size limit.
- B. Any person, firm or corporation harvesting molluscan shellfish on public reefs must first register on the day of harvest at a check station drop box in the area where harvesting will occur.
 - 1. Check stations will operate from 7:00 a.m. to 4:00 p.m. local time when the area is open for harvest or until the final harvester that checked in for the day has checked out.
 - 2. All shellfish harvesting activities must cease prior to 4:00 p.m. each day and all fishermen must be checked out at the appropriate check station by 4:00 p.m. If a harvester does not return to a check station by 4:00 p.m., all shellfish harvested that day will be confiscated by an MDMR Authority.
 - 3. All harvesters must check out at the same designated check station where they checked in.
 - 4. Any exception to these conditions due to unforeseen circumstances must have prior approval by an MDMR Authority.
- C. All molluscan shellfish must be properly tagged immediately upon landing on the date of harvest.
- D. All shellstock must be packed in clean containers before the boat or vessel leaves the natural reef from which they were harvested.
- E. Molluscan shellstock must be culled.
 - 1. Harvesters must immediately scatter and broadcast evenly, all dead shells, small oysters, and oysters in excess of the daily sack limits onto the natural reefs from which they are taken.
 - 2. A ten percent (10%) tolerance by number is allowed in relation to any culling. The ten percent (10%) tolerance is determined from a representative sample of ten percent (10%) of the total catch.
- F. It is unlawful to transfer molluscan shellfish from one vessel to another vessel, until the vessels have been checked out at the appropriate check station.
- G. While engaged in the harvest of molluscan shellfish, it is unlawful for any boat or vessel to tow or to be tied to any other boat or vessel licensed for shellfish

harvesting.

- H. It is unlawful for any boats or vessels engaged in the harvest of molluscan shellfish to fail to be continuously manned by a qualified person capable of operating the boat or vessel from the time of check-in for the day until the time of check-out.
- I. Upon registration, while harvesting, or upon check-out, each person may be required to show their license to an MDMR Authority.
- J. It is unlawful for any harvester engaged in harvesting molluscan shellfish on a tonging reef to have an oyster dredge on board the boat or vessel.

Source: MISS. CODE ANN. §§ 49-15-15, 49-15-36, 49-15-38, 49-15-39, 49-15-303, 49-15-304; NSSP Model Ordinance §§ II-VIII, III-VIII, IV-II

Rule 4.3 Harvesting Molluscan Shellfish from On-Bottom Private Leases

- A. All on-bottom molluscan shellfish reef lessees must adhere to the rules outlined in the lease contract, lease permit, this Part, and the most current version of the NSSP Model Ordinance.
- B. All on-bottom molluscan shellfish aquaculture harvesters must have a trip ticket fully completed and submitted to the MDMR within twenty-four (24) hours of harvest.

Source: MISS. CODE ANN. §§ 49-15-15, 49-15-27, 49-15-36, 49-15-303, 49-15-304; NSSP Model Ordinance §§ II-VIII, III-VIII, IV-II

Rule 4.4 Harvesting Molluscan Shellfish from Off-Bottom Aquaculture Leases

- A. All off-bottom molluscan shellfish aquaculture harvesters must adhere to the rules outlined in the lease contract, lease permit, this Part, and the most current version of the NSSP Model Ordinance.
- B. All off-bottom molluscan shellfish aquaculture harvesters must have a trip ticket fully completed and submitted to the MDMR within twenty-four (24) hours of the start of harvest.

Source: MISS. CODE ANN. §§ 49-15-15, 49-15-303, 49-15-304; NSSP Model Ordinance §§ II-VIII, III-VIII, IV-II

Rule 4.5 Transferring Tagged Molluscan Shellfish

- A. When molluscan shellfish are transferred from a harvester to a dealer or from a dealer's mobile unit to another dealer's mobile unit, the transfer of tagged molluscan shellfish must take place across transfer facilities or locations that are periodically monitored by MDMR for sanitary conditions or at a certified dealer's facility that is inspected by the MDMR.

- B. There must be no such transfers at any other locations except for emergency conditions as declared by the certified dealer and approved by an MDMR Authority.

Source: MISS. CODE ANN. §§ 49-15-15, 49-15-42, 49-15-46, 49-15-303, 49-15-304; NSSP Model Ordinance §§ II-XI, II-XII; II-XIV

Labeling and Tagging of Molluscan Shellfish

Rule 5.1 All molluscan shellfish shipped within, into or out of the State of Mississippi by a certified dealer must be tagged and legibly labeled in accordance with the most current version of the NSSP Model Ordinance.

Source: MISS. CODE ANN. §§ 49-15-42, 49-15-46; NSSP Model Ordinance §§ II-VIII, II-X, III-X

Rule 5.2 Bulk tagging of shellstock is permitted in accordance with the most current version of the NSSP Model Ordinance.

Source: MISS. CODE ANN. § 49-15-42; NSSP Model Ordinance §§ II-VII, II-X

Rule 5.3 All molluscan shellfish harvested for personal consumption by a commercial or recreational harvester must be red tagged and accompanied by a trip ticket indicating all harvest information.

Source: MISS. CODE ANN. § 49-15-46; NSSP Model Ordinance § II-VII

Rule 5.4 Dealer Tagging

- A. All containers or packages enclosing fresh shucked or frozen raw shucked molluscan shellfish and shucked molluscan shellfish products shipped within, into or out of the State of Mississippi must originate from a certified dealer and must be conspicuously, indelibly, and legibly labeled in accordance with the most recent version of the NSSP Model Ordinance, with the following information:

1. Name of the product.
2. Name and address of the packer, repacker, or distributor.
3. Size of container.
4. Certification number.
5. Net drained weight when packed.
6. Packages containing sixty-four (64) fluid ounces or more must have, on the lid and sidewall or bottom, the "DATE SHUCKED" indicated as the number of the day, month and year or the month, day, and year.
7. Packages of less than sixty-four (64) fluid ounces of fresh product must be

labeled with the wording "SELL BY" followed by a date expressed as a month, day, and year.

8. The 'sell by' date must not exceed seventeen (17) days from the date shucked.
 9. Containers of frozen shucked molluscan shellfish must show the date the product was shucked and the date frozen, labeled as "DATE SHUCKED" and "DATE FROZEN" followed by the date expressed as the month, day, and year.
 10. Shucked product previously frozen must be labeled with the wording "PREVIOUSLY FROZEN".
- B. When both the harvester and dealer tags appear on the container, the dealer's tag is not required to duplicate the information on the harvester's tag.
 - C. If molluscan shellfish are removed from the original container by the dealer, the tag on the new container must meet the requirements of the most current version of the NSSP Model Ordinance.
 - D. All molluscan shellfish shipped by a certified dealer within, into or out of the State of Mississippi must be accompanied by a bill of lading or bill of sale and legibly labeled in accordance with the most current version of the NSSP Model Ordinance.

Source: MISS. CODE ANN. §§ 49-15-15, 49-15-42, 49-15-46, 49-15-303, 49-15-304; NSSP Model Ordinance §§ II-X, IV-III

Rule 5.5 Tagging Shellstock from Public Reefs

- A. Shellstock must be tagged at the time of landing with indelible, legible information in accordance with the most current version of the NSSP Model Ordinance.
- B. It is unlawful for any person, firm, or corporation harvesting from public reefs to have possession of tags in excess of the daily sack limit.
- C. All shellstock tags must be affixed to the sack or container with the fastener provided by the MDMR.

Source: MISS. CODE ANN. §§ 49-15-15, 49-15-42, 49-15-46, 49-15-303, 49-15-304; NSSP Model Ordinance §§ II-X, III-X, II-VIII, IV-III

Rule 5.6 All on-bottom molluscan shellfish reef lessees must adhere to the labeling and tagging rules and regulations outlined in the lease contract, lease permit and the most current version of the NSSP Model Ordinance.

Source: MISS. CODE ANN. §§ 49-15-15, 49-15-42, 49-15-46, 49-15-303, 49-15-304; NSSP Model Ordinance §§ II-X, III-X, II-VIII

Rule 5.7 All off-bottom molluscan shellfish aquaculture harvesters must adhere to the

labeling and tagging rules and regulations outlined in the Public Trust Tidelands Sublease, Commercial Aquaculture Permit, this Part, and the most current version of the NSSP Model Ordinance.

Source: MISS. CODE ANN. §§ 49-15-15, 49-15-42, 49-15-46, 49-15-303, 49-15-304 II-VIII

Receiving, Storage, Handling and Packing of Molluscan Shellfish

Rule 6.1 Receiving and Storage of Molluscan Shellfish

- A. Dealers receiving shellstock from a harvester must only accept shellstock that is accompanied by documentation from the harvester confirming that the shellstock was harvested in accordance with the most current time and temperature chart developed by the MDMR.
- B. Molluscan shellfish harvesters, dealers and processors must ensure that shellfish are under temperature control within the allotted time outlined in the time and temperature chart developed by the MDMR. Molluscan shellfish must be kept either adequately iced or under mechanical refrigeration until final sale.
- C. Molluscan shellfish must be stored in a mechanically refrigerated unit which is equipped with automatic temperature controls and maintains the ambient air temperature in the storage within the allotted time outlined in the time and temperature chart developed by the MDMR.
- D. Frozen molluscan shellfish must be stored in such a manner as to remain frozen.
- E. All ice used in the processing and storage of shellstock or shucked product must be made on-site from potable water in a commercial ice machine or come from a facility regulated by the MDMR or an appropriate regulatory agency.
- F. At the points of transfer, shellfish must be kept for no more than two (2) hours without being adequately iced or under mechanical temperature control.

Source: MISS. CODE ANN. §§ 49-15-15, 49-15-42, 49-15-46, 49-15-303, 49-15-304; NSSP Model Ordinance II-X, II-XI, II-XII, II-XIII, II-XIV, II-XV, III

Rule 6.2 Record Keeping and Tag Retention

- A. Certified dealers and processors must keep accurate records showing the names, addresses, and certification numbers of all persons from whom lots of molluscan shellfish are received, the source of each lot (growing area), the names and addresses of persons to whom lots are sold or shipped and the dates of these transactions.
- B. Shellfish tags are required to be attached to containers until containers are empty and thereafter kept on record for at least ninety (90) days.

- C. Certified dealers and processors must record the tag number of each container of shellstock and to whom or from whom the shellstock were shipped, sold, bought, or received. Such records must be open to inspection at any time during operating hours, by any duly authorized representative of the MDMR.

Source: MISS. CODE ANN. §§ 49-15-15, 49-15-42, 49-15-46, 49-15-303, 49-15-304; NSSP Model Ordinance §§ II-IX, II-X, III-X

Rule 6.3 Adulterated, Misbranded or Unlabeled Molluscan Shellfish Products

- A. It is unlawful for any person, firm or corporation within the state of Mississippi to produce, harvest, provide, purchase, sell, offer, possess, expose for sale, or have in possession with intent to sell, any raw shellfish and shellfish products which are adulterated, misbranded, or unlabeled.
- B. No person, firm or corporation shall hold or pack shellfish under conditions whereby the shellfish may become adulterated.
- C. Any adulterated, misbranded, mislabeled, or unlabeled shellfish or shellfish products will be impounded by the direction of an MDMR Authority.
- D. Seizure and disposal of such shellfish products must be by the direction of an MDMR Authority.
- E. If shellstock harvested from an off-bottom molluscan shellfish aquaculture lease is found to be adulterated, misbranded, mislabeled, or unlabeled, adequate cleansing of the shellstock will be considered in accordance with the most current version of the NSSP Model Ordinance and by the guidance of an MDMR Authority.

Source: MISS. CODE ANN. §§ 49-15-15, 49-15-36, 49-15-21, 49-15-42, 49-15-44, 49-15-46, 49-15-303, 49-15-304; NSSP Model Ordinance §§ II-I

Rule 6.4 Recall of Molluscan Shellfish

- A. When molluscan shellfish have been landed and moved into or through the handling, processing and/or marketing system and have been determined by the MDMR Authority as subjected to contamination that threatens public health, the molluscan shellfish will be recalled.
- B. The recalled shellfish must be properly disposed of under the supervision of an MDMR Authority to prevent human consumption.

Source: MISS. CODE ANN. §§ 49-15-15, 49-15-36, 49-15-303, 49-15-304; NSSP Model Ordinance § IV-II; IV-V

Shipping and Transportation of Molluscan Shellfish

Rule 7.1 Transporting Molluscan Shellfish

- A. Transported shellstock must be legally harvested from the originating State and legally transported in accordance with the most current version of the NSSP Model Ordinance.
- B. Licensed harvesters may transport their own daily harvested shellstock intrastate, unrefrigerated, within the time limits outlined in the most recent time and temperature chart developed by the MDMR Authority.
- C. If shellstock has been previously refrigerated, it must be transported in a refrigerated unit.
- D. Dealers and processors must ship all molluscan shellfish adequately iced or in mechanically refrigerated conveyances which are equipped with automatic temperature controls that maintain the ambient air temperature in the storage in accordance with the most current version of the time and temperature chart developed by the MDMR.
- E. All shucked molluscan shellfish must be in either mechanically refrigerated vehicles or adequately iced.
- F. All ice used in the transportation of molluscan shellfish must be made on-site from potable water in a commercial ice machine or come from a facility regulated by the MDMR or an appropriate regulatory agency.
- G. Frozen molluscan shellfish must be transported in such a manner as to remain frozen solid and the temperature of the product maintained at 0°F (-17.8°C) or less.
- H. All mechanically refrigerated transport vehicles, other than common carriers, used for transporting molluscan shellfish must be certified and inspected by the MDMR Authority.
- I. All molluscan shellfish, either refrigerated or not, must be protected from the sun and contamination during transport.
- J. During the period of May 1 through September 30 of each year, all boats or vessels transporting shellstock must protect the shellstock from direct exposure to the sun by having an awning or similar covering over the shellstock.
- K. Boats or vessels transporting shellstock legally harvested and legally transported from waters outside the State of Mississippi into Mississippi must:
 - 1. Apply for and receive a Commercial Molluscan Shellfish Transport Permit from the MDMR Shellfish Bureau before entering Mississippi territorial waters.
 - 2. Comply with all permit conditions required by the MDMR Authority.
 - 3. Properly tag shellstock in accordance with the most current version of the

NSSP Model Ordinance.

4. Mechanically refrigerate shellstock when required by the most current version of the time and temperature chart developed by the MDMR Authority.
- L. Dogs, cats, birds, and other animals are not allowed in any vehicle or vessel used to transport molluscan shellfish.
- M. It is unlawful to open containers of shucked molluscan shellfish in transit, except for inspection by an MDMR Authority or other duly authorized official.

Source: MISS. CODE ANN. §§ 49-15-15, 49-15-42, 49-15-44, 49-15-46, 49-15-303, 49-15-304; NSSP Model Ordinance II-IX, II-X, II-XIII, III-X

Rule 7.2 Interstate Commerce

- A. Interstate shipping of molluscan shellfish must only be through a licensed and certified seafood dealer and/or processor.
- B. Only a Mississippi Certified Dealer is permitted to ship molluscan shellfish, harvested from Mississippi waters, or landed in the state, into interstate commerce.
- C. No molluscan shellfish must enter or exit the state of Mississippi unrefrigerated. Marine vessels transporting molluscan shellstock must follow the rules outlined in the Commercial Molluscan Shellstock Transport Permit issued by the MDMR.

Source: MISS. CODE ANN. §§ 49-15-15, 49-15-42, 49-15-44, 49-15-46, 49-15-303, 49-15-304; NSSP Model Ordinance § II-I

Molluscan Shellfish Aquaculture Operations

Rule 8.1 All molluscan shellfish aquaculture operations:

- A. Must comply with all permits and regulations governing molluscan shellfish including the most current version of the NSSP Model Ordinance. Harvested molluscan shellfish, whether from aquaculture farms, leases, or facilities, must be landed and tagged according to this Part.
- B. Must only culture species native to the Gulf of Mexico. Polyploid native species are permitted. Imported shellfish aquaculture seed to be used for grow-out in Mississippi waters must be descendants of broodstock who originated in the Gulf of Mexico. The hatchery where the aquaculture seed was produced must provide documentation of broodstock origin.
- C. Are prohibited from discharging any waste materials into the surrounding waters excluding fouling organisms, the excrement of the cultured species, and commercially prepared feeds.

Source: MISS. CODE ANN. §§ 49-15-15, 49-15-42, 49-15-44, 49-15-46, 49-15-303, 49-15-304; NSSP Model Ordinance § II-VI, III-VI

Rule 8.2 On-Bottom Molluscan Shellfish Aquaculture

- A. Any cultch materials used for molluscan shellfish aquaculture must be approved by the MDMR before use.
1. Approval is based, in part, on the environmental suitability of the material.
 2. Cultch materials placed in the grow-out area must be a suitable substrate for attachment of molluscan shellfish larvae. These include materials such as natural molluscan shells; fossilized shell; coral, and other aquatic organisms; lithic materials such as crushed and graded limestone, granite, and gravel which contain calcium carbonate or fossilized organisms; or recycled materials which contain lithic fractions and calcium carbonate, including crushed concrete.
 3. Exceptions to this list of generally accepted cultch materials must be specifically approved by the MDMR Authority.

Source: MISS. CODE ANN. §§ 49-15-15, 49-15-42, 49-15-44, 49-15-46, 49-15-303, 49-15-304; NSSP Model Ordinance § II-VI, III-VI

Rule 8.3 Off-Bottom Molluscan Shellfish Aquaculture

- A. Aquaculture harvesters are permitted to grow aquaculture seed in marinas and other prohibited or unclassified growing waters.
1. Harvesters must obtain a permit for this activity from the MDMR Shellfish Bureau.
 2. Harvesters must adhere to the rules and regulations outlined in the Public Trust Tidelands Sublease, Commercial Aquaculture Permit, this Part, and the most current version of the NSSP Model Ordinance.
- B. Record Keeping
1. The aquaculture lease holder must maintain records and provide a monthly report to the MDMR Shellfish Bureau with the following information:
 - i. A daily record of the number of incidental deaths of vertebrate coastal wildlife that occur within the leased area. Additionally, the aquaculture operation must notify the MDMR immediately upon the injury or death of any threatened or endangered species, marine mammal, or raptor within the leased area.
 - ii. An accounting of aquaculture seed stock added and harvested within a

given month.

- iii. On shore culture operators must maintain records of any transfers of broodstock, seed, gametes, or larvae.
 - iv. All records must be maintained for a minimum of three (3) years and must be available to the MDMR Authority for inspection.
2. This report may be mailed to the MDMR Shellfish Bureau or emailed to oyster@dmr.ms.gov.
- C. The MDMR Authority will maintain the following records provided by the permittee while the aquaculture operation continues:
1. Construction and remodeling plans for any permitted aquaculture facility
 2. Aquaculture operational plans
 3. Aquaculture permits

Source: MISS. CODE ANN. §§ 49-15-15, 49-15-27, 49-15-29, 49-15-303, 49-15-304; NSSP Model Ordinance § II-VI, III-VI

Molluscan Shellfish Dealers, Processors and Facilities

Rule 9.1 License and Certification

- A. It is unlawful for any person, firm, or corporation to engage in handling, shucking, packaging, repackaging, or shipping molluscan shellfish without a license and certification from the MDMR Authority.
- B. The license and certification must be renewed annually.
- C. This rule does not apply to:
 1. A retailer removing oysters individually from the packaging for display and/or resale to the end user.
 2. A restaurant or similar establishment, which may shuck and serve raw molluscan shellfish at a half-shell bar, under sanitary conditions, for consumption on the premises.

Source: MISS. CODE ANN. §§ 49-15-15, 49-15-303, 49-15-304; NSSP Model Ordinance § X-.04

Rule 9.2 All certified molluscan shellfish seafood facilities must follow the provisions described in the most current version of the NSSP Model Ordinance.

Source: MISS. CODE ANN. §§ 49-15-15, 49-15-303, 49-15-304; NSSP Model Ordinance § II-I, II-VI, II-VII, III-I, IV-III

Rule 9.3 Any person, firm, or corporation intending to alter an existing or construct a new molluscan shellfish handling, transporting, and/or processing facility must acquire a Mississippi Certified Shellfish Sanitation or Processing Plant license and certification from the MDMR Authority. The MDMR Authority must be contacted prior to handling or processing any molluscan shellfish in any fashion in any altered or new molluscan shellfish facility.

Source: MISS. CODE ANN. §§ 49-15-15, 49-15-303, 49-15-304; NSSP Model Ordinance § II-I, II-VI, II-VII, III-I, IV-III

Rule 9.4 Post-Harvest Processing of molluscan shellfish is permitted as described in the most current version of the NSSP Model Ordinance.

Source: MISS. CODE ANN. §§ 49-15-15, 49-15-303, 49-15-304; NSSP Model Ordinance §§ II-I, II-VI, II-VII, III-I, III-XVI, IV-III, IV-IV

Rule 9.5 MDMR Responsibility

- A. The MDMR will issue certifications and conduct routine inspections of molluscan shellfish facilities in accordance with the most current version of the NSSP Model Ordinance.
- B. The MDMR will issue to certified dealers, itemized statements of compliances and non-compliances.
- C. For the cited excessive non-compliances, the MDMR will provide the facility manager with a schedule of corrections to bring the facilities into compliance.
- D. Certification will not be issued or renewed without compliance and will be considered revoked.
- E. It is unlawful to operate a processing or shipping facility without a current valid license and certification.

Source: MISS. CODE ANN. §§ 49-15-15, 49-15-303, 49-15-304; NSSP Model Ordinance §§ II-I

Rule 9.6 It is the duty and responsibility of each owner, manager, and operator of a certified molluscan shellfish facility:

- A. To ensure that all regulations are strictly adhered to and that only safe, wholesome, unadulterated molluscan shellfish are offered for sale to the consuming public.
- B. To ensure that the facility is properly supervised at all times and all molluscan shellfish can be identified to guarantee that they were harvested from approved and conditionally approved growing waters in the open status and that they have been handled and processed in a sanitary manner.

Source: MISS. CODE ANN. §§ 49-15-15, 49-15-303, 49-15-304; NSSP Model Ordinance § II-I, II-VI, II-VII, III-I, IV-III

Rule 9.7 Suspension of License and Certification

- A. License and certification held by any person, firm or corporation will be suspended or revoked by the MDMR Authority:
 - 1. If there is reason to believe that a public health hazard exists.
 - 2. If the holder violates any of the requirements of this regulation.
 - 3. If the holder interferes with a representative of the MDMR in the performance of duties.

- B. The MDMR Authority will serve the holder a written notice of intent to suspend the license and certification.
 - 1. The notice will specify the violation(s) and afford the holder reasonable opportunity to correct the violations as agreed to by the parties or in absence of agreement fixed by the MDMR before making any order of suspension effective.
 - 2. A copy of the inspection sheet handed to the license and certification holder or their authorized representative, or in their absence, posted in a conspicuous place in the establishment, shall constitute a written notice to suspend the license and certification.

- C. A suspension of license and certification will remain in effect until the violation has been corrected to the satisfaction of the MDMR Authority.

- D. In a case where the molluscan shellfish involved create a health hazard or whenever adulterated or misbranded molluscan shellfish and/or molluscan shellfish products are found, or in any case of willful refusal to permit an inspection, the MDMR Authority may issue a cease-and-desist order, effective immediately, to suspend all molluscan shellfish related activities. This order will remain in effect until such time as proper corrective actions have been taken and the order is officially lifted.

- E. Upon request for reapplication, from any person whose license and certification has been suspended, the MDMR Authority shall make such inspection(s) and/or collect samples as deemed necessary to determine compliance with the requirement of this regulation.

- F. Upon repeated violations, the MDMR Authority will revoke a license and certification following reasonable notice to the license and certification holder and an opportunity for a hearing.

Source: MISS. CODE ANN. §§ 49-15-15, 49-15-303, 49-15-304; NSSP Model Ordinance §§ II-I

Molluscan Shellfish Leases

Rule 10.1 All Molluscan Shellfish Leases must adhere to the following boundary markings:

- A. Appropriate poles, stakes, or buoys, constructed of such material as will not be injurious to watercraft, must mark all leases at the expense of the leaseholder.
- B. Each leaseholder must mark at least the four (4) corners of each lease with an appropriate marker and must maintain all markers.
- C. Each marker must list the lease number and marker position (i.e., southeast (SE) corner).
- D. Each lessee must file a "Private Aids to Navigation" application with and receive permit approval from the U.S. Coast Guard, for the lease markers, and provide a copy of the permit approval to the MDMR Director of Marine Fisheries prior to final granting of the lease and placement of the markers.

Source: MISS. CODE ANN. §§ 49-15-15, 49-15-27, 49-15-303, 49-15-304; NSSP Model Ordinance §§ II-VIII, II-X

Rule 10.2 All off-bottom molluscan shellfish aquaculture harvesters must adhere to the rules and regulations outlined in the applicable Public Trust Tidelands Sublease, Commercial Aquaculture Permit, this Part, and the most current version of the NSSP Model Ordinance.

Source: MISS. CODE ANN. §§ 49-15-15; NSSP Model Ordinance § II-VIII

Rule 10.3 On-Bottom Molluscan Shellfish Leases

- A. Lease Application
 1. Any person wanting to lease bottoms must complete an on-bottom shellfish lease application and submit it to the MDMR Director of Marine Fisheries. Applications are available at the MDMR office.
 2. Applicants must be a resident of the State of Mississippi or be organized under the laws of the State and registered with the Secretary of State's Office.
 3. The time and date of the receipt of each application will be noted on the application.
 4. Each application must be accompanied by a description of the area intended for lease using latitude and longitude coordinates, and a map taken from NOAA nautical charts, 11371, 11372, 11373, or 11374, depicting the area to be leased.
- B. Lease Application Review
 1. Applications will be reviewed by the MDMR staff for compliance with

application guidelines and completeness.

2. In the event that applications are received for overlapping areas, the applications must be processed in order of the earliest receipt and so noted by the MDMR Authority, prior to consideration of each lease application; however, the MDMR is authorized to exercise its discretion as to which bid is the highest responsible bid, and such leases must be awarded to promote the maximum cultivation and propagation of molluscan shellfish.
3. The MDMR will either grant or deny the lease application and the applicant will be notified in writing of the action on their lease application within 30 days after the action proposal.

C. Lease Conditions

1. Each proposed lease area must be located in growing waters classified as approved, conditionally approved, or restricted.
2. Leases must be for a term of five (5) years, with the right of the lessee to renew the lease for an additional five (5) years and continue to renew at five-year (5) intervals, at the same ground rental rate so long as the lessee actively cultivates and gathers shellfish, complies with all provisions, and has all applicable permits and licenses.
3. If the lessee is prevented from gathering shellfish from the leased area by a storm, or other natural phenomenon, the lessee may renew the lease if the bottoms are actively worked by the lessee during the remaining term or renewal term of the lease.
4. All leases issued before or after July 1 of each year must be prorated from the date of lease to the following expiration of five (5) years from the date of the lease.
5. All leases expire on July 1 of the expiration year.
6. Each lessee has the option to renew their lease provided they submit a written application with payment of annual or prorated rental for the subsequent lease period within thirty (30) days of the lease expiration date to the MDMR Business Office.
7. Each application for an on-bottom lease must be for five (5) acres or more but must not exceed 500 acres.
8. The proposed lease area must have a continuous border.
9. The proposed lease area must be configured as a square or rectangle with the lease area boundaries meeting at right angles. However, the lease rent may be adjusted pro rata to conform to non-rectangular shapes within the lease area.

10. The length of the proposed lease area cannot be greater than twice the distance of the width of the lease area.
11. In the case of an individual, there will not be counted towards such limitation any lands leased by a corporation, partnership, or association in which such individual owns ten percent or less interest, and, in the case of a corporation, partnership, or association, there will not be counted towards such limitation, any lands leased by an individual stockholder, partner, or associate thereof, who owns ten percent or less interest in such corporation, partnership, or association.
12. No proposed lease areas will be approved that are within 100 feet of an existing lease area or lease area that is pending final approval, unless the same person holds both leases.
13. No areas designated as tonging reefs, nor areas defined as natural reefs, nor areas within the boundaries of riparian property owners will be leased for shellfish harvest by the MDMR.
14. Leases must be active and engaged in shellfish aquaculture activities throughout their term. The applicant must not begin any activities on the lease until they have obtained all applicable permits, including MDMR wetlands permits. Failure to obtain permits is evidence that the lease is not active.
15. All leases made by the MDMR under the authority of this Part must be subject to the paramount right of the State of Mississippi and any of its political subdivisions authorized by law, to promote and develop ports, harbors, channels, industrial or recreational projects, freshwater diversion projects, and all such leases must contain a provision that in the event such authorized public body must require the area so leased or any part thereof for such public purposes, that the lease must be terminated on reasonable notice fixed by the MDMR in such lease.

D. Reporting

1. All on-bottom molluscan shellfish reef lessees must submit a report outlining all shellfish related activity pertaining to their lease to the MDMR Shellfish Bureau within thirty (30) days of activity.
2. All on-bottom molluscan shellfish reef lessees must submit an annual written summary of lease activity to the MDMR Shellfish Bureau for the previous lease period within 30 days from the lease anniversary date.

E. Termination and Waivers

1. On the termination of any lease, the lessees has the right to remove any shellfish within the leased area within such time as may be fixed by the MDMR Authority and in accordance with such reasonable rules and

regulations as the MDMR may adopt.

2. On the termination of any lease, the lessee must remove any poles, stakes, buoys, or other structures associated with the lease.
3. All lease agreements must contain provisions requiring the lessee to waive any and all claims for damages that may result from any freshwater diversion projects authorized by the State of Mississippi.

F. Subleases and Transfers

1. Subleasing is prohibited.
2. Lease transfers must first obtain prior written approval of the transfer by the MDMR Authority.
3. Transfers of portions of the lease are not permitted.
4. To obtain a transfer, the transferee must apply for the lease as if it were a new lease.
5. The lease transferee must be a Mississippi resident or corporation.
6. The new lease combined with other leases held by the lease transferee must not amount to more than 500 acres.
7. All terms and conditions, including term limitations, from the lease transfer to the transferee.

G. Subdivisions

1. Political subdivisions of the State of Mississippi may lease up to 1,000 acres of bottoms for molluscan shellfish reef development and such political subdivisions are authorized to permit residents of the State of Mississippi to harvest molluscan shellfish from such reefs and charge and receive a fee for each sack of molluscan shellfish harvested.
2. The MDMR will consider and approve the application of a political subdivision after determining that no conflicts exist with sites requested in the applications filed prior to the application of the political subdivision and a fair and reasonable rental rate of not less than five (5) dollars per acre has been set. Such lease will ensure the maximum cultivation and propagation of shellfish.

- H. The MDMR Authority will cooperate with the Jackson County Port Authority, the Harrison County Development Commission, the Municipal Port Commissions, and other port and harbor agencies, to avoid the planting of molluscan shellfish beds in close proximity to navigable channels.

Source: MISS. CODE ANN. §§ 49-15-3, 49-15-15, 49-15-27, 49-15-303, 49-15-304; NSSP Model Ordinance §§ II-VIII

Other Molluscan Shellfish Related Activities: Cultch Planting, Relaying, and Transplanting

Rule 11.1 Depuration of shellstock is permitted as described in the most current version of the NSSP Model Ordinance.

Source: MISS. CODE ANN. §§ 49-15-15, 49-15-303, 49-15-304; NSSP Model Ordinance §§ II-XV, III-XV

Rule 11.2 Closed Cultch Plant Areas – It is unlawful for any person, firm, or corporation to place or cause to be placed any material or gear used in the catching or taking of saltwater fish, shrimp, crabs or shellfish, with the exception of crab traps or pots, or hook and line fishing or cast nets on any public reef area that has been planted with shells or other cultch material that has not been released or opened to harvest by the MDMR.

Source: MISS. CODE ANN. §§ 49-15-15, 49-15-303, 49-15-304

Rule 11.3 Relaying Molluscan Shellstock

A. Relaying Application

1. All persons, firms, or corporations other than the MDMR wanting to relay molluscan shellfish in the State of Mississippi must complete and submit an application for a relaying permit to the MDMR. Applications are available from the MDMR.
2. All applicants must:
 - i. Hold a valid lease for molluscan shellfish bedding grounds in the State of Mississippi.
 - ii. Have been a resident of the State of Mississippi for at least five (5) years.
 - iii. Have a valid Mississippi shellfish license.
3. Applications will be reviewed by the MDMR Authority for compliance with application guidelines and requested information.
4. When all application guidelines are met and requested information provided, the applicant's intent to relay will be advertised once a week for two (2) consecutive weeks in a newspaper of general circulation in the county or counties closest to the intended activity.
5. Written public comment will be received by the MDMR for a period of fifteen

(15) days from the first date of advertisement.

6. Applicants will be notified in writing of the MDMR actions.
- B. When the MDMR approves the request to relay molluscan shellstock, a relaying permit will be issued which will give specific conditions permitted for relaying activities and reference all regulations.
- C. The Permittee:
 1. Must hold a valid lease of molluscan shellfish bedding grounds in the State of Mississippi.
 2. Must fulfill all permit requirements as established by the MDMR Authority.
 3. Is not permitted to relay shellstock from one restricted area to another restricted area.
- D. The Permittee must not relay shellfish from the restricted area without the presence of an MDMR designated official.
- E. The MDMR designated official must be present at all times relaying activities are in progress. This will include the time the shellfish are harvested from the restricted area to their deposition on private leased grounds, or to an onshore, molluscan depuration facility.
- F. The permittee must pay, to the MDMR Business Office, an amount equal to the compensation regularly received by the MDMR Staff for the time such Staff actually spends performing the above described duties.

Source: MISS. CODE ANN. §§ 49-15-15, 49-15-37, 49-15-303, 49-15-304; NSSP Model Ordinance §§ II-V, III-V, IV-II

Rule 11.4 Harvesting Relayed Molluscan Shellstock

- A. The Permittee is not permitted to harvest relayed shellfish without prior written permission from the MDMR Authority. The Permittee must complete and submit a request to harvest relayed shellstock and receive written permission from the MDMR Authority.
- B. Harvesting of shellstock is permitted only during daylight hours and with the most efficient gear possible, consistent with conservation considerations, and in such a way not to damage the reef. This includes permission to use two (2) dredges per boat in restricted areas and on private leased grounds.

Source: MISS. CODE ANN. §§ 49-15-15, 49-15-303, 49-15-304; NSSP Model Ordinance §§ II-V, III-V, IV-II

Rule 11.5 Bonding

- A. The Permittee must be bonded in compliance with the permit system established by the MDMR.
- B. Permittees are required to post a penal bond of \$100.00 per acre leased with the MDMR.
- C. This bond must be forfeited if permittee violates any provisions of this Part.
- D. The MDMR shall approve the bond if sufficient property or sureties secure it.

Source: MISS. CODE ANN. §§ 49-15-15, 49-15-303, 49-15-304

Rule 11.6 Interval Between Relaying and Harvesting Molluscan Shellstock

- A. There must be a sufficient time interval to allow natural biological cleansing of the shellfish between the time the permittee is permitted to take the shellfish from the restricted area(s), and the time they are then allowed to harvest these shellfish or any other shellfish from their leased area, during which time neither activity is allowed.
- B. During this time interval, the permittee nor any other person or entity is allowed to harvest the relayed shellfish.
- C. This period must be at least fourteen (14) consecutive days, except if the area relayed to fails to meet growing water management plan criteria during any of those 14 consecutive days.
- D. If, during the 14 consecutive days, the area fails to meet the management plan as specified, harvesting will not be allowed until the area has once again met these conditions for 14 consecutive days, or until shorter periods of time are demonstrated to be adequate to permit natural biological cleansing to occur.
- E. The period of time to allow natural biological cleansing must be deemed sufficient and adequate if the bacteriological quality of the shellfish after relaying are of the same quality as the same species already in the approved or conditionally approved relay area; or if shellfish tissue are sampled for verification, the results must be less than a fecal coliform MPN of 230 per 100 grams of meat, provided that no evidence exists that the shellfish prior to relaying contained substances that equal or exceed the action levels, tolerances, and other established levels for poisonous or deleterious substances in seafood.

Source: MISS. CODE ANN. §§ 49-15-15, 49-15-303, 49-15-304; NSSP Model Ordinance §§ II-V, III-V, IV-II-10

Rule 11.7 Protection from Contamination

- A. All relayed shellfish must be protected from contamination sources such as, but not limited to, boat fuel, oil, bilge, dogs, cats, birds, and other animals, and from sunlight for extended periods of time.
- B. All portions of boats and other equipment coming in contact with shellfish relayed from restricted areas to permitted approved or conditionally approved areas must be rinsed with waters from such approved or conditionally approved waters after each unloading and prior to leaving the permitted approved or conditionally approved area.

Source: MISS. CODE ANN. §§ 49-15-15, 49-15-303, 49-15-304; Nssp Model Ordinance §§ II-V, III-V, IV-II

Rule 11.8 Relaying Records

- A. The MDMR Shellfish Bureau and each permittee must maintain adequate relaying records.
- B. Each record must note the quantity and type of shellfish relayed, dates of relaying, specific areas shellfish are relayed from and to, and any other required information.
- C. Specific harvest areas should be described using differential GPS latitude and longitude coordinates.
- D. In the absence of differential GPS latitude and longitude readings, an accurate map will be supplied depicting the relay source site and the specific location within the permittees' lease where the shellfish were relayed.

Source: MISS. CODE ANN. §§ 49-15-15, 49-15-303, 49-15-304; Nssp Model Ordinance §§ II-V, III-V, IV-II

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: 6/16/21 | Name or number of rule(s): Title 22 Part 1 and Part 17 | | |

Short explanation of rule/amendment/repeal and reason(s) for proposing rule/amendment/repeal: TITLE 22 – MISSISSIPPI DEPARTMENT OF MARINE RESOURCES PART 1, and PART 17 and portions of PART 13 have been combined into PART 1. All molluscan shellfish related regulations were compiled into Part 01. Duplicates were removed, and code sources were added as references. New formatting was implemented as required by SOS. 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 1, and Part 17 (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 |
|--|---|---|
| <input type="checkbox"/> Original filing <input type="checkbox"/> Renewal of effectiveness To be in effect in _____ days Effective date: <input type="checkbox"/> Immediately upon filing <input type="checkbox"/> Other (specify): _____ | Action proposed: <input type="checkbox"/> New rule(s) <input checked="" type="checkbox"/> Amendment to existing rule(s) <input type="checkbox"/> Repeal of existing rule(s) <input type="checkbox"/> Adoption by reference Proposed final effective date: <input checked="" type="checkbox"/> 30 days after filing <input type="checkbox"/> Other (specify): _____ | Date Proposed Rule Filed: Action taken: <input type="checkbox"/> Adopted with no changes in text <input type="checkbox"/> Adopted with changes <input type="checkbox"/> Adopted by reference <input type="checkbox"/> Withdrawn <input type="checkbox"/> Repeal adopted as proposed Effective date: <input type="checkbox"/> 30 days after filing <input type="checkbox"/> Other (specify): _____ |

Printed name and Title of person authorized to file rules: Joe Spraggins Executive Director
 Signature of person authorized to file rules: *Joe Spraggins* June 21

| | | |
|------------------------|--|------------------------|
| OFFICIAL FILING STAMP | DO NOT WRITE BELOW THIS LINE OFFICIAL FILING STAMP | OFFICIAL FILING STAMP |
| |  | |
| Accepted for filing by | Accepted for filing by <i>25675</i> <i>PJM</i> | Accepted for filing by |

The entire text of the Proposed Rule including the text of any rule being amended or changed is attached.

TITLE 22 – MISSISSIPPI DEPARTMENT OF MARINE RESOURCES

PART 1 RULES AND REGULATIONS FOR MOLLUSCAN SHELLFISH RELATED ACTIVITIES

Chapter 1: Introduction

This Part establishes the minimum requirements necessary to regulate the intrastate and interstate commerce of molluscan shellfish and to establish a program to protect the public health of consumers by assuring the harvesting, sale and shipment of shellfish from safe sources and assuring shellfish have not been adulterated during shellfish related activities in the state.

This Part also establishes the requirements for molluscan shellfish aquaculture activities in marine waters that require a permit under the provisions of the Coastal Wetlands Protection Act and the Mississippi Aquaculture Act of 1988.

The Mississippi Department of Marine Resources (MDMR) follows the guidance of the Interstate Shellfish Sanitation Conference (ISSC) National Shellfish Sanitation Program (NSSP) Guide for the Control of Molluscan Shellfish (hereafter referred to as the NSSP Model Ordinance) for the management of all molluscan shellfish related activities within the State of Mississippi. The most current version of this document may be found at the following website: <https://www.issc.org/>. The MDMR Shellfish Bureau maintains a document titled *Molluscan Shellfish Growing Waters Management Plan* which outlines the plan for management of shellfish related activities. This document can be found on the MDMR webpage at dmr.ms.gov/shellfish/.

Any unlawful act under this Part by any person, firm or corporation is subject to the penalties provided by law.

Source: MISS. CODE ANN. §§49-15-15, 49-15-36, 49-15-303, 49-15-304, 49-27-1, 79-22-1; NSSP Model Ordinance, 2019 Version

Chapter 2: Definitions

Rule 2.1 Definitions

- A. ADEQUATELY ICED –The amount and application of the ice is sufficient to ensure that immediate cooling begins and continues for all shellfish. If ice slurry is used and the shellfish are submerged, the presence of ice in the slurry indicates adequate icing.
- B. ADULTERATED – Molluscan shellfish will be deemed contaminated if any foreign substance has been added to, mixed in, or packed with molluscan shellfish to increase its bulk or weight, reduce its quality, or make it appear better or of greater value.

- C. APPROVED AREA – Molluscan shellfish growing waters classification used to identify a growing area where harvest of shellfish for direct marketing is allowed.
- D. AQUACULTURE INTERMEDIATE SIZE SHELLSTOCK – Molluscan shellstock which measures 26 mm or more and 50 mm or less in size (more than 1 inch and less than 2 inches) from end to end.
- E. AQUACULTURE MARKET SIZE SHELLSTOCK – Molluscan shellstock which measures 51 mm or more (2 inches or greater) from end to end.
- F. AQUACULTURE SEED – Molluscan shellstock which measures 0 to 25 mm in length (1 inch or less) from end to end, used for cultivation in controlled conditions.
- G. AUTHORITY – The State shellfish control administration or its designated agents, which are responsible for the enforcement of all rules and regulations pertaining to molluscan shellfish related activities.
- H. BASKET DREDGE – A type of molluscan shellfish dredge, also known as a “self-dumping dredge” that utilizes a rigid framed basket, instead of a flexible rope or chain bag, to retain the harvested molluscan shellfish.
- I. BULK TAGGING – When a single lot of shellstock is sold, multiple containers may be combined on a wrapped pallet or other type of containment and the unit tagged with a single tag in accordance with the most current version of the NSSP Model Ordinance.
- J. CERTIFIED INTERSTATE SHELLFISH SHIPPER – An individual, firm or corporation who has been issued a numbered license and certification by the MDMR for molluscan shellfish handling and processing. In addition, nonresidents who have been issued a license and certification from their respective state shellfish control authority are eligible to participate in the interstate shipment of molluscan shellfish.
- K. CERTIFIED SHELLFISH PLANT – A molluscan shellfish facility which possesses a valid shellfish processing plant license and certification from the MDMR for shellfish handling and processing. A certified shellfish plant is recognized as a Certified Interstate/Intrastate Shellfish Shipper. A certified shellfish plant is designated as either a: Shellstock Shipper (SS), Shucker- Packer (SP), Repacker (RP) or Reshipper (RS).
- L. COMMERCIAL MOLLUSCAN SHELLFISH AQUACULTURE PERMIT – A permit issued by the MDMR Shellfish Bureau to a Mississippi aquaculture harvester. The harvester must have an active commercial aquaculture harvesters license. The permit includes endorsements allowable for the harvester including grow-out and seed purchases, seed nursery, wet storage, intermediate shellstock grow-out, off-site cultivation, bulk tagging, and transport of shellstock across state lines. The permit must be renewed annually at the start of the calendar year.

- M. COMMERCIAL MOLLUSCAN SHELLFISH LEASE PERMIT – A permit issued by the MDMR Shellfish Bureau to an active, on-bottom, private lease holder. The permit includes endorsements allowable for the harvester including harvest of molluscan shellfish and cultch material deployment on the lease. The permit must be renewed annually at the start of the calendar year.
- N. COMMERCIAL MOLLUSCAN SHELLSTOCK TRANSPORT PERMIT – A permit issued by the MDMR Shellfish Bureau to a Mississippi Certified Dealer and/or Processor for the transportation of shellstock by a marine vessel from waters outside of the state of Mississippi into the state of Mississippi. The permit must be renewed annually at the start of the calendar year.
- O. CONDITIONALLY APPROVED AREA – Molluscan shellfish growing waters classification that meets the criteria for approved classification except under certain environmental conditions such as rainfall and river stage. Conditions specific to each area are described in the MDMR Shellfish Bureau management plan.
- P. DEPURATION – The process of reducing the pathogenic organisms that may be present in shellstock by using a controlled aquatic environment as the treatment process.
- Q. ILLEGAL MOLLUSCAN SHELLFISH – All untagged molluscan shellstock, molluscan shellfish obtained from uncertified shops or dealers or from an unlicensed harvester, molluscan shellstock obtained from waters not declared safe and sanitary by the MDMR and offered for sale or sold, and shucked molluscan shellfish obtained from uncertified shops or dealers.
- R. INTERSTATE COMMERCE – The movement of a shipment or service across state or international borders; or the intent to continue a movement within a state that originated from another state or country.
- S. INTRASTATE COMMERCE – The movement that originates in a single state, moves in that state only and delivers in that originating state.
- T. ISLANDS – All islands in the territorial waters of the State of Mississippi, which include, but are not limited to: Petit Bois, Horn, Ship, Cat, Round and Deer Islands.
- U. LANDED – The point at which shellstock is put on land or a dock.
- V. MARINA – Any water area with a structure (docks, basin, floating docks, etc.) which is used for docking and constructed to provide temporary or permanent docking space for more than ten (10) boats.
- W. MISBRANDED – Molluscan shellfish labeled with false or misleading information in any way or with a missing label.
- X. MOLLUSCAN SHELLFISH – All bivalve species of oysters, clams, mussels, or scallops in the shell, shucked, fresh, frozen or in part.

- Y. OFF-BOTTOM AQUACULTURE – Molluscan shellfish aquaculture operations in marine waters that utilize the water column or do not otherwise fall within the definition of on-bottom aquaculture.
- Z. ON-BOTTOM AQUACULTURE – Molluscan shellfish aquaculture operations in marine waters that use natural shell, spat on shell, or other approved cultch material deployed on the water bottoms, without employing racks, cages, or other containers or support structures.
- AA. PROHIBITED AREA – Molluscan shellfish growing waters classification where the harvest of shellstock for any purpose is not permitted, except depletion, gathering of seed or nursery culture for aquaculture.
- BB. PUBLIC REEF – On-bottom molluscan shellfish reefs, either natural, historic, or created by the state that are managed by the state.
- CC. REPACKER (RP) – Any person, firm, or corporation other than the original certified shucker-packer who repacks shucked molluscan shellfish into other containers. A Repacker may also repack and ship shellstock. A Repacker is not permitted to shuck molluscan shellfish.
- DD. RESHIPPER (RS) – Any person, firm, or corporation who purchases shucked molluscan shellfish or shellstock from a certified shipper and sells the product, without repacking or relabeling, to other certified shippers, wholesalers, or retailers.
- EE. RESTRICTED AREA – Molluscan shellfish growing waters classification used to identify a growing area where harvesting shall be by special license and the shellstock, following harvest, is subjected to a suitable and effective treatment process through relaying or depuration.
- FF. RETAILER – Anyone who sells molluscan shellfish to the end user and has had no part in the processing of molluscan shellfish as defined by Miss. Code Ann. 49-15-28.
- GG. SANITARY SURVEY – The evaluation of all actual and potential pollution sources and environmental factors having a bearing on shellfish growing water quality.
- HH. SEED – Shellstock which measures less than three (3) inches from end to end.
- II. SHELLFISH RELATED ACTIVITIES – Any activity involving molluscan shellfish including, but not limited to: buying, cultivation, growing, harvesting, landing, opening, packing, processing, relaying, repacking, reshipping, selling, shipping, tagging, transplanting, transporting, or unloading.
- JJ. SHELLSTOCK – Live molluscan shellfish in the shell.
- KK. SHELLSTOCK SHIPPER (SS) – A person who grows, harvests, buys, or repacks

and sells shellstock. They are not authorized to shuck molluscan shellfish or to repack shucked molluscan shellfish. A shellstock shipper may also buy, repack, and sell in-shell product as well as ship shucked molluscan shellfish.

- LL. SHORELINE – The area where the water contacts the land including the mainland and all offshore and barrier islands.
- MM. SHOULD – Used to state recommended or advisory procedures or to identify recommended equipment.
- NN. SHUCKER-PACKER (SP) – Any person, firm, or corporation that shucks and packs molluscan shellfish. A shucker-packer may act as a shellstock shipper or reshipper or may repack molluscan shellfish originating from other certified dealers.
- OO. TAG – a label attached to molluscan shellfish containers for the purpose of identification.
 - 1. WHITE TAG – Shellstock that is commercially harvested from growing areas classified as approved or conditionally approved, in the open status, and under conditions that allow for direct marketing for raw consumption.
 - 2. GREEN TAG – Shellstock that is commercially harvested from growing areas classified as approved, conditionally approved, or restricted in the open status and under conditions that allow for shucking by a certified dealer or post-harvest processing only as defined in the most current version of the NSSP Model Ordinance.
 - 3. RED TAG – Shellstock harvested for personal use and sale is prohibited.
 - 4. PURPLE TAG – Shellstock that is being cultivated by a molluscan shellfish aquaculture harvester and will be returned to the harvester’s sublease. Sale is prohibited.
- PP. UNCLASSIFIED AREA – Waters that are not classified as molluscan shellfish growing waters and from which the harvest of shellfish is prohibited pending classification by the MDMR based on a sanitary survey of the area.
- QQ. WET STORAGE – The storage, by a dealer, of shellstock from growing areas in the approved classification or in the open status of the conditionally approved classification in containers or floats in natural bodies of water or in tanks containing natural or synthetic seawater at any permitted land-based activity or facility.
- RR. WHOLESALER – A person, firm or corporation that purchases and resells molluscan shellfish to a licensed retailer or other wholesaler.

Source: MISS. CODE ANN. § 49-1-1; NSSP Model Ordinance § II-B

Chapter 3: Management and Classification of Molluscan Shellfish Growing Waters

Rule 3.1 The implementation of the requirements by the MDMR as specified herein is subject to the following:

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

Source: MISS. CODE ANN. §§49-15-15, 49-15-36, 49-15-303, 49-15-304; NSSP Model Ordinance § II-I

Rule 3.2 Nonresidents participating in molluscan shellfish related activities in the State of Mississippi must pay all fees and licenses set forth by the MDMR. This excludes the purchase of molluscan shellfish for personal consumption.

Source: MISS. CODE ANN. §§49-15-15, 49-15-30, 49-15-303, 49-15-304; NSSP Model Ordinance § II-VIII

Rule 3.3 Management Plan for Shellfish Growing Waters

- A. The MDMR will maintain a management plan in accordance with the most current version of the NSSP Model Ordinance. This plan will include the classification of shellfish growing waters, the criteria for conditionally approved growing waters, the opening and closing criteria for growing areas within the State of Mississippi, and other relevant information.
- B. The MDMR will supply a copy of the current time and temperature table by request.
- C. The MDMR may modify or change the area specific growing waters management provisions and the classifications and descriptions of shellfish growing waters as necessary and will update the molluscan shellfish management plan when a change occurs.

Source: MISS. CODE ANN. §§49-15-15, 49-15-36, 49-15-27, 49-15-63, 49-15-303, 49-15-304; NSSP Model Ordinance §§ II-II, II-IV, II-VIII, IV-II

Rule 3.4 Tonging Line – Except as otherwise provided for leased bottoms, all waters north of a line herein described must be defined as tonging reefs. Beginning at a point on the southern shore at the mouth of Bayou Caddy, thence proceeding to a point one (1) nautical mile due east of said point, thence proceeding northeasterly, following the meandering of the shoreline one (1) nautical mile there from, and maintaining one (1) nautical mile off the CSX railroad bridge, thence proceeding easterly following the meandering of the shoreline one (1) nautical mile there from, to a point on Longitude 89°15.139’W, thence proceeding due south to a point at Latitude 30°17.138’N, Longitude 89°15.139’W , thence proceeding due east to a point at Latitude 30°17.138’N, Longitude 89°14.340’W, thence proceeding due north to a point at Longitude 89°14.340’W one (1) nautical mile from the shoreline, thence proceeding easterly following the meandering of the shoreline one (1) nautical mile from the shoreline to the intersection of the Alabama State line.

Source: MISS. CODE ANN. §§49-15-3, 49-15-39; NSSP Model Ordinance §§ II-IV, III-IV, IV-II

Rule 3.5 Shellfish Growing Waters Openings and Closings

- A. The MDMR will set the opening date of oyster season on public reefs in an opening order in accordance with the most current version of the NSSP Model Ordinance. The opening order will include:
 - 1. Opening date
 - 2. Open molluscan shellfish growing areas
 - 3. Check station location(s)
 - 4. Oyster hotline number
 - 5. Sack limits and/or quotas
 - 6. Reference to the rules and regulations of molluscan shellfish related activities
- B. The MDMR will notify the public when an area opens or closes for the harvest of molluscan shellfish.
- C. A twenty-four (24) hour recorded telephone message of closures and openings will be provided when possible.
- D. If a closure is necessitated by a rainfall event or rise in river stage occurring after 4:00 p.m., the closure will be effective no later than 4:00 p.m. the following day.
- E. If a closure is necessitated by a rainfall event or rise in river stage occurring prior to 4:00 p.m., the closure will be effective no later than 4:00 p.m. that day.
- F. Whenever sampling data indicates this time frame sequence is not adequate to protect public health, the area will be closed immediately, and any shellfish taken from the area may be required to be returned to the water.

- G. If a closure is necessitated by any polluting event which threatens public health, closure will be immediate, and any harvested molluscan shellfish deemed contaminated by an MDMR Authority must be destroyed or returned to the water.
- H. When any one or more of the following criteria are found to exist, the MDMR will delay opening or close the area, or affected portions thereof, to shellfish harvesting.
 - 1. When area specific closing criteria as published by the MDMR are met or exceeded.
 - 2. When hurricanes, storms, localized flooding, or other natural disasters strike the area.
 - 3. When reports concerning chemical spills, discharge of hazardous wastes, and/or discharge of raw untreated sewage, poorly treated sewage from malfunctioning city sewage collection system pump stations, chemical plants or users, harbors, shipping terminals, marinas, ships, barges, or the sinking or grounding of vessels carrying hazardous cargoes are substantiated.
 - 4. When there is evidence of the existence of marine biotoxins or other biological, chemical, or radiological agents in the seawater or shellfish in the area exceeding recognized acceptable limits. Designated MDMR personnel will perform monitoring of the closing criteria.
- I. If a controlling gauge for rainfall or river stage reading is missing or unavailable, evaluation of all available information will be utilized to determine if the closing criteria has been met or exceeded, in which case, the area will be closed in accordance with this Part.
- J. When molluscan shellfish growing waters are closed under the provisions listed, the affected waters are deemed not safe and molluscan shellfish reefs within these closed waters are deemed contaminated or otherwise unfit for consumption.
- K. Seawater samples will be collected from each compliant sampling station in the area for microbiological analysis.
- L. Seawater will be deemed acceptable when microbiological analysis of compliant stations in the area indicates a geometric mean fecal coliform MPN of 14 per 100 ml of water or less. This shall be deemed a sufficient time interval to permit natural biological cleansing.
- M. When shellfish tissue is sampled for verification, the results shall be less than a fecal coliform MPN of 230 per 100 grams of meat.
- N. Areas may be opened or reopened for the harvest of molluscan shellfish by the MDMR:
 - 1. When rainfall has subsided, and microbiological analysis of seawater samples

indicate that the seawater is again acceptable and that the shellfish have gone through a sufficient time interval to permit natural biological cleansing.

2. When any raw sewage spills or discharges are diluted to the point that they are within accepted standards as determined by microbiological analysis of seawater samples collected at the site of the spill or discharge in accordance with the most current version of the NSSP Model Ordinance.
3. When rainfall, hurricanes, storms, localized flooding or any natural disasters have subsided; microbiological analysis of seawater and/or molluscan shellfish tissue samples indicate that the seawater is again acceptable; and the shellfish have gone through a sufficient time interval to permit natural biological cleansing in accordance with the most current version of the NSSP Model Ordinance.
4. When any chemicals or hazardous waste residuals remaining in the seawater or molluscan shellfish tissue are less than the tolerance set for such substances by the federal agencies responsible; or, when such residuals are judged to be non-hazardous to public health by the MDMR.
5. When there is no evidence of the existence of marine biotoxins or other biological, chemical, or radiological agents in excess of tolerances set for such biotoxins, biological, chemical or radiological agents in the seawater and molluscan shellfish tissue samples taken from the area in accordance with the most current version of the NSSP Model Ordinance.

Source: MISS. CODE ANN. §§ 49-15-15, 49-15-36, 49-15-303, 49-15-304; NSSP Model Ordinance §§ II-IV, III-IV-.03, IV-II-.02

Rule 3.6 Approved Classification of Molluscan Shellfish Growing Waters

- A. Approved growing waters are areas where the growing and harvesting of shellfish for direct market is allowed by the MDMR Authority.
- B. Approved growing waters may be opened and closed to the direct harvest of shellfish by the MDMR Authority in accordance with the most current version of the NSSP Model Ordinance.
- C. An area is considered approved when a sanitary survey shows that there are not pathogenic micro-organisms, poisonous and deleterious substances present in dangerous concentrations and where bacteriological quality of the water of every sampling station does not exceed a fecal coliform median or geometric mean in accordance with the most current version of the NSSP Model Ordinance.

Source: MISS. CODE ANN. §§ 49-15-15, 49-15-36, 49-15-303, 49-15-304; NSSP Model Ordinance §§ II-IV, II-VII, III-IV, IV-II

Rule 3.7 Conditionally Approved Classification of Molluscan Shellfish Growing Waters

- A. An area is considered conditionally approved when a sanitary survey of the area, conducted by an MDMR Authority, shows that the area meets the conditions of approved growing waters except under certain environmental conditions such as heavy rainfall or river stage.
- B. All molluscan shellfish growing waters classified as conditionally approved may be open for the direct harvest of shellfish by the MDMR provided that water quality meets the conditions defined for that area.
- C. During any closure of a conditionally approved area, the MDMR will sample the water of the closed area until shellfish are free of pollutants in accordance with the respective growing waters management plan.

Source: MISS. CODE ANN. §§ 49-15-15, 49-15-36, 49-15-303, 49-15-304; NSSP Model Ordinance §§ II-IV, II-VII, III-IV, IV-II

Rule 3.8 Restricted Classification of Molluscan Shellfish Growing Waters

- A. All molluscan shellfish growing waters classified as restricted are closed to the direct harvest of shellfish.
- B. The MDMR may permit relaying or depuration operations of these areas after a sufficient study determines that the shellfish will depurate to the required levels within a specified period of time, and that the growing waters in these areas meet the requirements to be classified as restricted to relaying and/or depuration in accordance with the most current version of the NSSP Model Ordinance.

Source: MISS. CODE ANN. §§ 49-15-15, 49-15-36, 49-15-303, 49-15-304; NSSP Model Ordinance §§ II-IV, II-VII, III-IV, IV-II

Rule 3.9 Prohibited Classification of Molluscan Shellfish Growing Waters - All molluscan shellfish growing waters classified as prohibited are closed to the harvest of molluscan shellfish at all times.

Source: MISS. CODE ANN. §§ 49-15-15, 49-15-36, 49-15-303, 49-15-304; NSSP Model Ordinance §§ II-IV, II-VII, III-IV, IV-II

Rule 3.10 Unclassified Waters – All waters deemed unclassified by the MDMR are closed to the harvest of molluscan shellfish pending a sanitary survey of the area.

Source: MISS. CODE ANN. §§ 49-15-15, 49-15-36, 49-15-303, 49-15-304; NSSP Model Ordinance § II-IV

Chapter 4: Harvesting, Landing and Transfer of Molluscan Shellfish

Rule 4.1 Harvesting Molluscan Shellfish

- A. A license issued by the MDMR is required to take molluscan shellfish from the

waters under the territorial jurisdiction of the State of Mississippi.

- B. All molluscan shellfish taken from waters of the territorial jurisdiction of the State of Mississippi must:
 - 1. Be properly tagged and taken legally from an area declared open for harvest by the MDMR Authority.
 - 2. Be accompanied by a trip ticket that indicate the check-out time, must remain with the catch until final delivery and must be available for inspection with the molluscan shellfish by an MDMR Authority.
- C. Nonresident recreational harvest of molluscan shellfish is not permitted in the State of Mississippi.
- D. Dredge Specifications
 - 1. Harvesters are permitted to use a dredge that weighs 115 pounds or less and has a tooth bar with 16 or less teeth. All dredge teeth must be five (5) inches or less.
 - 2. Harvesters are permitted to use a hand dredge that weighs 40 pounds or less and have a tooth bar with 10 or less teeth. All dredge teeth must be five and one quarter (5¼) inches or less. When using a hand dredge, it is illegal to use a mechanical advantage retrieval system. A hand dredge must be retrieved by hand.
 - 3. Basket dredges are not permitted for use in Mississippi waters.
 - 4. Harvesters are not permitted to use more than two (2) dredges.
- E. Marine Sanitation Device (MSD)
 - 1. All boats or vessels used in the harvest or transport of shellfish are required to have onboard, a functional, approved marine sanitation device (MSD), portable toilet or other sewage disposal receptacle to contain human sewage.
 - 2. The MSD must meet the requirements set forth by the most current version of the NSSP Model Ordinance.

Source: MISS. CODE ANN. §§ 49-15-15, 49-15-42, 49-15-303, 49-15-304, 97-15-30; NSSP Model Ordinance §§ II-VIII, III-VIII, IV-II

Rule 4.2 Harvesting Molluscan Shellfish from Public Reefs

- A. All molluscan shellstock taken from public reefs by any person, firm or corporation must measure three (3) inches or more from end to end. End to end measurement is the greatest length from the hinge to the bill. It is unlawful for any person, firm, or

corporation to purchase, sell or possess molluscan shellfish harvested from public reefs that are under the legal-size limit.

- B. Any person, firm or corporation harvesting molluscan shellfish on public reefs must first register on the day of harvest at a check station drop box in the area where harvesting will occur.
 - 1. Check stations will operate from 7:00 a.m. to 4:00 p.m. local time when the area is open for harvest or until the final harvester that checked in for the day has checked out.
 - 2. All shellfish harvesting activities must cease prior to 4:00 p.m. each day and all fishermen must be checked out at the appropriate check station by 4:00 p.m. If a harvester does not return to a check station by 4:00 p.m., all shellfish harvested that day will be confiscated by an MDMR Authority.
 - 3. All harvesters must check out at the same designated check station where they checked in.
 - 4. Any exception to these conditions due to unforeseen circumstances must have prior approval by an MDMR Authority.
- C. All molluscan shellfish must be properly tagged immediately upon landing on the date of harvest.
- D. All shellstock must be packed in clean containers before the boat or vessel leaves the natural reef from which they were harvested.
- E. Molluscan shellstock must be culled.
 - 1. Harvesters must immediately scatter and broadcast evenly, all dead shells, small oysters, and oysters in excess of the daily sack limits onto the natural reefs from which they are taken.
 - 2. A ten percent (10%) tolerance by number is allowed in relation to any culling. The ten percent (10%) tolerance is determined from a representative sample of ten percent (10%) of the total catch.
- F. It is unlawful to transfer molluscan shellfish from one vessel to another vessel, until the vessels have been checked out at the appropriate check station.
- G. While engaged in the harvest of molluscan shellfish, it is unlawful for any boat or vessel to tow or to be tied to any other boat or vessel licensed for shellfish harvesting.
- H. It is unlawful for any boats or vessels engaged in the harvest of molluscan shellfish to fail to be continuously manned by a qualified person capable of operating the boat or vessel from the time of check-in for the day until the time of check-out.

- I. Upon registration, while harvesting, or upon check-out, each person may be required to show their license to an MDMR Authority.
- J. It is unlawful for any harvester engaged in harvesting molluscan shellfish on a tonging reef to have an oyster dredge on board the boat or vessel.

Source: MISS. CODE ANN. §§ 49-15-15, 49-15-36, 49-15-38, 49-15-39, 49-15-303, 49-15-304; NSSP Model Ordinance §§ II-VIII, III-VIII, IV-II

Rule 4.3 Harvesting Molluscan Shellfish from On-Bottom Private Leases

- A. All on-bottom molluscan shellfish reef lessees must adhere to the rules outlined in the lease contract, lease permit, this Part, and the most current version of the NSSP Model Ordinance.
- B. All on-bottom molluscan shellfish aquaculture harvesters must have a trip ticket fully completed and submitted to the MDMR within twenty-four (24) hours of harvest.

Source: MISS. CODE ANN. §§ 49-15-15, 49-15-27, 49-15-36, 49-15-303, 49-15-304; NSSP Model Ordinance §§ II-VIII, III-VIII, IV-II

Rule 4.4 Harvesting Molluscan Shellfish from Off-Bottom Aquaculture Leases

- A. All off-bottom molluscan shellfish aquaculture harvesters must adhere to the rules outlined in the lease contract, lease permit, this Part, and the most current version of the NSSP Model Ordinance.
- B. All off-bottom molluscan shellfish aquaculture harvesters must have a trip ticket fully completed and submitted to the MDMR within twenty-four (24) hours of the start of harvest.

Source: MISS. CODE ANN. §§ 49-15-15, 49-15-303, 49-15-304; NSSP Model Ordinance §§ II-VIII, III-VIII, IV-II

Rule 4.5 Transferring Tagged Molluscan Shellfish

- A. When molluscan shellfish are transferred from a harvester to a dealer or from a dealer's mobile unit to another dealer's mobile unit, the transfer of tagged molluscan shellfish must take place across transfer facilities or locations that are periodically monitored by MDMR for sanitary conditions or at a certified dealer's facility that is inspected by the MDMR.
- B. There must be no such transfers at any other locations except for emergency conditions as declared by the certified dealer and approved by an MDMR Authority.

Source: MISS. CODE ANN. §§ 49-15-15, 49-15-42, 49-15-46, 49-15-303, 49-15-304; NSSP

Model Ordinance §§ II-XI, II-XII; II-XIV

Chapter 5: Labeling and Tagging of Molluscan Shellfish

Rule 5.1 All molluscan shellfish shipped within, into or out of the State of Mississippi by a certified dealer must be tagged and legibly labeled in accordance with the most current version of the NSSP Model Ordinance.

Source: MISS. CODE ANN. §§ 49-15-42, 49-15-46; NSSP Model Ordinance §§ II-VIII, II-X, III-X

Rule 5.2 Bulk tagging of shellstock is permitted in accordance with the most current version of the NSSP Model Ordinance.

Source: MISS. CODE ANN. § 49-15-42; NSSP Model Ordinance §§ II-VII, II-X

Rule 5.3 All molluscan shellfish harvested for personal consumption by a commercial or recreational harvester must be red tagged and accompanied by a trip ticket indicating all harvest information.

Source: MISS. CODE ANN. § 49-15-46; NSSP Model Ordinance § II-VII

Rule 5.4 Dealer Tagging

- A. All containers or packages enclosing fresh shucked or frozen raw shucked molluscan shellfish and shucked molluscan shellfish products shipped within, into or out of the State of Mississippi must originate from a certified dealer and must be conspicuously, indelibly, and legibly labeled in accordance with the most recent version of the NSSP Model Ordinance, with the following information:
1. Name of the product.
 2. Name and address of the packer, repacker, or distributor.
 3. Size of container.
 4. Certification number.
 5. Net drained weight when packed.
 6. Packages containing sixty-four (64) fluid ounces or more must have, on the lid and sidewall or bottom, the "DATE SHUCKED" indicated as the number of the day, month and year or the month, day, and year.
 7. Packages of less than sixty-four (64) fluid ounces of fresh product must be labeled with the wording "SELL BY" followed by a date expressed as a month, day, and year.
 8. The 'sell by' date must not exceed seventeen (17) days from the date shucked.

9. Containers of frozen shucked molluscan shellfish must show the date the product was shucked and the date frozen, labeled as "DATE SHUCKED" and "DATE FROZEN" followed by the date expressed as the month, day, and year.
 10. Shucked product previously frozen must be labeled with the wording "PREVIOUSLY FROZEN".
- B. When both the harvester and dealer tags appear on the container, the dealer's tag is not required to duplicate the information on the harvester's tag.
 - C. If molluscan shellfish are removed from the original container by the dealer, the tag on the new container must meet the requirements of the most current version of the NSSP Model Ordinance.
 - D. All molluscan shellfish shipped by a certified dealer within, into or out of the State of Mississippi must be accompanied by a bill of lading or bill of sale and legibly labeled in accordance with the most current version of the NSSP Model Ordinance.

Source: MISS. CODE ANN. §§ 49-15-15, 49-15-42, 49-15-46, 49-15-303, 49-15-304; NSSP Model Ordinance §§ II-X, IV-III

Rule 5.5 Tagging Shellstock from Public Reefs

- A. Shellstock must be tagged at the time of landing with indelible, legible information in accordance with the most current version of the NSSP Model Ordinance.
- B. It is unlawful for any person, firm, or corporation harvesting from public reefs to have possession of tags in excess of the daily sack limit.
- C. All shellstock tags must be affixed to the sack or container with the fastener provided by the MDMR.

Source: MISS. CODE ANN. §§ 49-15-15, 49-15-42, 49-15-46, 49-15-303, 49-15-304; NSSP Model Ordinance §§ II-X, III-X, II-VIII, IV-III

Rule 5.6 All on-bottom molluscan shellfish reef lessees must adhere to the labeling and tagging rules and regulations outlined in the lease contract, lease permit and the most current version of the NSSP Model Ordinance.

Source: MISS. CODE ANN. §§ 49-15-15, 49-15-42, 49-15-46, 49-15-303, 49-15-304; NSSP Model Ordinance §§ II-X, III-X, II-VIII

Rule 5.7 All off-bottom molluscan shellfish aquaculture harvesters must adhere to the labeling and tagging rules and regulations outlined in the Public Trust Tidelands Sublease, Commercial Aquaculture Permit, this Part, and the most current version of the NSSP Model Ordinance.

Source: MISS. CODE ANN. §§ 49-15-15, 49-15-42, 49-15-46, 49-15-303, 49-15-304 II-VIII

Chapter 6: Receiving, Storage, Handling and Packing of Molluscan Shellfish

Rule 6.1 Receiving and Storage of Molluscan Shellfish

- A. Dealers receiving shellstock from a harvester must only accept shellstock that is accompanied by documentation from the harvester confirming that the shellstock was harvested in accordance with the most current time and temperature chart developed by the MDMR.
- B. Molluscan shellfish harvesters, dealers and processors must ensure that shellfish are under temperature control within the allotted time outlined in the time and temperature chart developed by the MDMR. Molluscan shellfish must be kept either adequately iced or under mechanical refrigeration until final sale.
- C. Molluscan shellfish must be stored in a mechanically refrigerated unit which is equipped with automatic temperature controls and maintains the ambient air temperature in the storage within the allotted time outlined in the time and temperature chart developed by the MDMR.
- D. Frozen molluscan shellfish must be stored in such a manner as to remain frozen.
- E. All ice used in the processing and storage of shellstock or shucked product must be made on-site from potable water in a commercial ice machine or come from a facility regulated by the MDMR or an appropriate regulatory agency.
- F. At the points of transfer, shellfish must be kept for no more than two (2) hours without being adequately iced or under mechanical temperature control.

Source: MISS. CODE ANN. §§ 49-15-15, 49-15-42, 49-15-46, 49-15-303, 49-15-304; NSSP Model Ordinance II-X, II-XI, II-XII, II-XIII, II-XIV, II-XV, III

Rule 6.2 Record Keeping and Tag Retention

- A. Certified dealers and processors must keep accurate records showing the names, addresses, and certification numbers of all persons from whom lots of molluscan shellfish are received, the source of each lot (growing area), the names and addresses of persons to whom lots are sold or shipped and the dates of these transactions.
- B. Shellfish tags are required to be attached to containers until containers are empty and thereafter kept on record for at least ninety (90) days.
- C. Certified dealers and processors must record the tag number of each container of shellstock and to whom or from whom the shellstock were shipped, sold, bought, or received. Such records must be open to inspection at any time during operating hours, by any duly authorized representative of the MDMR.

Source: MISS. CODE ANN. §§ 49-15-15, 49-15-42, 49-15-46, 49-15-303, 49-15-304; NSSP

Model Ordinance §§ II-IX, II-X, III-X

Rule 6.3 Adulterated, Misbranded or Unlabeled Molluscan Shellfish Products

- A. It is unlawful for any person, firm or corporation within the state of Mississippi to produce, harvest, provide, purchase, sell, offer, possess, expose for sale, or have in possession with intent to sell, any raw shellfish and shellfish products which are adulterated, misbranded, or unlabeled.
- B. No person, firm or corporation shall hold or pack shellfish under conditions whereby the shellfish may become adulterated.
- C. Any adulterated, misbranded, mislabeled, or unlabeled shellfish or shellfish products will be impounded by the direction of an MDMR Authority.
- D. Seizure and disposal of such shellfish products must be by the direction of an MDMR Authority.
- E. If shellstock harvested from an off-bottom molluscan shellfish aquaculture lease is found to be adulterated, misbranded, mislabeled, or unlabeled, adequate cleansing of the shellstock will be considered in accordance with the most current version of the NSSP Model Ordinance and by the guidance of an MDMR Authority.

Source: MISS. CODE ANN. §§ 49-15-15, 49-15-36, 49-15-21, 49-15-42, 49-15-44, 49-15-46, 49-15-303, 49-15-304; NSSP Model Ordinance §§ II-I

Rule 6.4 Recall of Molluscan Shellfish

- A. When molluscan shellfish have been landed and moved into or through the handling, processing and/or marketing system and have been determined by the MDMR Authority as subjected to contamination that threatens public health, the molluscan shellfish will be recalled.
- B. The recalled shellfish must be properly disposed of under the supervision of an MDMR Authority to prevent human consumption.

Source: MISS. CODE ANN. §§ 49-15-15, 49-15-36, 49-15-303, 49-15-304; NSSP Model Ordinance § IV-II; IV-V

Chapter 7: Shipping and Transportation of Molluscan Shellfish

Rule 7.1 Transporting Molluscan Shellfish

- A. Transported shellstock must be legally harvested from the originating State and legally transported in accordance with the most current version of the NSSP Model Ordinance.
- B. Licensed harvesters may transport their own daily harvested shellstock intrastate,

unrefrigerated, within the time limits outlined in the most recent time and temperature chart developed by the MDMR Authority.

- C. If shellstock has been previously refrigerated, it must be transported in a refrigerated unit.
- D. Dealers and processors must ship all molluscan shellfish adequately iced or in mechanically refrigerated conveyances which are equipped with automatic temperature controls that maintain the ambient air temperature in the storage in accordance with the most current version of the time and temperature chart developed by the MDMR.
- E. All shucked molluscan shellfish must be in either mechanically refrigerated vehicles or adequately iced.
- F. All ice used in the transportation of molluscan shellfish must be made on-site from potable water in a commercial ice machine or come from a facility regulated by the MDMR or an appropriate regulatory agency.
- G. Frozen molluscan shellfish must be transported in such a manner as to remain frozen solid and the temperature of the product maintained at 0°F (-17.8°C) or less.
- H. All mechanically refrigerated transport vehicles, other than common carriers, used for transporting molluscan shellfish must be certified and inspected by the MDMR Authority.
- I. All molluscan shellfish, either refrigerated or not, must be protected from the sun and contamination during transport.
- J. During the period of May 1 through September 30 of each year, all boats or vessels transporting shellstock must protect the shellstock from direct exposure to the sun by having an awning or similar covering over the shellstock.
- K. Boats or vessels transporting shellstock legally harvested and legally transported from waters outside the State of Mississippi into Mississippi must:
 - 1. Apply for and receive a Commercial Molluscan Shellfish Transport Permit from the MDMR Shellfish Bureau before entering Mississippi territorial waters.
 - 2. Comply with all permit conditions required by the MDMR Authority.
 - 3. Properly tag shellstock in accordance with the most current version of the NSSP Model Ordinance.
 - 4. Mechanically refrigerate shellstock when required by the most current version of the time and temperature chart developed by the MDMR Authority.

- L. Dogs, cats, birds, and other animals are not allowed in any vehicle or vessel used to transport molluscan shellfish.
- M. It is unlawful to open containers of shucked molluscan shellfish in transit, except for inspection by an MDMR Authority or other duly authorized official.

Source: MISS. CODE ANN. §§ 49-15-15, 49-15-42, 49-15-44, 49-15-46, 49-15-303, 49-15-304; NSSP Model Ordinance II-IX, II-X, II-XIII, III-X

Rule 7.2 Interstate Commerce

- A. Interstate shipping of molluscan shellfish must only be through a licensed and certified seafood dealer and/or processor.
- B. Only a Mississippi Certified Dealer is permitted to ship molluscan shellfish, harvested from Mississippi waters, or landed in the state, into interstate commerce.
- C. No molluscan shellfish must enter or exit the state of Mississippi unrefrigerated. Marine vessels transporting molluscan shellstock must follow the rules outlined in the Commercial Molluscan Shellstock Transport Permit issued by the MDMR.

Source: MISS. CODE ANN. §§ 49-15-15, 49-15-42, 49-15-44, 49-15-46, 49-15-303, 49-15-304; NSSP Model Ordinance § II-I

Chapter 8: Molluscan Shellfish Aquaculture Operations

Rule 8.1 All molluscan shellfish aquaculture operations:

- A. Must comply with all permits and regulations governing molluscan shellfish including the most current version of the NSSP Model Ordinance. Harvested molluscan shellfish, whether from aquaculture farms, leases, or facilities, must be landed and tagged according to this Part.
- B. Must only culture species native to the Gulf of Mexico. Polyploid native species are permitted. Imported shellfish aquaculture seed to be used for grow-out in Mississippi waters must be descendants of broodstock who originated in the Gulf of Mexico. The hatchery where the aquaculture seed was produced must provide documentation of broodstock origin.
- C. Are prohibited from discharging any waste materials into the surrounding waters excluding fouling organisms, the excrement of the cultured species, and commercially prepared feeds.

Source: MISS. CODE ANN. §§ 49-15-15, 49-15-42, 49-15-44, 49-15-46, 49-15-303, 49-15-304; NSSP Model Ordinance § II-VI, III-VI

Rule 8.2 On-Bottom Molluscan Shellfish Aquaculture

- A. Any cultch materials used for molluscan shellfish aquaculture must be approved by the MDMR before use.
 - 1. Approval is based, in part, on the environmental suitability of the material.
 - 2. Cultch materials placed in the grow-out area must be a suitable substrate for attachment of molluscan shellfish larvae. These include materials such as natural molluscan shells; fossilized shell; coral, and other aquatic organisms; lithic materials such as crushed and graded limestone, granite, and gravel which contain calcium carbonate or fossilized organisms; or recycled materials which contain lithic fractions and calcium carbonate, including crushed concrete.
 - 3. Exceptions to this list of generally accepted cultch materials must be specifically approved by the MDMR Authority.

Source: MISS. CODE ANN. §§ 49-15-15, 49-15-42, 49-15-44, 49-15-46, 49-15-303, 49-15-304; NSSP Model Ordinance § II-VI, III-VI

Rule 8.3 Off-Bottom Molluscan Shellfish Aquaculture

- A. Aquaculture harvesters are permitted to grow aquaculture seed in marinas and other prohibited or unclassified growing waters.
 - 1. Harvesters must obtain a permit for this activity from the MDMR Shellfish Bureau.
 - 2. Harvesters must adhere to the rules and regulations outlined in the Public Trust Tidelands Sublease, Commercial Aquaculture Permit, this Part, and the most current version of the NSSP Model Ordinance.
- B. Record Keeping
 - 1. The aquaculture lease holder must maintain records and provide a monthly report to the MDMR Shellfish Bureau with the following information:
 - i. A daily record of the number of incidental deaths of vertebrate coastal wildlife that occur within the leased area. Additionally, the aquaculture operation must notify the MDMR immediately upon the injury or death of any threatened or endangered species, marine mammal, or raptor within the leased area.
 - ii. An accounting of aquaculture seed stock added and harvested within a given month.
 - iii. On shore culture operators must maintain records of any transfers of broodstock, seed, gametes, or larvae.

- iv. All records must be maintained for a minimum of three (3) years and must be available to the MDMR Authority for inspection.
- 2. This report may be mailed to the MDMR Shellfish Bureau or emailed to oyster@dmr.ms.gov.
- C. The MDMR Authority will maintain the following records provided by the permittee while the aquaculture operation continues:
 - 1. Construction and remodeling plans for any permitted aquaculture facility
 - 2. Aquaculture operational plans
 - 3. Aquaculture permits

Source: MISS. CODE ANN. §§ 49-15-15, 49-15-27, 49-15-29, 49-15-303, 49-15-304; NSSP Model Ordinance § II-VI, III-VI

Chapter 9: Molluscan Shellfish Dealers, Processors and Facilities

Rule 9.1 License and Certification

- A. It is unlawful for any person, firm, or corporation to engage in handling, shucking, packaging, repackaging, or shipping molluscan shellfish without a license and certification from the MDMR Authority.
- B. The license and certification must be renewed annually.
- C. This rule does not apply to:
 - 1. A retailer removing oysters individually from the packaging for display and/or resale to the end user.
 - 2. A restaurant or similar establishment, which may shuck and serve raw molluscan shellfish at a half-shell bar, under sanitary conditions, for consumption on the premises.

Source: MISS. CODE ANN. §§ 49-15-15, 49-15-303, 49-15-304; NSSP Model Ordinance § X-.04

Rule 9.2 All certified molluscan shellfish seafood facilities must follow the provisions described in the most current version of the NSSP Model Ordinance.

Source: MISS. CODE ANN. §§ 49-15-15, 49-15-303, 49-15-304; NSSP Model Ordinance § II-I, II-VI, II-VII, III-I, IV-III

Rule 9.3 Any person, firm, or corporation intending to alter an existing or construct a new molluscan shellfish handling, transporting, and/or processing facility must acquire a Mississippi Certified Shellfish Sanitation or Processing Plant license and certification from the MDMR Authority. The MDMR Authority must be contacted prior to handling or processing any

molluscan shellfish in any fashion in any altered or new molluscan shellfish facility.

Source: MISS. CODE ANN. §§ 49-15-15, 49-15-303, 49-15-304; NSSP Model Ordinance § II-I, II-VI, II-VII, III-I, IV-III

Rule 9.4 Post-Harvest Processing of molluscan shellfish is permitted as described in the most current version of the NSSP Model Ordinance.

Source: MISS. CODE ANN. §§ 49-15-15, 49-15-303, 49-15-304; NSSP Model Ordinance §§ II-I, II-VI, II-VII, III-I, III-XVI, IV-III, IV-IV

Rule 9.5 MDMR Responsibility

- A. The MDMR will issue certifications and conduct routine inspections of molluscan shellfish facilities in accordance with the most current version of the NSSP Model Ordinance.
- B. The MDMR will issue to certified dealers, itemized statements of compliances and non-compliances.
- C. For the cited excessive non-compliances, the MDMR will provide the facility manager with a schedule of corrections to bring the facilities into compliance.
- D. Certification will not be issued or renewed without compliance and will be considered revoked.
- E. It is unlawful to operate a processing or shipping facility without a current valid license and certification.

Source: MISS. CODE ANN. §§ 49-15-15, 49-15-303, 49-15-304; NSSP Model Ordinance §§ II-I

Rule 9.6 It is the duty and responsibility of each owner, manager, and operator of a certified molluscan shellfish facility:

- A. To ensure that all regulations are strictly adhered to and that only safe, wholesome, unadulterated molluscan shellfish are offered for sale to the consuming public.
- B. To ensure that the facility is properly supervised at all times and all molluscan shellfish can be identified to guarantee that they were harvested from approved and conditionally approved growing waters in the open status and that they have been handled and processed in a sanitary manner.

Source: MISS. CODE ANN. §§ 49-15-15, 49-15-303, 49-15-304; NSSP Model Ordinance § II-I, II-VI, II-VII, III-I, IV-III

Rule 9.7 Suspension of License and Certification

- A. License and certification held by any person, firm or corporation will be suspended or revoked by the MDMR Authority:

1. If there is reason to believe that a public health hazard exists.
 2. If the holder violates any of the requirements of this regulation.
 3. If the holder interferes with a representative of the MDMR in the performance of duties.
- B. The MDMR Authority will serve the holder a written notice of intent to suspend the license and certification.
1. The notice will specify the violation(s) and afford the holder reasonable opportunity to correct the violations as agreed to by the parties or in absence of agreement fixed by the MDMR before making any order of suspension effective.
 2. A copy of the inspection sheet handed to the license and certification holder or their authorized representative, or in their absence, posted in a conspicuous place in the establishment, shall constitute a written notice to suspend the license and certification.
- C. A suspension of license and certification will remain in effect until the violation has been corrected to the satisfaction of the MDMR Authority.
- D. In a case where the molluscan shellfish involved create a health hazard or whenever adulterated or misbranded molluscan shellfish and/or molluscan shellfish products are found, or in any case of willful refusal to permit an inspection, the MDMR Authority may issue a cease-and-desist order, effective immediately, to suspend all molluscan shellfish related activities. This order will remain in effect until such time as proper corrective actions have been taken and the order is officially lifted.
- E. Upon request for reapplication, from any person whose license and certification has been suspended, the MDMR Authority shall make such inspection(s) and/or collect samples as deemed necessary to determine compliance with the requirement of this regulation.
- F. Upon repeated violations, the MDMR Authority will revoke a license and certification following reasonable notice to the license and certification holder and an opportunity for a hearing.

Source: MISS. CODE ANN. §§ 49-15-15, 49-15-303, 49-15-304; NSSP Model Ordinance §§ II-I

Chapter 10: Molluscan Shellfish Leases

Rule 10.1 All Molluscan Shellfish Leases must adhere to the following boundary markings:

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

- B. Each leaseholder must mark at least the four (4) corners of each lease with an appropriate marker and must maintain all markers.
- C. Each marker must list the lease number and marker position (i.e., southeast (SE) corner).
- D. Each lessee must file a "Private Aids to Navigation" application with and receive permit approval from the U.S. Coast Guard, for the lease markers, and provide a copy of the permit approval to the MDMR Director of Marine Fisheries prior to final granting of the lease and placement of the markers.

Source: MISS. CODE ANN. §§ 49-15-15, 49-15-27, 49-15-303, 49-15-304; NSSP Model Ordinance §§ II-VIII, II-X

Rule 10.2 All off-bottom molluscan shellfish aquaculture harvesters must adhere to the rules and regulations outlined in the applicable Public Trust Tidelands Sublease, Commercial Aquaculture Permit, this Part, and the most current version of the NSSP Model Ordinance.

Source: MISS. CODE ANN. §§ 49-15-15; NSSP Model Ordinance § II-VIII

Rule 10.3 On-Bottom Molluscan Shellfish Leases

A. Lease Application

1. Any person wanting to lease bottoms must complete an on-bottom shellfish lease application and submit it to the MDMR Director of Marine Fisheries. Applications are available at the MDMR office.
2. Applicants must be a resident of the State of Mississippi or be organized under the laws of the State and registered with the Secretary of State's Office.
3. The time and date of the receipt of each application will be noted on the application.
4. Each application must be accompanied by a description of the area intended for lease using latitude and longitude coordinates, and a map taken from NOAA nautical charts, 11371, 11372, 11373, or 11374, depicting the area to be leased.

B. Lease Application Review

1. Applications will be reviewed by the MDMR staff for compliance with application guidelines and completeness.
2. In the event that applications are received for overlapping areas, the applications must be processed in order of the earliest receipt and so noted by the MDMR Authority, prior to consideration of each lease application; however, the MDMR is authorized to exercise its discretion as to which bid is the highest responsible

bid, and such leases must be awarded to promote the maximum cultivation and propagation of molluscan shellfish.

3. The MDMR will either grant or deny the lease application and the applicant will be notified in writing of the action on their lease application within 30 days after the action proposal.

C. Lease Conditions

1. Each proposed lease area must be located in growing waters classified as approved, conditionally approved, or restricted.
2. Leases must be for a term of five (5) years, with the right of the lessee to renew the lease for an additional five (5) years and continue to renew at five-year (5) intervals, at the same ground rental rate so long as the lessee actively cultivates and gathers shellfish, complies with all provisions, and has all applicable permits and licenses.
3. If the lessee is prevented from gathering shellfish from the leased area by a storm, or other natural phenomenon, the lessee may renew the lease if the bottoms are actively worked by the lessee during the remaining term or renewal term of the lease.
4. All leases issued before or after July 1 of each year must be prorated from the date of lease to the following expiration of five (5) years from the date of the lease.
5. All leases expire on July 1 of the expiration year.
6. Each lessee has the option to renew their lease provided they submit a written application with payment of annual or prorated rental for the subsequent lease period within thirty (30) days of the lease expiration date to the MDMR Business Office.
7. Each application for an on-bottom lease must be for five (5) acres or more but must not exceed 500 acres.
8. The proposed lease area must have a continuous border.
9. The proposed lease area must be configured as a square or rectangle with the lease area boundaries meeting at right angles. However, the lease rent may be adjusted pro rata to conform to non-rectangular shapes within the lease area.
10. The length of the proposed lease area cannot be greater than twice the distance of the width of the lease area.
11. In the case of an individual, there will not be counted towards such limitation any lands leased by a corporation, partnership, or association in which such

individual owns ten percent or less interest, and, in the case of a corporation, partnership, or association, there will not be counted towards such limitation, any lands leased by an individual stockholder, partner, or associate thereof, who owns ten percent or less interest in such corporation, partnership, or association.

12. No proposed lease areas will be approved that are within 100 feet of an existing lease area or lease area that is pending final approval, unless the same person holds both leases.
13. No areas designated as tonging reefs, nor areas defined as natural reefs, nor areas within the boundaries of riparian property owners will be leased for shellfish harvest by the MDMR.
14. Leases must be active and engaged in shellfish aquaculture activities throughout their term. The applicant must not begin any activities on the lease until they have obtained all applicable permits, including MDMR wetlands permits. Failure to obtain permits is evidence that the lease is not active.
15. All leases made by the MDMR under the authority of this Part must be subject to the paramount right of the State of Mississippi and any of its political subdivisions authorized by law, to promote and develop ports, harbors, channels, industrial or recreational projects, freshwater diversion projects, and all such leases must contain a provision that in the event such authorized public body must require the area so leased or any part thereof for such public purposes, that the lease must be terminated on reasonable notice fixed by the MDMR in such lease.

D. Reporting

1. All on-bottom molluscan shellfish reef lessees must submit a report outlining all shellfish related activity pertaining to their lease to the MDMR Shellfish Bureau within thirty (30) days of activity.
2. All on-bottom molluscan shellfish reef lessees must submit an annual written summary of lease activity to the MDMR Shellfish Bureau for the previous lease period within 30 days from the lease anniversary date.

E. Termination and Waivers

1. On the termination of any lease, the lessees has the right to remove any shellfish within the leased area within such time as may be fixed by the MDMR Authority and in accordance with such reasonable rules and regulations as the MDMR may adopt.
2. On the termination of any lease, the lessee must remove any poles, stakes, buoys, or other structures associated with the lease.

3. All lease agreements must contain provisions requiring the lessee to waive any and all claims for damages that may result from any freshwater diversion projects authorized by the State of Mississippi.

F. Subleases and Transfers

1. Subleasing is prohibited.
2. Lease transfers must first obtain prior written approval of the transfer by the MDMR Authority.
3. Transfers of portions of the lease are not permitted.
4. To obtain a transfer, the transferee must apply for the lease as if it were a new lease.
5. The lease transferee must be a Mississippi resident or corporation.
6. The new lease combined with other leases held by the lease transferee must not amount to more than 500 acres.
7. All terms and conditions, including term limitations, from the lease transfer to the transferee.

G. Subdivisions

1. Political subdivisions of the State of Mississippi may lease up to 1,000 acres of bottoms for molluscan shellfish reef development and such political subdivisions are authorized to permit residents of the State of Mississippi to harvest molluscan shellfish from such reefs and charge and receive a fee for each sack of molluscan shellfish harvested.
2. The MDMR will consider and approve the application of a political subdivision after determining that no conflicts exist with sites requested in the applications filed prior to the application of the political subdivision and a fair and reasonable rental rate of not less than five (5) dollars per acre has been set. Such lease will ensure the maximum cultivation and propagation of shellfish.

- H. The MDMR Authority will cooperate with the Jackson County Port Authority, the Harrison County Development Commission, the Municipal Port Commissions, and other port and harbor agencies, to avoid the planting of molluscan shellfish beds in close proximity to navigable channels.

Source: MISS. CODE ANN. §§ 49-15-3, 49-15-15, 49-15-27, 49-15-303, 49-15-304; Nssp Model Ordinance §§ II-VIII

Chapter 11: Other Molluscan Shellfish Related Activities: Cultch Planting, Relaying, and Transplanting

Rule 11.1 Depuration of shellstock is permitted as described in the most current version of the NSSP Model Ordinance.

Source: MISS. CODE ANN. §§ 49-15-15, 49-15-303, 49-15-304; NSSP Model Ordinance §§ II-XV, III-XV

Rule 11.2 Closed Cultch Plant Areas – It is unlawful for any person, firm, or corporation to place or cause to be placed any material or gear used in the catching or taking of saltwater fish, shrimp, crabs or shellfish, with the exception of crab traps or pots, or hook and line fishing or cast nets on any public reef area that has been planted with shells or other cultch material that has not been released or opened to harvest by the MDMR.

Source: MISS. CODE ANN. §§ 49-15-15, 49-15-303, 49-15-304

Rule 11.3 Relaying Molluscan Shellstock

A. Relaying Application

1. All persons, firms, or corporations other than the MDMR wanting to relay molluscan shellfish in the State of Mississippi must complete and submit an application for a relaying permit to the MDMR. Applications are available from the MDMR.
2. All applicants must:
 - i. Hold a valid lease for molluscan shellfish bedding grounds in the State of Mississippi.
 - ii. Have been a resident of the State of Mississippi for at least five (5) years.
 - iii. Have a valid Mississippi shellfish license.
3. Applications will be reviewed by the MDMR Authority for compliance with application guidelines and requested information.
4. When all application guidelines are met and requested information provided, the applicant's intent to relay will be advertised once a week for two (2) consecutive weeks in a newspaper of general circulation in the county or counties closest to the intended activity.
5. Written public comment will be received by the MDMR for a period of fifteen (15) days from the first date of advertisement.
6. Applicants will be notified in writing of the MDMR actions.

- B. When the MDMR approves the request to relay molluscan shellstock, a relaying permit will be issued which will give specific conditions permitted for relaying activities and reference all regulations.
- C. The Permittee:
 - 1. Must hold a valid lease of molluscan shellfish bedding grounds in the State of Mississippi.
 - 2. Must fulfill all permit requirements as established by the MDMR Authority.
 - 3. Is not permitted to relay shellstock from one restricted area to another restricted area.
- D. The Permittee must not relay shellfish from the restricted area without the presence of an MDMR designated official.
- E. The MDMR designated official must be present at all times relaying activities are in progress. This will include the time the shellfish are harvested from the restricted area to their deposition on private leased grounds, or to an onshore, molluscan depuration facility.
- F. The permittee must pay, to the MDMR Business Office, an amount equal to the compensation regularly received by the MDMR Staff for the time such Staff actually spends performing the above described duties.

Source: MISS. CODE ANN. §§ 49-15-15, 49-15-37, 49-15-303, 49-15-304; NSSP Model Ordinance §§ II-V, III-V, IV-II

Rule 11.4 Harvesting Relayed Molluscan Shellstock

- A. The Permittee is not permitted to harvest relayed shellfish without prior written permission from the MDMR Authority. The Permittee must complete and submit a request to harvest relayed shellstock and receive written permission from the MDMR Authority.
- B. Harvesting of shellstock is permitted only during daylight hours and with the most efficient gear possible, consistent with conservation considerations, and in such a way not to damage the reef. This includes permission to use two (2) dredges per boat in restricted areas and on private leased grounds.

Source: MISS. CODE ANN. §§ 49-15-15, 49-15-303, 49-15-304; NSSP Model Ordinance §§ II-V, III-V, IV-II

Rule 11.5 Bonding

- A. The Permittee must be bonded in compliance with the permit system established by the MDMR.

- B. Permittees are required to post a penal bond of \$100.00 per acre leased with the MDMR.
- C. This bond must be forfeited if permittee violates any provisions of this Part.
- D. The MDMR shall approve the bond if sufficient property or sureties secure it.

Source: MISS. CODE ANN. §§ 49-15-15, 49-15-303, 49-15-304

Rule 11.6 Interval Between Relaying and Harvesting Molluscan Shellstock

- A. There must be a sufficient time interval to allow natural biological cleansing of the shellfish between the time the permittee is permitted to take the shellfish from the restricted area(s), and the time they are then allowed to harvest these shellfish or any other shellfish from their leased area, during which time neither activity is allowed.
- B. During this time interval, the permittee nor any other person or entity is allowed to harvest the relayed shellfish.
- C. This period must be at least fourteen (14) consecutive days, except if the area relayed to fails to meet growing water management plan criteria during any of those 14 consecutive days.
- D. If, during the 14 consecutive days, the area fails to meet the management plan as specified, harvesting will not be allowed until the area has once again met these conditions for 14 consecutive days, or until shorter periods of time are demonstrated to be adequate to permit natural biological cleansing to occur.
- E. The period of time to allow natural biological cleansing must be deemed sufficient and adequate if the bacteriological quality of the shellfish after relaying are of the same quality as the same species already in the approved or conditionally approved relay area; or if shellfish tissue are sampled for verification, the results must be less than a fecal coliform MPN of 230 per 100 grams of meat, provided that no evidence exists that the shellfish prior to relaying contained substances that equal or exceed the action levels, tolerances, and other established levels for poisonous or deleterious substances in seafood.

Source: MISS. CODE ANN. §§ 49-15-15, 49-15-303, 49-15-304; Nssp Model Ordinance §§ II-V, III-V, IV-II-.10

Rule 11.7 Protection from Contamination

- A. All relayed shellfish must be protected from contamination sources such as, but not limited to, boat fuel, oil, bilge, dogs, cats, birds, and other animals, and from sunlight for extended periods of time.
- B. All portions of boats and other equipment coming in contact with shellfish relayed

from restricted areas to permitted approved or conditionally approved areas must be rinsed with waters from such approved or conditionally approved waters after each unloading and prior to leaving the permitted approved or conditionally approved area.

Source: MISS. CODE ANN. §§ 49-15-15, 49-15-303, 49-15-304; NSSP Model Ordinance §§ II-V, III-V, IV-II

Rule 11.8 Relaying Records

- A. The MDMR Shellfish Bureau and each permittee must maintain adequate relaying records.
- B. Each record must note the quantity and type of shellfish relayed, dates of relaying, specific areas shellfish are relayed from and to, and any other required information.
- C. Specific harvest areas should be described using differential GPS latitude and longitude coordinates.
- D. In the absence of differential GPS latitude and longitude readings, an accurate map will be supplied depicting the relay source site and the specific location within the permittees' lease where the shellfish were relayed.

Source: MISS. CODE ANN. §§ 49-15-15, 49-15-303, 49-15-304; NSSP Model Ordinance §§ II-V, III-V, IV-II

~~TITLE 22 — MISSISSIPPI DEPARTMENT OF MARINE RESOURCES~~

~~PART 1 RULES AND REGULATIONS FOR SHELLFISH HARVESTING, TAGGING, LANDING, UNLOADING, TRANSPORTING, RELAYING, MANAGEMENT, AREA CLASSIFICATION, AND OTHER SHELLFISH RELATED ACTIVITIES IN THE STATE, AND THE LEASING OF TERRITORIAL WATERS UNDER THE JURISDICTION OF THE STATE OF MISSISSIPPI~~

~~Chapter 01 Introduction~~

Purpose

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

~~Chapter 02 Justification and Authority~~

~~(Deleted this Chapter because these statements are already stated in Mississippi Code and does not need to be restated.)~~

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

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

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

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

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

- ~~105 Miss. Code Ann. § 49-15-36(3), as amended, requires the MCMR to promulgate regulations regarding the closing of oyster reefs which are determined to be restricted.~~
- ~~106 Miss. Code Ann. § 49-15-27, as amended, grants the MCMR authority to lease bottoms.~~
- ~~107 Miss. Code Ann. § 49-15-29, as amended, authorizes the MCMR to assess and collect certain taxes and license fees.~~
- ~~108 Miss. Code Ann. § 49-15-30, as amended, authorizes the MCMR to promulgate regulations for nonresident permits.~~
- ~~109 Miss. Code Ann. § 49-15-37, as amended, authorizes the cultivation of oyster reefs and removal of oysters from restricted areas through the MCMR.~~
- ~~110 Miss. Code Ann. § 49-15-39, as amended, provides for dredging limits and designation of reefs reserved for tonging by the MCMR.~~
- ~~111 Miss. Code Ann. § 49-15-41, as amended, prohibits oyster harvesting at night.~~
- ~~112 Miss. Code Ann. § 49-15-42, as amended, addresses tagging, landing and unloading of oysters.~~
- ~~113 Miss. Code Ann. § 49-15-43, as amended, addresses the packaging of oysters.~~
- ~~114 Miss. Code Ann. § 49-15-45, as amended, provides that certain municipalities may enforce oyster regulations.~~
- ~~115 Miss. Code Ann. § 49-15-46 (3), as amended, requires that all oysters harvested in Mississippi shall be tagged.~~
- ~~116 Miss. Code Ann. § 49-15-63, as amended, addresses general penalties for violation of these regulations.~~

Chapter 03 Definitions

- ~~100 **ADULTERATED**—Shellfish shall be deemed to be adulterated if any foreign substance has been added to the shellfish, or has been mixed or packed therewith so as to increase its bulk or weight, or reduce its quality, or make it appear better or of greater value than it is.~~
- ~~101 **APPROVED AREA**—Waters where the growing and harvesting of shellfish for direct marketing is allowed by the authority of the MCMR or as hereby authorized the Mississippi Department of Marine Resources (MDMR), its Executive Director, Director of Marine Fisheries, Bureau Director, Program Coordinator or other MDMR designee; where pathogenic micro-organisms, poisonous and deleterious substances are not present in the area in dangerous concentrations, and where bacteriological quality of the water of every~~

sampling station does not exceed a fecal coliform median or geometric mean MPN of 14 per 100 ml, and not more than 10 percent of the samples exceed an MPN of 43 for a 5-tube decimal dilution test or an MPN of 49 per 100 ml. for a 3-tube decimal dilution test. An approved area may be temporarily closed when a public health emergency resulting from, for example, a hurricane, flooding, chemical spill, hazardous waste or raw sewage discharge, sinking or grounding of vessels carrying hazardous cargoes, evidence of the existence of marine biotoxins, or any other public health emergency as declared by the MCMR or as hereby authorized the MDMR, its Executive Director, the Director of Marine Fisheries, Bureau Director, Program Coordinator or other MDMR designee thereof.

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

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

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

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

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

- ~~107 **RESTRICTED AREA**—Closed area waters from which shellfish may be harvested only if permitted and subjected to a suitable and effective purification process as determined and permitted by the MCMR.~~
- ~~108 **SANITARY SURVEY**—The evaluation of all actual and potential pollution sources and environmental factors having a bearing on shellfish growing area water quality.~~
- ~~109 **SHALL**—Is used to state mandatory requirements.~~
- ~~110 **SHELLFISH**—All edible molluscan shellfish species of oysters, clams, mussels, or scallops; either shucked or in the shell; fresh or frozen; whole or in part.~~
- ~~111 **SHELLSTOCK**—Shellfish in the shell.~~
- ~~112 **SHOULD**—Is used to state recommended or advisory procedures or to identify recommended equipment.~~
- ~~113 **UNCLASSIFIED AREA**—Waters that are presently unclassified and from which the harvest of shellfish is prohibited pending classification of the area as prohibited, restricted, conditionally approved, or approved based on a sanitary survey of the area and granting of permission to harvest shellfish in accordance with the respective classification by the MCMR or as hereby authorized the MDMR, its Executive Director, Director of Marine Fisheries, Bureau Director, Program Coordinator or other MDMR designee.~~

Chapter 04 Legally Harvested and Properly Tagged Shellfish

- ~~100 It shall be unlawful for any person, firm, or corporation to harvest, possess, land, handle, unload, open, sell or offer for sale or transport any shellfish taken from the waters under the territorial jurisdiction of the State of Mississippi except those shellfish taken legally and properly tagged from an area declared open to shellfish harvesting by public order of the MCMR or as hereby authorized the MDMR, its Executive Director, Director of Marine Fisheries, Bureau Director, Program Coordinator or other MDMR designee in accordance with the procedures outlined in this Part and its document parts.~~
- ~~101 With the exception of permitted private leaseholders or their agents legally harvesting from their own lease, it shall be unlawful for any person, firm, or corporation to have possession of tags in excess of the daily sack limit.~~
- ~~———101.01 It shall be unlawful for harvesters to fail to tag shellstock at the time of landing with the following indelible, legible information (as required by Mississippi Code § 49-15-46(3) as amended):~~
- ~~———101.01.01 Harvester's name.~~
- ~~———101.01.02 Harvester's license number.~~
- ~~———101.01.03 Date of harvest.~~
- ~~———101.01.04 Harvest location(s).~~

- ~~101.01.05 Mississippi shellstock dealer's name and permit number.~~
- ~~101.02 All shellstock or oyster tags provided by the MDMR shall be affixed to the sack or container with the fastener provided by the MDMR for such purpose.~~
- ~~101.03 Additional shellstock tagging requirements may be required by the MDMR as may be necessary.~~

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

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

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

Chapter 05 Possession of Illegal Molluscan Shellfish

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

Chapter 06 Shellfish Harvesting Requirements/Specifications

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

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

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

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

- ~~102.01 A ten percent (10%) tolerance by number shall be allowed in relation to any culling.~~
 - ~~102.01.01 The ten percent (10%) tolerance shall be determined from a representative sample of the total catch.~~

~~102.01.02 A representative sample is defined for the purposes herein as ten percent (10%) of the total catch.~~

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

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

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

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

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

Chapter 07 Dredge Specifications

~~100 It is unlawful for any person, firm, or corporation to take or attempt to take any oysters from the waters under the territorial jurisdiction of the State of Mississippi by the use of a dredge having a weight in excess of 115 pounds and the tooth bar cannot have more than 16 teeth and the teeth on the tooth bar cannot exceed five inches unless otherwise permitted by the MCMR or as hereby authorized the MDMR, its Executive Director, Director of Marine Fisheries, Bureau Director, Program Coordinator or other MDMR designee.~~

~~101 No person, firm or corporation may use more than two such dredges.~~

~~102 It shall be unlawful for any person, firm, or corporation to take or attempt to take any oysters from the waters under the territorial jurisdiction of the State of Mississippi by the use of a basket dredge. A basket dredge is a type of oyster dredge, also known as a "self-dumping dredge" that utilizes a rigid framed basket, instead of a flexible bag made out of rope or chain, to retain the harvested oysters.~~

Chapter 08 Shellfish Area Openings and Closings

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

- ~~100.01 The Opening Order shall include:

 - ~~100.01.01 The date that oyster season shall open.~~
 - ~~100.01.02 A description of shellfish growing areas to open.~~
 - ~~100.01.03 A description of check-in and check-out stations and alternate stations.~~
 - ~~100.01.04 Telephone number(s) from which information may be obtained with respect to closing and reopening waters.~~
 - ~~100.01.05 Sack limits or quotas.~~
 - ~~100.01.06 Necessary regulations relating to shellfish harvesting, additional tagging requirements, additional time to temperature requirements of shellstock, processing and distribution.~~~~
 - ~~100.02 Notice of the opening date shall be included in the minutes of the meeting, in its Opening Order and shall be published in a newspaper or newspapers having general circulation in the three coastal counties.~~
- ~~101 Opening and closing of shellfish growing area waters and oyster reefs shall be by issuance of a legal notice signed by the MCMR or as hereby authorized the MDMR, its Executive Director, Director of Marine Fisheries, Bureau Director, Program Coordinator or other MDMR designee thereof.~~
- ~~101.01 Notice of openings and closings shall be released to the news media.~~
 - ~~101.02 A twenty-four (24) hour recorded telephone message service of closures and openings may be provided when possible.~~
 - ~~101.03 If a closure is necessitated by a rainfall event or rise in river stage occurring after 4:00 p.m., the closure will be effective no later than 4:00 p.m. the following day.~~
 - ~~101.04 If a closure is necessitated by a rainfall event or rise in river stage occurring prior to 4:00 p.m., the closure will be effective no later than 4:00 p.m. that day.~~
 - ~~101.05 Whenever sampling data indicates this time frame sequence is not adequate to protect public health in a reef area, said area may be closed immediately and any oysters or other shellfish taken from said area may be required to be returned to the water.~~
- ~~102 If closure is necessitated by any other polluting event, which threatens imminent peril to public health, closure will be immediate and any oysters or other shellfish taken which have been subjected to such pollution as determined by the MDMR shall be returned to the water.~~
- ~~103 During any closure of a conditionally approved area the MDMR will:~~
- ~~103.01 Sample closed areas in accordance with state statute until oysters or other shellfish are free of pollutants in accordance with the respective Management Plan and state statute.~~
 - ~~103.02 Provide notification of the reopening through standard media news releases, and by recorded telephone messages.~~
- ~~104 The Executive Director of the MDMR is authorized to close any area to harvest when necessary to conserve the resource.~~

~~Chapter 09 Harvester License and Check Stations~~

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

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

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

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

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

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

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

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

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

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

~~Chapter 10 Resident Recreational and Non-Resident Requirements~~

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

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

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

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

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

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

~~Chapter 11 Closed Shell or Cultch Plant Areas~~

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

~~Chapter 12 Adulterated, Misbranded, or Unlabeled Shellfish and Products~~

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

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

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

~~Chapter 13 Transportation of Shellstock by Vessel~~

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

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

- ~~100.02 Comply with all permit conditions required by the Department.~~
- ~~100.03 Properly tag shellstock as described in this Part.~~
- ~~100.04 Mechanically refrigerate shellstock within four (4) hours after landing such that the product is maintained at 45° F. (7.2° C.) or less.~~
- ~~100.05 The Executive Director is hereby authorized to establish earlier checkout times, additional tagging requirements and additional time to temperature requirements of shellstock as may be required or necessary.~~

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

~~102 Failure to comply with the above shall be unlawful.~~

Chapter 14 Tonging Line

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

~~101 It shall be unlawful for any person, firm or corporation engaged in the catching of oysters on a tonging reef, as described in Chapter 14.100, to have on board the boat or vessel an oyster dredge, unless that area is temporarily open to dredging for a special management season by order of the MCMR, or allowed for a lease holder harvesting oysters from their lease area by a valid lease harvest permit.~~

Chapter 15 Marine Sanitation Devices

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

~~sewage disposal receptacle to contain human sewage. The approved marine sanitation device (MSD), portable toilet or other sewage disposal receptacle shall:~~

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

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

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

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

~~Chapter 16 Management Documents Associated With This Part~~

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

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

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

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

~~103.01 No procedure or guideline of the NSSP or ISSC, which is or may be in conflict with any provisions of Mississippi Code has or should be in the future applied or enforced by the MDMR.~~

~~103.02 No procedure or guideline of the NSSP or ISSC, which is more stringent than any relevant federal regulation or law, has or should be applied by the MDMR.~~

~~103.03 The MDMR may, consistent with its existing practice, dispute any proposed or adopted procedure or guideline of the ISSC, in accordance with the procedures laid down therefore by said Conference, when, in the opinion of the MDMR, any such proposed guideline or regulation would appear to be unnecessary for the~~

accomplishment of the goals of the ISSC, or scientifically invalid, or unduly and unnecessarily burdensome upon the State of Mississippi's molluscan shellfish industry, or for any other reason deemed proper by the MDMR.

~~104 In managing and maintaining its' Management Plan for Shellfish Growing Waters, the MDMR may modify or change area specific management provisions of Chapter 17 of this Part, or the classification and description of shellfish growing area waters in Chapter 18 of this Part in accordance with this Chapter. Area specific management provisions and the classification and description of shellfish growing area waters will be maintained and published as Legal Notices.~~

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

Chapter 17 Management Plan for Shellfish Growing Waters

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

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

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

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

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

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

~~103.01.01 When reports concerning chemical spills, discharge of hazardous wastes, and/or discharge of raw untreated sewage, or poorly treated sewage from~~

malfunctioning city sewage collection system pump stations, chemical plants or users, harbors, shipping terminals, marinas, ships, barges, or the sinking or grounding of vessels carrying hazardous cargoes are substantiated, or when other area specific closing criteria as published by the MDMR are met or exceeded.

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

~~103.01.03~~ When the geometric mean of the seawater from compliant sampling stations in the area exceed a fecal coliform most probable number (MPN) of 14 per 100 ml. and/or more than 10 percent of the samples exceed a MPN of 43 for a 5-tube 3-dilution test.

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

~~103.01.05.01~~ **AREA I “B” CONDITIONALLY APPROVED WATERS—**

~~The Pearl River is equal to or exceeds 10 feet as measured at the Pearl River, Louisiana gauge, and/or, when one (1) or more inches of rainfall occurs in any 24 consecutive hours as measured at the Waveland and/or Bay St. Louis (NASA) NOAA rainfall gauges.~~

~~103.01.05.02~~ **AREA II “A”, II “B” or II “D” CONDITIONALLY**

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

~~103.01.05.03~~ **AREA II “C” CONDITIONALLY APPROVED WATERS**

~~and its’ subdivisions—The Pearl River is equal to or exceeds 12.5 feet as measured at the Pearl River, Louisiana gauge, and/or when two (2) or more inches of rainfall occurs in any 24 consecutive hours as measured at the Waveland or Bay St. Louis (NASA) NOAA gauges.~~

~~103.01.05.04~~ **Area V “A” CONDITIONALLY APPROVED WATERS—**

~~When half (1/2) an inch or more inches of rainfall occurs in any 24 consecutive hours as measured at the Keesler Air Force Base gauge.~~

~~103.01.05.05~~ **Area VI “B” CONDITIONALLY APPROVED WATERS—**

~~When one (1) or more inches of rainfall occurs in any 24 consecutive hours as measured at the rainfall gauge located at Jackson County Public Works Department in Gautier, MS.~~

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

- ~~103.01.07~~ When a closing criteria condition is found to exist, the designated MDMR personnel will immediately notify the MDMR Executive Director, Deputy Director, Director of Marine Fisheries, Bureau Director or Biological Program Coordinator of the situation. The area, or portion thereof, will then be closed in accordance with this Part.
- ~~103.01.08~~ If a controlling gauge for rainfall or river stage reading is missing or unavailable, evaluation of all available information such as from the Intranet, National Weather Service, precipitation estimates, U.S. Geological Survey hydrographic estimates and direct observations will be utilized to determine if the closing criteria had been met or exceeded, in which case, the area will be closed in accordance with this Part.
- ~~103.02~~ When any one or more of the above criteria are found to exist, the MCMR or as hereby authorized the MDMR, its Executive Director, Deputy Director, Director of Marine Fisheries, Bureau Director or Biological Program Coordinator thereof, shall delay opening or shall close subject area, or affected portion thereof, to shellfish harvesting.
- ~~103.03~~ Whenever any shellfish growing water area is closed under the provisions listed above, said waters are hereby deemed not safe and sanitary, and oyster reefs lying in said closed waters are hereby deemed and determined to be contaminated or otherwise unfit for consumption.
- ~~104~~ Areas may be "opened" to start the season and/or may be "re-opened":
- ~~104.01~~ When any chemicals or hazardous waste residuals remaining in the seawater or oyster meats are less than the tolerance set for such chemicals or hazardous waste by the federal agencies responsible; or, when such residuals are judged to be non-hazardous to the public health by the MDMR.
- ~~104.02~~ When any raw sewage spills or discharges are diluted to the point that they are within accepted standards as determined by microbiological analysis of seawater samples collected at the site of the spill or discharge.
- ~~104.03~~ When hurricanes, storms, localized flooding or other natural disasters have subsided; and microbiological analysis of seawater and/or oyster meat samples indicate that the seawater is again acceptable and that the shellfish have gone through a sufficient time interval to permit natural biological cleansing.
- ~~104.04~~ When rainfall has subsided and microbiological analysis of seawater samples indicate that the seawater is again acceptable and that the shellfish have gone through a sufficient time interval to permit natural biological cleansing.
- ~~104.05~~ When, following a delay in the "opening" of the area for oyster season or following a "closure" of the area due to any one or more of the environmental conditions listed above, seawater samples shall be collected from each compliant sampling station in the area for microbiological analysis in accordance with state statute. The seawater shall be deemed acceptable when the microbiological analysis of compliant stations in the area indicates a geometric mean fecal coliform MPN of 14 per 100 ml of water or less. This shall be deemed a sufficient time interval to permit natural biological cleansing; however, if oyster meats are sampled for verification, the results shall be less than a fecal coliform MPN of 230 per 100 grams of meat.

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

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

~~104.07.01 **AREA I “B”, II “A”, II “B” or II “D” CONDITIONALLY**~~

~~**APPROVED WATERS**—The Pearl River has receded to less than 10 feet or has crested as measured at the Pearl River, Louisiana gauge, and/or the microbiological analysis of seawater samples indicate that the seawater is again acceptable and the shellfish have gone through a sufficient time interval to permit natural biological cleansing.~~

~~104.07.02 **AREA II “C” CONDITIONALLY APPROVED WATERS**—The Pearl~~

~~River has receded to less than 12.5 feet or has crested as measured at the Pearl River, Louisiana gauge, and/or the microbiological analysis of seawater samples indicate that the seawater is again acceptable and the shellfish have gone through a sufficient time interval to permit natural biological cleansing.~~

~~104.07.03 **AREA V “A” CONDITIONALLY APPROVED WATERS**—The~~

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

~~104.07.04 **AREA VI “B” CONDITIONALLY APPROVED WATERS**—The~~

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

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

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

~~Chapter 18 Classification and Description of Shellfish Growing Areas Waters~~

~~100 Prohibited Areas~~

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

- 100.01.01 All waters that lie within a 1,000-foot radius of any present or future wastewater treatment plant or facility outfall, or located within any present or future marina, harbor or yacht club are classified as **PROHIBITED**.
- ~~100.02 The following waters of **AREA II (2)** are **PROHIBITED**:~~
- ~~100.02.01 All waters of Bayou Caddy west of a line running from the most seaward point on the south shore of the mouth of Bayou Caddy northward to the most seaward point on the north shore of the mouth of Bayou Caddy.~~
- ~~100.02.02 All waters west of a line commencing at a point on the east shore of the mouth of Joe's Bayou and running due north to a point on the northwestern shoreline of St. Louis Bay. These waters include Joe's Bayou, the Jourdan River, Catfish Bayou, Cutoff Bayou, and all waters west of the described line.~~
- ~~100.02.03 All waters north of a line commencing at the southernmost point of the south shore of the mouth of the Wolf River and running due west to a point of intersection on the aforesaid north-south prohibiting line of the Jourdan River. These waters include Bayou Acadian, the Wolf River, DeLisle Bayou, Cedar Bayou, the northern reaches of St. Louis Bay, and waters adjacent to the DuPont Titanium Oxide Plant.~~
- ~~100.02.04 All waters east of a line commencing at the northwestern most point on the west shore of Mallini Bayou and running in a north-northwestern direction to the Bayou Portage Channel Light 3 (Qk. Fl. 17ft. "3"), thence, running in a north-northwestern direction to a point of intersection on the aforesaid east-west prohibiting line of the Wolf River. These waters include Mallini Bayou, Bayou Portage, and waters of the eastern reaches of St. Louis Bay.~~
- ~~100.03 The following waters of **AREA III (3)** are **PROHIBITED**:~~
- ~~100.03.01 All waters between a LINE running parallel to and 0.5 nautical mile west of the center of the Gulfport Ship Channel and a LINE running parallel to and 0.5 nautical mile east of the center of the Gulfport Ship Channel for the full length of the Gulfport Ship Channel.~~
- ~~100.04 The following waters of **AREA V (5)** are **PROHIBITED**:~~
- ~~100.04.01 All waters between a LINE running parallel to and 250 feet west of the center of the Broadwater Channel and a LINE running parallel to and 250 feet east of the center of said Channel for the full length of the Broadwater Channel.~~
- ~~100.04.02 All waters between a LINE running parallel to and 250 feet west of the center of Biloxi Channel and a LINE running parallel to and 250 feet east of the Biloxi Channel for the full length of said Channel.~~
- ~~100.04.03 All waters including Biloxi Channel between the mainland shoreline and Deer Island as defined by the following line: A line commencing at the southeastern most tip of Point Caddie (Coast Guard Point) in the City of Biloxi, Mississippi, thence, directly south to the north shore of Deer Island, thence, following the meanderings of the Deer Island shoreline northwestward to the west end of Deer Island, thence, due west toward Biloxi Channel Light 12, (Fl. R. 2.5 sec. 17 Ft. 3M "12") intersecting the Biloxi Channel east prohibiting line herein established, thence, north along~~

- ~~said prohibiting line to the mainland shoreline and along said mainland shoreline to the point of beginning.~~
- ~~100.04.04 All waters of the Biloxi Back Bay and tributaries of Biloxi Back Bay north of the U.S. Highway 90 Bridge.~~
- ~~100.04.05 All waters of the Ocean Springs Small Craft Harbor, Channel, and Bayou.~~
- ~~100.05 The following waters of **AREA VI (6)** are **PROHIBITED**:~~
- ~~100.05.01 All waters of the Pascagoula River system north of the CSX railroad bridge to the boundary of **AREA VI**.~~
- ~~100.05.02 All waters east of the Singing River Island Bridge to the western most boundary of **AREA VI**.~~
- ~~100.06 The following waters of **AREA VII (7)** are **PROHIBITED**:~~
- ~~100.06.01 All waters north of a line running east to west along the north side of the U.S. Highway 90 Pascagoula River Bridge from a point on the west bank of the East Pascagoula River to a point on the west bank of the West Pascagoula River including the East Pascagoula River, the West Pascagoula River, Marsh Lake, and all associated tributaries.~~
- ~~100.06.02 All waters enclosed by the following described line:~~
- ~~100.06.02.01 The line is the western boundary of Area VII commencing from a point on the west bank of the East Pascagoula River and the north side and east end of the U.S. Highway 90 Pascagoula River Bridge, thence, running south along said west bank to the Pascagoula Bay at the mouth of the East Pascagoula Channel, thence, running along said west spoil bank line southeastward to a point on a line running due east from Round Island North Spit Light 2 (Fl. R. 4 sec. 17ft. "2"), thence, running due west on said east-west line for 0.5 nautical mile from the west spoil bank line, thence, running southeastward, parallel to and remaining 0.5 nautical mile west from the west spoil bank line of the Pascagoula Channel to a point of directional change, thence, running southward, parallel to and remaining 0.5 nautical mile west from the west spoil bank line of the Pascagoula Channel to a point due west of the western tip of Petit Bois Island, thence, running due east from said point to a point 0.5 nautical mile east from the east spoil bank line of the Pascagoula Ship Channel, thence, running northward, parallel to and remaining 0.5 nautical mile east from the east spoil bank line of the Pascagoula Ship Channel, to a point due east of Pascagoula Channel Lighted Buoy 28, (R. "28" Fl. R. 2.5 sec.), thence, running northeastward to that southernmost tip of that part of the Grande Batture Islands just south of L'Isle Chaude Bay, thence, running westward to the northern shore of the mouth of Brown Bayou on Pt. aux Chenes, thence, after enclosing the waters of Brown Bayou, running southwestward following the meanderings of the shoreline and enclosing shoreline tributaries, natural or manmade, around Pt. aux Chenes to the eastern shore of Bayou Cassotte, thence, after enclosing the waters and tributaries of Bayou Cassotte, running northwestward~~

following the meanderings of the shoreline to the eastern shore of Bayou Chico, thence, after enclosing the waters and tributaries of Bayou Chico, running westward following the meanderings of the shoreline and enclosing tributaries, manmade or natural, to the eastern shore of the mouth of the East Pascagoula River, thence, running northward following the east bank of the East Pascagoula River and enclosing the waters of each of its' tributaries, natural or manmade, to a point on the north side and east end of the U.S. Highway 90 Pascagoula River Bridge, thence, running westward along the north side of said Bridge to a point on the west bank of the East Pascagoula River and the north side and east end of said Bridge, which is the **POINT OF BEGINNING**. These herein described prohibited waters include: the East Pascagoula River, the Pascagoula Channel and adjacent waters, Bayou Chico, Bayou Cassotte, the Bayou Cassotte Ship Channel and adjacent waters, and adjacent waters of Pt. Aux Chenes around to and including Brown Bayou.

~~101~~ **Unclassified Areas**

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

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

~~102~~ **Restricted Areas**

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

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

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

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

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

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

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

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

~~102.03.01 All waters of Biloxi Bay and Davis Bayou, and its' tributaries except, for those waters classified as **PROHIBITED, CONDITIONALLY APPROVED, or APPROVED.**~~

~~102.03.02 Area V "B" enclosed by the following described line:~~

~~— 102.03.03 Starting at a point on the northernmost boundary of the Biloxi East Access Channel (Latitude 30.402386 Longitude 88.842264); thence running northeasterly along the most direct line to a point 750 feet from the Ocean Springs front beach shoreline (Latitude 30.406441 Longitude 88.838109); thence southeasterly, following the meanderings of the shoreline, 750 feet therefrom, to a point 750 feet from the shoreline at a point (Latitude 30.3929 Longitude 88.8114); thence running southerly in the most direct line to the northern most point on the shoreline at Marsh Point; thence following the meandering shoreline around Marsh Point in a southeasterly direction to a point adjacent to the southern shoreline of Marsh Point (Latitude 30.374581 Longitude 88.842264); thence~~

southwesterly in the most direct line to a point (Latitude 30.369903- Longitude 88.7999863) Channel Marker 18 in Biloxi East Access Channel; thence running northwesterly along the northernmost boundary of the Biloxi East Access Channel (Latitude 30.402386 Longitude 88.842264), said the POINT OF THE BEGINNING. This area includes the public reef known as Shearwater Reef.

~~102.04 The following waters of AREA VI (6) are RESTRICTED:~~

~~102.04.01 AREA VI "A" enclosed by the following described line:~~

~~102.04.01.01 The line commences at the Lake Mars Boat Launch (Latitude 30.360893 Longitude 88.764220) running due east following the meanderings of the mainland shoreline to a point (Latitude 30.377615 Longitude 88.610933) on the CSX Railroad Bridge following the CSX Railroad Bridge east to a point (Latitude 30.376293 Longitude 88.604185); thence proceeding south along the meanderings of the mainland shoreline to a point (Latitude 30.361541 Longitude 88.584336) on the Singing River Bridge; thence proceeding south along the western boundary of said Bridge to a point (Latitude 30.338510 Longitude 88.582114); thence proceeding south following the meandering shoreline of Singing River Island to a point (Latitude 30.323815 Longitude 88.574723); thence running southeasterly to a point (Latitude 30.279013 Longitude 88.53495); thence proceeding south to a point (Latitude 30.223857 Longitude 88.528741); thence proceeding west to a point (Latitude 30.223858 Longitude 88.537121); thence proceeding north to a point (Latitude 30.257444 Longitude 88.542928); thence proceeding northwest to a point (Latitude 30.322604 Longitude 88.583315); thence running west to a point (Latitude 30.330218 Longitude 88.765587); thence running north to the POINT OF BEGINNING. This area includes the public reefs known as Pascagoula Causeway and West Pascagoula.~~

~~102.05 The following waters of AREA VIII (8) are RESTRICTED:~~

~~102.05.01 All waters of Bayou Cumbest.~~

~~102.05.02 All waters of Bayou Heron and its tributaries and all waters of Mattie Clark Bayou and its tributaries.~~

~~102.05.03 All waters of Bang's Lake, North Bayou and Bangs Bayou and their tributaries south of Latitude 30°23.000'N.~~

~~102.05.04 All waters and tributaries of Point Aux Chenes Bay and Mississippi Sound north of a line beginning at a point on the western shoreline of Point Aux Chenes Bay north of Brown Bayou at Latitude 30°20.500'N and running due east to the Mississippi/Alabama state line boundary; including all waters and tributaries of L'Isle Chaude Bay, Jose Bay, Grand Bay, North and South Rigolets, Middle Bay, Jose Bayou, Graw Point Bay, Crooked Bayou, Southwest Bayou, Clay Bayou and Middle Bayou, unless otherwise classified.~~

~~103 Conditionally Approved Areas~~

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

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

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

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

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

~~103.02.01.01 The line commences at a point on the CSX Railroad Bridge across St. Louis Bay at the center of the swing span and runs easterly along said bridge to a point 700 feet seaward of the eastern end of said bridge thence, running south-southeastwardly, parallel to and remaining 700 feet seaward of the mainland shoreline around Henderson Point following the meanderings of the mainland shoreline 700 feet there from, running easterly and remaining 700 feet seaward of the prohibited waters of Pass Christian Municipal Harbor to a point 700 feet seaward of the southernmost point on the mainland shoreline due south of Menge Avenue in Pass Christian, Mississippi, thence, running south-southeastwardly, along a direct line drawn between the aforesaid point to the westernmost tip of Cat Island, to a point one (1) nautical mile from the mainland shoreline, thence running westerly, parallel to and following the meanderings of the mainland shoreline, maintaining a distance of one (1) nautical mile there from, to a point one (1) nautical mile south of the CSX Railroad Bridge across St. Louis Bay, on a line drawn between the Mississippi Square Handkerchief Shoal Light 2 (FL R 4s 17ft 4M "2") and a point on the CSX Railroad Bridge across St. Louis Bay at the center of the swing span, thence northeasterly following said line to a point on the CSX Railroad Bridge across St. Louis Bay at the center of the swing span, said point being the **POINT OF BEGINNING**. This area includes portions of the public reefs known as Henderson Point and Pass Christian.~~

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

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

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

~~103.02.03.01~~ The line commences at a point one (1) nautical mile from the mainland shoreline on a direct line drawn between a point 700 feet seaward of the southernmost point on the mainland shoreline due south of Menge Avenue in Pass Christian, MS, to the westernmost tip of Cat Island, thence running westerly, parallel to and following the meanderings of the mainland shoreline, maintaining a distance of one (1) nautical mile there from, to a point one (1) nautical mile south of the CSX Railroad Bridge across St. Louis Bay, on a line drawn between the Mississippi Sound Square Handkerchief Shoal Light 2 (FL R 4s 17ft 4M "2") and a point on the CSX Railroad Bridge across St. Louis Bay at the center of the swing span, thence running due west from said Mississippi Sound Square Handkerchief Shoal Light 2 to Longitude 89°20.000'W, thence southerly along Longitude 89°20.000'W to a point of intersection with a line drawn through Mississippi Sound Pass Marianne Light 4P (FL R 2.5s 17ft 3M "4P") and Mississippi Sound Pass Marianne Light 15P (FL G. 4s 17ft. 5M "15P"), thence running north-northeasterly from said Pass Marianne Light 15P, thence running northeasterly to Mississippi Sound Pass Marianne Buoy 12P, thence running northeasterly to the Mississippi Sound Pass Marianne Merrill Shell Bank Light (FL W 6s 30ft. 4M), thence running northerly to Mississippi Sound Pass Marianne Buoy 6P, thence running northeasterly to Mississippi Sound Pass Marianne Light 4P (FL R 2.5s 17ft 3M "4P"), thence running easterly to Mississippi Sound Pass Marianne Buoy 2P, thence running easterly to Mississippi

Sound Marianne Channel Lighted Buoy 3 (FLG 4s 4M "3"),
thence running northeasterly from said Marianne Channel Lighted
Buoy 3 to a point of intersection on the Mississippi Intracoastal
Waterway with a line drawn north-northwesterly from the
westernmost tip of Cat Island and a point 700 feet seaward of the
southernmost point on the mainland shoreline due south of Menge
Avenue in Pass Christian, MS, thence running north-
northwesterly along said line to the **POINT OF BEGINNING**.
This area includes the northern portion of Pass Marianne reef and
southern portions of the Pass Christian reef.

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

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

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

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

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

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

~~103.02.05 AREA V "A" enclosed by the following described line:~~

~~103.02.05.01 Starting at a point 750 feet east of the eastern most point of
shoreline at Point Cadet Marina; thence running north-easterly
along the most direct line to a point (Latitude 30.402081
Longitude -88.842577) thence running southeasterly along the
southernmost boundary of the Biloxi East Access Channel, to a
point (Latitude 30.368859 Longitude -88.801177) Channel
Marker 17; thence southwestly to the southernmost tip of Deer
Island; thence following the northern shoreline of Deer Island, to
a point due south of the beginning point 750 feet east of the
eastern most shoreline at Point Cadet in Biloxi Bay; thence
running due north to said point, the point of beginning. This area
includes the public reef(s) known as Biloxi Bay Reef.~~

~~103.02.06 AREA VI "B" enclosed by the following described line:~~

~~103.02.06.01 The line commences at the northwestern most point (Latitude 30.327367 Longitude 88.698183); thence running east to a point (Latitude 30.322604 Longitude 88.583315); thence proceeding southeasterly to a point (Latitude 30.277430 Longitude 88.544702); thence running west to a point (Latitude 30.284142 Longitude 88.698114); thence running north to the POINT OF BEGINNING.~~

104 Approved Areas

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

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

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

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

- 104.01.01.02.01 ~~AREA II “H” is comprised of those waters of AREA II APPROVED that are west of Longitude 89° 15.000’ W.~~
- 104.01.01.02.02 ~~AREA II “I” is comprised of those waters of AREA II APPROVED that are east of Longitude 89° 15.000’ W.~~

Chapter 19 Regulations for Relaying Activities

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

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

~~101 Approval of Relaying Permit~~

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

~~102 Harvesting of Relayed Shellfish~~

~~102.01 Harvesting of shellfish is permitted only during daylight hours and with the most efficient gear possible, consistent with conservation considerations, and in such a way not to damage the reef.~~

~~102.01.01 This includes permission to use two (2) dredges per boat in restricted areas and on private leased grounds.~~

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

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

~~103 Bonding~~

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

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

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

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

~~104 Relaying Procedures~~

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

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

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

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

~~105 Permission to Harvest Relayed Shellfish~~

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

~~106 Time Periods Between Relaying and Harvesting of Relayed Shellfish~~

- ~~106.01 There shall be a sufficient time interval to allow natural biological cleansing of the shellfish between the time the permittee is permitted to take the shellfish from the restricted area(s), and the time he is then allowed to harvest these shellfish or any other shellfish from his leased area, during which time neither activity is allowed.~~
- ~~106.01.01 During this time interval, the permittee nor any other person or entity is allowed to harvest the relayed shellfish.~~
- ~~106.01.02 This period shall be at least fourteen (14) consecutive days, except if the area relayed to fails during any of those 14 consecutive days to meet all requirements of its management plan.~~
- ~~106.01.03 If during the 14 consecutive days, the area fails to meet its management plan as specified above, harvesting shall be not be allowed until the area has once again met its management plan for 14 consecutive days, or until shorter periods of time are demonstrated to be adequate to permit natural biological cleansing to occur.~~
- ~~106.01.04 The period of time to allow natural biological cleansing shall be deemed sufficient and adequate if the bacteriological quality of the shellfish after relaying are of the same quality as the same species already in the approved or conditionally approved relay area; or if oyster meats are sampled for verification, the results shall be less than a fecal coliform MPN of 230 per 100 grams of meat, provided that no evidence exists that the shellfish prior to relaying contained substances that equal or exceed the action levels, tolerances, and other established levels for poisonous or deleterious substances in seafood as established by the Food and Drug Administration, and/or any levels of substances established by the State of Mississippi.~~

~~107 Protection from Contamination~~

- ~~107.01 All relayed shellfish shall be protected from contamination sources such as, but not limited to, boat fuel, oil, bilge, dogs, cats, birds, and other animals, and from sunlight for extended periods of time.~~
- ~~107.02 All portions of boats and other equipment coming in contact with shellfish relayed from restricted areas to permitted approved or conditionally approved areas shall be rinsed with waters from such approved or conditionally approved waters after each unloading and prior to leaving the permitted approved or conditionally approved area.~~

~~108 Relaying Records~~

- ~~108.01 The MDMR Biological Program Coordinator and each permittee shall maintain adequate relaying records.~~
- ~~108.01.01 Each record shall note the quantity and type shellfish relayed, dates of relaying, specific areas shellfish are relayed from and to, and any other necessary information.~~

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

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

Chapter 20 Penalties

~~(This chapter was deleted. These statements are no longer necessary.)~~

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

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

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

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

Chapter 21 Chapters and Subchapters Declared Separable

~~(This chapter was deleted. This statement is no longer necessary.)~~

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

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

Chapter 22 Administrative Procedures Act

~~(This chapter was deleted. This statement is no longer necessary.)~~

~~100 Pursuant to the amendments to the Administrative Procedures Act, § 25-43-1.101, *et seq.*, of the Mississippi Code Ann. of 1972, as amended, and the rules and regulations promulgated pursuant thereto by the Secretary of State; the former Ordinance 1.016 has been modified and the MCMR and Mississippi Department of Marine Resources have adopted the terminology and numbering system developed by the Secretary of State. Therefore,~~

~~references to “ordinance” or to “Part” appearing in these regulations or the underlying statutes are used interchangeably and refer to the same instrument.~~

~~TITLE 22 — MISSISSIPPI DEPARTMENT OF MARINE RESOURCES~~

~~PART 17 REGULATION OF MOLLUSCAN SHELLFISH LANDING, UNLOADING, TRANSPORTING, PROCESSING, BUYING, SELLING, OPENING, AND OTHER MOLLUSCAN SHELLFISH RELATED ACTIVITIES IN THE STATE OF MISSISSIPPI~~

~~Chapter 01 Introduction~~

~~(Moved to Part 1, Chapter 1, Introduction)~~

Purpose

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

~~Chapter 02 Justification and Authority~~

~~(Deleted this Chapter because these statements are already written in Miss Code and it is not necessary to restate.)~~

~~100 The Mississippi Commission on Marine Resources (herein after referred to as the “Commission”) has determined that it is in the best interest of the State of Mississippi and necessary for the protection, conservation, and propagation of all molluscan shellfish in the waters under the territorial jurisdiction of the State of Mississippi to regulate the landing, unloading, transporting, processing, buying, selling, opening, and other molluscan shellfish related activities in the state.~~

~~101 The Commission is required by Miss. Code Ann. § 49-15-15 (1) (c) to regulate all seafood sanitation and processing programs.~~

~~102 The Commission is required by Miss. Code Ann. § 49-15-44 to prohibit the sale or possession of illegal oysters as defined in Miss. Code Ann. § 49-15-3 (e).~~

~~103 Miss. Code Ann. § 49-15-28, addresses seafood wholesale licensing.~~

~~104 Miss. Code Ann. § 49-15-29, authorizes the Commission to assess and collect certain taxes and license fees.~~

~~105 Miss. Code Ann. § 49-15-30, authorizes the Commission to promulgate regulations for nonresident certificates.~~

~~106 Miss. Code Ann. § 49-15-42, addresses tagging, landing and unloading of oysters.~~

~~107 Miss. Code Ann. § 49-15-43, addresses the packaging of oysters.~~

~~108 Miss. Code Ann. § 49-15-45, provides that certain municipalities may enforce oyster regulations.~~

~~109 Miss. Code Ann. § 49-15-46 (4), requires all oysters harvested in Mississippi shall be tagged.~~

~~110 Miss. Code Ann. § 49-15-63, addresses general penalties for violation of these regulations.~~

Chapter 03 Definitions

(All definitions were moved to Part 1, Chapter 2, Definitions and dispersed through the chapter in alphabetical order. Duplicate definitions were deleted.)

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

~~101 **ADEQUATELY ICED**—means the containers holding the molluscan shellfish have enough ice on the molluscan shellfish to provide cooling to achieve required internal temperature as defined in the most current version of the Interstate Shellfish Sanitation Conference's (ISSC) National Shellfish Sanitation Program (NSSP) Model Ordinance.~~

~~102 **CERTIFIED INTERSTATE SHELLFISH SHIPPER**—An individual, firm or corporation who has been issued a numbered license and certification by the Commission or the Mississippi Department of Marine Resources (DMR), its Executive Director, Director of Marine Fisheries, Seafood Technology Bureau Director or other DMR designee for molluscan shellfish handling and processing, or a non-resident individual, firm or corporation who has been issued a numbered license and certification by the non-resident's appropriate State Shellfish Control Authority indicating that the individual, firm or corporation operates in compliance with the sanitation and program regulations of the NSSP, and is therefore eligible to participate in the interstate shipment of molluscan shellfish.~~

~~103 **CERTIFIED SHELLFISH PLANT**—A certified shellfish plant is defined as a shellfish plant which complies with the provisions of this Part and which possesses a valid shellfish processing plant license and certification from the Commission or the DMR, its Executive Director, Director of Marine Fisheries, Seafood Technology Bureau Director or other DMR designee for shellfish handling and processing. A certified shellfish plant is recognized as a Certified Interstate/Intrastate Shellfish Shipper. A certified shellfish plant is designated as either a: Shellstock Shipper (SS), Shucker Packer (SP), Repacker (RP) or Reshipper (RS).~~

~~104 **ILLEGAL MOLLUSCAN SHELLFISH**—All molluscan shellstock, molluscan shellfish, obtained from uncertified shops or dealers or from an unlicensed harvester, molluscan shellstock obtained from waters not declared safe and sanitary by the DMR and offered for~~

~~sale or sold, and shucked molluscan shellfish obtained from uncertified shops or dealers (Miss Code Ann. §49-15-3(e)).~~

- ~~105 INTERSTATE COMMERCE—The movement of a shipment or service across state or international borders; or the intent to continue a movement within a state that originated from another state or country.~~
- ~~106 INTRASTATE COMMERCE—The movement that originates in a single state, moves in that state only and delivers in that originating state.~~
- ~~107 LANDED—The point at which molluscan shellfish first are brought to a point of land after being harvested and are no longer transported by boat or vessel.~~
- ~~108 MOLLUSCAN SHELLFISH—All edible molluscan shellfish species of oysters, clams, mussels, or scallops; either shucked or in the shell; fresh or frozen; whole or in part.~~
- ~~109 MISBRANDED—Shucked molluscan shellfish shall be deemed to be misbranded if its labeling is false or misleading in any way, or if it does not bear a label in accordance to Chapter 11 (Labeling and Tagging of Molluscan Shellfish) of this Part.~~
- ~~110 REPACKER (RP)—A person other than the original certified shucker-packer who repacks shucked molluscan shellfish into other containers. A repacker may also repack and ship shellstock. A repacker shall not shuck molluscan shellfish.~~
- ~~111 RESHIPPER (RS)—A person who purchases shucked molluscan shellfish or shellstock from other certified shippers and sells the product without repacking or relabeling to other certified shippers, wholesalers, or retailers.~~
- ~~112 SHALL—Is used to state mandatory requirements.~~
- ~~113 SHELLSTOCK—Molluscan shellfish in the shell.~~
- ~~114 SHELLSTOCK SHIPPER (SS)—A person who grows, harvests, buys, or repacks and sells shellstock. They are not authorized to shuck molluscan shellfish or to repack shucked molluscan shellfish. A shellstock shipper may also ship shucked molluscan shellfish.~~
- ~~115 SHOULD—Is used to state recommended or advisory procedures or to identify recommended equipment.~~
- ~~116 SHUCKER-PACKER (SP)—A person who shucks and packs molluscan shellfish. A shucker-packer may act as a shellstock shipper or reshipper or may repack molluscan shellfish originating from other certified dealers.~~

Chapter 04 Requirements for Non-Residents

(This chapter was moved to Part 1, Chapter 3 and reworded for clarification)

~~100 As provided for in Miss. Code Ann. § 49-15-30, it shall be unlawful for any nonresidents buying, selling, transporting, or handling molluscan shellfish in the State of Mississippi to fail to:~~

~~100.01 Purchase or pay all fees and licenses required of a Mississippi resident engaged in a similar or like activity in said nonresident's state.~~

~~100.02 Purchase or pay all additional fees and licenses required of a Mississippi resident engaged in a similar or like activity in Mississippi.~~

Chapter 05 Transfer of Tagged Molluscan Shellfish

~~(This chapter was moved to Part 1, Chapter 4, Rule 4.5)~~

~~100 When molluscan shellfish are transferred from a licensed harvester to a certified dealer or from a certified dealer's mobile unit to another certified dealer's mobile unit, the transfer of tagged molluscan shellfish shall take place across transfer facilities or locations that are periodically monitored by DMR for sanitary conditions or at a certified dealer's facility that is inspected by the DMR. There shall be no such transfers at any other locations except for emergency conditions as declared by the certified dealer and approved by the DMR. It shall be unlawful to fail to comply with the terms of this section.~~

Chapter 06 Molluscan Shellfish Handling and/or Processing Facilities

~~(Number 100 was moved to Part 1, Chapter 9, Rule 9.3)~~

~~100 Any person, firm, corporation or business desiring to alter an existing or construct a new molluscan shellfish handling/transporting/processing facility shall acquire a Mississippi Certified Shellfish Sanitation or Processing Plant license and certification from the DMR to operate any such facility, should contact the DMR staff in charge of the regulatory molluscan shellfish handling and processing responsibilities. The DMR staff shall be contacted prior to handling or processing any molluscan shellfish in any fashion in any altered or new molluscan shellfish handling/transporting/processing facility. It shall be unlawful to fail to comply with the terms of this section.~~

~~(Number 101 was moved to Part 1, Chapter 1, Introduction)~~

~~101 The DMR shall manage the State of Mississippi's molluscan shellfish sanitation program according to the relevant specifications stated in the current NSSP Model Ordinance Guidelines/ISSC, and according to Commission Title and Parts that are not in conflict with these specifications and according to the applicable statutes of the State of Mississippi. The current NSSP Model Ordinance is available from the ISSC website: <http://www.issc.org>.~~

~~(Number 101 was moved to Part 1, Chapter 9, Rule 9.5 and reworded for clarification)~~

~~102 The DMR's management includes inspections of the certified facilities in accordance with relevant NSSP/ISSC sanitation/health safety specifications and issuance to certified dealers itemized statements of compliances and non-compliances with these specifications. For the cited excessive non-compliances, the DMR shall provide the processor a schedule of corrections to bring the facilities into compliance according to the current and applicable NSSP/ISSC specifications. Otherwise, certification shall not be issued or renewed, and will~~

~~be considered revoked. It shall be unlawful to operate a processing or shipping facility without a current valid license and certification.~~

(Number 103 was moved to Part 1, Chapter 3, Rule 3.1)

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

~~103.01 No procedure or guideline of the NSSP/ISSC, which is or may be in conflict with any statute of the Legislature of the State of Mississippi has or should be in the future applied or enforced by the DMR.~~

~~103.02 No procedure or guideline of the NSSP/ISSC which may be more stringent than any relevant federal regulation or law has or should be applied by the DMR.~~

~~103.03 The DMR may, consistent with its existing practice, dispute any proposed or adopted procedure or guideline of the NSSP/ISSC, in accordance with the procedures laid down therefore by said Conference; when, in the opinion of the DMR, any such proposed guideline or regulation would appear to be unnecessary for the accomplishment of the goals of the NSSP/ISSC, or scientifically invalid, or unduly and unnecessarily burdensome upon the State of Mississippi's molluscan shellfish industry, or for any other reason deemed proper by the DMR.~~

~~Chapter 07 Legally Harvested and Properly Tagged~~

(This chapter was moved to Part 1, Chapter 4, Rule 4.1 and reworded for clarification)

~~100 It shall be unlawful for any person, firm, or corporation to possess, land, handle, unload, open, sell or offer for sale or transport any molluscan shellfish taken from the waters under the territorial jurisdiction of the State of Mississippi except those molluscan shellfish taken legally and properly tagged from an area declared open to molluscan shellfish harvesting by public order of the Commission or as hereby authorized by the DMR, its Executive Director, Director of Marine Fisheries, Seafood Technology Bureau Director or other DMR designee in accordance with the procedures outlined in the most current version of Title 22 Part I (Oyster Harvesting) and as provided for in Miss. Code Ann. § 49-15-42.~~

~~Chapter 08 Possession of Illegal Molluscan Shellfish~~

(Deleted this Chapter. This statement is a duplicate of Mississippi Code)

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

~~Chapter 09 Processing Plant Requirements for License and Certification~~

(Number 100 was deleted because it is already stated in Mississippi Code and does not need to be restated.)

~~100 As provided in Miss. Code Ann. § 49-15-15 (1)(c), in the three coastal counties, the shellfish sanitation program regulating processing plants and molluscan shellfish sold in retail stores-~~

~~operating in conjunction with a processing plant or seafood market that primarily deals with seafood is under the exclusive authority of the Commission.~~

(Number 101 was moved to Part 1, Chapter 9, Rule 9.1)

~~101 It shall be unlawful for any person, firm or corporation to engage in handling, shucking, packaging, repackaging, or shipping molluscan shellfish for sale, who does not possess a dealer's or processor's license and certification from the Commission or as hereby authorized by the DMR, its Executive Director, Director of Marine Fisheries, Seafood Technology Bureau Director or other DMR designee in charge of molluscan shellfish handling and processing. The license and certification must be renewed annually. This does not apply to a restaurant or similar establishment, which may shuck and serve, under sanitary conditions, raw oysters at a half shell bar for consumption on the premises.~~

(Number 102 was moved to Part 1, Chapter 9, Rule 9.2)

~~102 Each certified molluscan shellfish seafood facility shall follow the provisions as described in the general requirements for dealers in the current NSSP Model Ordinance Guidelines.~~

(Number 103 was moved to Part 1, Chapter 9, Rule 9.7)

~~103 A license and certification held by a person shall be suspended or revoked by the Commission when it has reason to believe that a public health hazard exists or whenever the holder has violated any of the requirements of this regulation or whenever the holder has interfered with a representative of the DMR in the performance of duties.~~

(Number 104 was moved to Part 1, Chapter 9, Rule 9.7)

~~104 The DMR shall in all cases serve upon the holder a written notice of intent to suspend the license and certification. The notice shall specify the violations and afford the holder such reasonable opportunity to correct such violations as may be agreed to by the parties or in absence of agreement fixed by the Commission before making any order of suspension effective. A copy of the inspection sheet handed to the license and certification holder or his authorized representative, or in their absence, posted in a conspicuous place in the establishment, shall constitute a written notice to suspend the license and certification.~~

(Number 105 was moved to Part 1, Chapter 9, Rule 9.7)

~~105 A suspension of license and certification shall remain in effect until the violation has been corrected to the satisfaction of the Commission. In a case where the molluscan shellfish and molluscan shellfish products involved create a health hazard or whenever adulterated or misbranded molluscan shellfish and/or molluscan shellfish products are found, or in any case of willful refusal to permit an inspection, the DMR, its Executive Director, Seafood Technology Bureau Director, or other DMR personnel designated by the DMR Executive Director, may issue a Cease and Desist order effective immediately to suspend all related molluscan shellfish activities. This order shall be in effect until such time as proper corrective actions have been taken and the order is officially lifted.~~

(Number 105 was moved to Part 1, Chapter 9, Rule 9.7)

~~106 Upon request for reapplication, from any person whose license and certification has been suspended, the Commission or as hereby authorized DMR officers, the DMR shall make~~

such inspection(s) and/or collect samples as deemed necessary to determine compliance with the requirement of this regulation. Upon repeated violations, the Commission may revoke a license and certification following reasonable notice to the license and certification holder and an opportunity for a hearing.

Chapter 10 Adulterated, Misbranded, or Unlabeled Molluscan Shellfish and Molluscan Shellfish Products Prohibited

(This chapter was moved to Part 1, Chapter 6, Rule 6.3)

~~100 It shall be unlawful for any person within the state of Mississippi, under the jurisdiction and authority of the Commission in accordance with Miss. Code Ann. 49-15-15 (1) (c) to provide, purchase, sell, offer, possess, or expose for sale, or have in possession with intent to sell, any raw molluscan shellfish and molluscan shellfish products which are adulterated, misbranded, mislabeled or unlabeled.~~

~~101 No person shall hold or pack molluscan shellfish under conditions whereby the molluscan shellfish may become adulterated.~~

~~102 Any adulterated, misbranded, mislabeled, or unlabeled molluscan shellfish or molluscan shellfish products under the jurisdiction and authority of the Commission in accordance with Miss. Code Ann. 49-15-15 (1) (c), may be impounded by the direction of the Commission or as hereby authorized by the DMR, its Executive Director, Director of Marine Fisheries, Seafood Technology Bureau Director or other DMR designee in charge of molluscan shellfish handling and processing, or Marine Patrol Officer.~~

~~103 Seizure and disposal of molluscan shellfish products shall be carried out by a Marine Patrol Officer as directed by the Commission, or as hereby authorized by the DMR Executive Director, Director of Marine Fisheries, Seafood Technology Bureau Director or Certified Seafood Officer, in charge of molluscan shellfish handling and processing.~~

Chapter 11 Labeling and Tagging of Molluscan Shellfish

(This chapter was moved to Part 1, Chapter 5)

~~100 All containers or packages enclosing fresh shucked or frozen raw shucked molluscan shellfish and shucked molluscan shellfish products shipped within, into or out of the State of Mississippi shall originate from a certified dealer and shall be conspicuously, indelibly, and legibly labeled with the following information:~~

~~100.01 Name of the product.~~

~~100.02 Name and address of the packer, repacker, or distributor.~~

~~100.03 Size of container.~~

~~100.04 Certification number.~~

~~100.05 Net drained weight when packed.~~

- ~~100.06 On packages containing sixty-four (64) fluid ounces or more shall have on the lid and sidewall or bottom the "DATE SHUCKED" indicated as the number of the day, month and year or the month, day and year.~~
- ~~100.07 On packages of less than sixty-four (64) fluid ounces of fresh product labeled with the wording "SELL BY" followed by a date expressed as a month, day and year, not to exceed seventeen (17) days from the date shucked.~~
- ~~100.08 Containers of frozen shucked molluscan shellfish shall show the date the product was shucked and the date frozen, labeled as "DATE SHUCKED" and "DATE FROZEN" followed by the date expressed as the month, day, and year. Shucked product previously frozen must be labeled with the wording "PREVIOUSLY FROZEN".~~

~~101 All molluscan shellfish shipped within, into or out of the State of Mississippi by a certified dealer shall be tagged with the following indelible, legible information:~~

- ~~101.01 Dealer's name~~
- ~~101.02 Dealer's address~~
- ~~101.03 Dealer certification number and original shellstock shipper's certification number~~
- ~~101.04 Date of harvest~~
- ~~101.05 Harvest area~~

~~102 When both the harvester and dealer tags appear on the container, the dealer's tag is not required to duplicate the information on the harvester's tag.~~

~~103 It shall be unlawful for any molluscan shellfish harvested from Mississippi waters or landed in the state and shipped into interstate commerce to originate from other than a Mississippi Certified Dealer.~~

~~104 If the molluscan shellfish is removed from the original container by the dealer, the tag on the new container shall meet the requirements in Chapter 11 of this Part.~~

~~105 All molluscan shellfish and shucked molluscan shellfish shipped by a certified dealer within, into or out of the State of Mississippi shall be accompanied by a bill of lading or bill of sale with the following information:~~

- ~~105.01 Shipper's name, address, and certification number.~~
- ~~105.02 Date of shipment.~~
- ~~105.03 Name and address of consignee.~~
- ~~105.04 Type and quantity of molluscan shellfish products.~~
- ~~105.05 Bulk tagging of shellstock is permitted when conducted in accordance with current NSSP guidelines as described in the most current version of the NSSP's Model Ordinance.~~

~~106 The Executive Director may establish additional labeling and tagging requirements as may be required or necessary according to the most recent labeling/tagging changes in the current version of the ISSC's NSSP Model Ordinance.~~

Chapter 12 Purchase and Sales Records / Molluscan Shellfish Tag Retention

~~(This chapter was moved to Part 1, Chapter 6)~~

~~100 Persons, firms or corporations handling, shucking, buying, selling, or shipping molluscan shellfish shall keep accurate records showing the names, addresses, and certification numbers of all persons from whom lots of molluscan shellfish are received, the source of each lot (growing area) and the names and addresses of persons to whom lots are sold or shipped and the dates of the aforementioned transactions. Shellfish tags are required to be attached to containers until containers are empty and thereafter kept on record for at least ninety (90) days. Persons, firms or corporations handling, shucking, buying, selling or shipping shellstock shall record the tag number of each container of shellstock and to whom or from whom the shellstock were shipped, sold, bought or received. Such records shall be open to inspection at any time during operating hours, by any duly authorized representative of the DMR, including Officers of the Marine Patrol.~~

Chapter 13 Shipping and Transportation of Molluscan Shellfish

~~(This chapter was moved to Part 1, Chapter 7)~~

~~100 Licensed harvesters may transport their own daily harvested shellstock intrastate unrefrigerated, within the time limits under the most recent time/temperature changes in the current version of the ISSC's NSSP Model Ordinance.~~

~~101 Interstate shipping of molluscan shellfish shall only be through a certified seafood dealer or processor and no molluscan shellfish shall enter or exit the state of Mississippi unrefrigerated.~~

~~102 It shall be unlawful for shellstock to fail to be transported in refrigerated trucks when the shellstock have been previously refrigerated.~~

~~103 When mechanical refrigeration units are used, the units shall:~~

~~103.01 Be equipped with automatic controls; and~~

~~103.02 Maintain the ambient air temperature in the storage area at temperatures consistent with the requirements in the most recent time/temperature changes in the current version of the ISSC's NSSP Model Ordinance.~~

~~104 All ice used in the processing, storage, or transportation of shellstock or shucked molluscan shellfish shall:~~

~~104.01 Be made on-site from potable water in a commercial ice machine; or~~

~~104.02 Come from a facility sanctioned by the DMR or the appropriate regulatory agency.~~

~~105 Dealers and Processors shall ship all molluscan shellfish:~~

~~105.01 Adequately iced as defined in the most current version of the ISSC's NSSP Model Ordinance; or~~

~~105.02 In mechanically refrigerated conveyances which are equipped with automatic temperature controls that maintain the ambient air temperature in the storage area at temperatures consistent with the most recent time/temperature changes in the current version of the ISSC's NSSP Model Ordinance.~~

~~106 It shall be unlawful for any transportation of shucked molluscan shellfish to fail to be in either mechanically refrigerated vehicles or adequately iced as defined in the most current version of the ISSC's NSSP Model Ordinance and protected from contamination.~~

~~107 It shall be unlawful for any molluscan shellfish, whether refrigerated or not, to be unprotected from sun and contamination during transport. Dogs, cats, birds, and other animals shall not be allowed in any vehicle or vessel used to transport molluscan shellfish.~~

~~108 All vehicles transporting shucked molluscan shellfish intrastate must be properly licensed in accordance with Miss. Code Ann. 49-15-28 and 49-15-29.~~

~~109 Frozen molluscan shellfish shall be transported in such a manner as to remain frozen solid and the temperature of the product maintained at 0°F (-17.8°C) or less.~~

~~110 Other than documented common carriers, all mechanically refrigerated transport vehicles used by DMR-certified dealers for transporting molluscan shellfish must be certified and inspected by the DMR.~~

~~111 It shall be unlawful to open containers of shucked molluscan shellfish in transit, except for inspection by an official of the DMR or other duly authorized official.~~

~~112 The Executive Director may establish other time and temperature controls on the shipping and transportation of shellstock as may be required or necessary according to the most recent time/temperature changes in the current version of the ISSC's NSSP Model Ordinance.~~

Chapter 14 Receiving and Storage of Molluscan Shellfish

(This chapter was moved to Part 1 Chapter 6)

~~100 Dealers receiving shellstock from a harvester shall only accept shellstock that is accompanied by documentation from the harvester demonstrating that the shellstock was harvested under the most recent time/temperature changes in the current version of the ISSC's NSSP Model Ordinance.~~

- ~~101 When the dealer is also the harvester, molluscan shellfish shall be placed in a mechanically refrigerated unit within the requirements of the most recent time/temperature changes in the current version of the ISSC's NSSP Model Ordinance.~~
- ~~102 Molluscan Shellfish dealers and processors shall place molluscan shellfish under temperature control within the requirements of the most recent time/temperature changes in the current version of the ISSC's NSSP Model Ordinance.~~
- ~~103 Molluscan Shellfish shall be stored in a mechanically refrigerated conveyance or unit which is equipped with automatic temperature controls and maintains the ambient air temperature in the storage area consistent with the requirements of the most recent time/temperature changes in the current version of the ISSC's NSSP Model Ordinance.~~
- ~~104 Shucked molluscan shellfish may be stored adequately iced as defined in the most current version of the ISSC's NSSP Model Ordinance provided that the ice is from a DMR-approved water source and is free of contaminants.~~
- ~~105 Frozen molluscan shellfish shall be stored in such a manner as to remain frozen solid and the temperature of the product maintained at 0°F (-17.8°C) or less.~~
- ~~106 Once placed under temperature control and until sale to the final processor or consumer, it shall be unlawful to fail to keep molluscan shellfish:~~
- ~~106.01 Adequately iced as defined in the most current version of the ISSC's NSSP Model Ordinance; or~~
 - ~~106.02 Placed and stored in a storage area or conveyance maintained according to the most recent time/temperature changes in the current version of the ISSC's NSSP Model Ordinance; and~~
 - ~~106.03 Without ice, mechanical refrigeration or other approved methods of refrigeration for more than two (2) hours at points of transfer.~~
- ~~107 Shellstock oysters shall be packed in clean barrels, sacks, hampers, or other measurable containers.~~
- ~~108 The Executive Director may establish other time and temperature controls on receiving and storing shellstock as may be required or necessary according to the most recent time/temperature changes in the current version of the ISSC's NSSP Model Ordinance.~~

Chapter 15 Recreationally Harvested Shellstock or Molluscan Shellfish Purchased for Personal Consumption

(This chapter was moved to Part 1, Chapter 5, Rule 5.3)

- ~~100 Chapters 13 & 14 of this Part shall not apply to recreationally harvested shellstock or molluscan shellfish purchased for personal consumption from a licensed and certified establishment or individual. All molluscan shellfish purchased for personal consumption must be properly labeled as specified in this Part, and be accompanied by a receipt or a bill~~

of sale containing the following information, the intent being that the following information is present and available for inspection by any official of DMR:

- ~~100.01 Name, license and certification number of seller~~
- ~~100.02 Quantity of molluscan shellfish purchased~~
- ~~100.03 Purchase date~~

Chapter 16 Molluscan Shellfish Recall

(This chapter was moved to Part 1, Chapter 6, Rule 6.4)

~~100 When molluscan shellfish have been landed and have moved into or through the handling, processing and/or marketing system and have been determined by the DMR as subjected to contamination that threatens imminent peril to public health, such oysters shall be recalled. The recalled oysters shall be properly disposed of under the supervision of the DMR to prevent human consumption.~~

Chapter 17 Depuration

(This chapter was moved to Part 1, Chapter 11, Rule 11.1)

~~100 Depuration of shellstock is permitted as described in the current NSSP Model Ordinance guidelines.~~

Chapter 18 Post Harvest Processing

(This chapter was moved to Part 1, Chapter 9, Rule 9.4)

~~100 Post Harvest Processing is permitted as described in the current NSSP Model Ordinance guidelines.~~

Chapter 19 Responsibility

(This chapter was moved to Part 1, Chapter 9, Rule 9.6)

~~100 It shall be the duty and responsibility of each owner, manager, and operator of a certified molluscan shellfish plant to insure that all regulations pertaining thereto are strictly adhered to and that only safe, wholesome, unadulterated molluscan shellfish shall be offered for sale to the consuming public. It shall be his duty and responsibility to see that his plant is properly supervised at all times and all molluscan shellfish can be identified, whether shellstock or shucked molluscan shellfish, to ensure that they were harvested from approved growing waters and that they have been handled and processed in a sanitary manner. Each owner shall be subject to penalties under this Part and Miss. Code Ann.~~

Chapter 20 Penalties

(This chapter was deleted. These statements are no longer necessary.)

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

~~49-15-63 unless a penalty is specifically provided elsewhere in the Mississippi Code of 1972, Annotated.~~

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

~~102 Any molluscan shellfish in violation of any section of this Part shall be subject to confiscation and disposal of such molluscan shellfish by direction of any designated Marine Patrol Officer of the DMR.~~

~~Chapter 21 Sections and Subsections Declared Separable~~

~~(This chapter was deleted. These statements are no longer necessary.)~~

~~100 Each section and subsection of this Part is hereby declared separable, and if any section or subsection or part thereof shall be held invalid or unconstitutional, the balance of said Title 22 Part 17 shall remain in full force and effect.~~

~~Chapter 22 Administrative Procedures Act~~

~~(This chapter was deleted. This statement is no longer necessary.)~~

~~100 Pursuant to the amendments to the Administrative Procedures Act, Section 25-43-101.1, et seq., of the Mississippi Code of 1972, and the rules and regulations promulgated pursuant thereto by the Secretary of State; the former Ordinance 17.001 has been modified and the commission and department have adopted the terminology and numbering system developed by the Secretary of State. Therefore, references to "ordinance" or to "Part" appearing in these regulations or the underlying statutes are used interchangeably and refer to the same instrument.~~

~~Title 22 — MISSISSIPPI DEPARTMENT OF MARINE RESOURCES, Part 17-
REGULATION OF MOLLUSCAN SHELLFISH LANDING, UNLOADING,
TRANSPORTING, PROCESSING, BUYING, SELLING, OPENING, AND OTHER
MOLLUSCAN SHELLFISH RELATED ACTIVITIES IN THE STATE OF MISSISSIPPI,~~
shall be in effect and be in force from and after the 1st day of November, 2012.

~~Adopted this the 18th day of September, 2012.~~

~~MISSISSIPPI COMMISSION ON MARINE RESOURCES~~

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

~~MISSISSIPPI DEPARTMENT OF MARINE RESOURCES~~

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

TITLE 22 – MISSISSIPPI DEPARTMENT OF MARINE RESOURCES

PART 1 RULES AND REGULATIONS FOR MOLLUSCAN SHELLFISH RELATED ACTIVITIES

Chapter 12: Introduction

This Part establishes the minimum requirements necessary to regulate the intrastate and interstate commerce of molluscan shellfish and to establish a program to protect the public health of consumers by assuring the harvesting, sale and shipment of shellfish from safe sources and assuring shellfish have not been adulterated during shellfish related activities in the state.

This Part also establishes the requirements for molluscan shellfish aquaculture activities in marine waters that require a permit under the provisions of the Coastal Wetlands Protection Act and the Mississippi Aquaculture Act of 1988.

The Mississippi Department of Marine Resources (MDMR) follows the guidance of the Interstate Shellfish Sanitation Conference (ISSC) National Shellfish Sanitation Program (NSSP) Guide for the Control of Molluscan Shellfish (hereafter referred to as the NSSP Model Ordinance) for the management of all molluscan shellfish related activities within the State of Mississippi. The most current version of this document may be found at the following website: <https://www.issc.org/>. The MDMR Shellfish Bureau maintains a document titled *Molluscan Shellfish Growing Waters Management Plan* which outlines the plan for management of shellfish related activities. This document can be found on the MDMR webpage at dmr.ms.gov/shellfish/.

Any unlawful act under this Part by any person, firm or corporation is subject to the penalties provided by law.

Source: MISS. CODE ANN. §§49-15-15, 49-15-36, 49-15-303, 49-15-304, 49-27-1, 79-22-1; NSSP Model Ordinance, 2019 Version

Chapter 13: Definitions

Rule 2.2 Definitions

- A. ADEQUATELY ICED –The amount and application of the ice is sufficient to ensure that immediate cooling begins and continues for all shellfish. If ice slurry is used and the shellfish are submerged, the presence of ice in the slurry indicates adequate icing.
- B. ADULTERATED – Molluscan shellfish will be deemed contaminated if any foreign substance has been added to, mixed in, or packed with molluscan shellfish to increase its bulk or weight, reduce its quality, or make it appear better or of

greater value.

- C. APPROVED AREA – Molluscan shellfish growing waters classification used to identify a growing area where harvest of shellfish for direct marketing is allowed.
- D. AQUACULTURE INTERMEDIATE SIZE SHELLSTOCK – Molluscan shellstock which measures 26 mm or more and 50 mm or less in size (more than 1 inch and less than 2 inches) from end to end.
- E. AQUACULTURE MARKET SIZE SHELLSTOCK – Molluscan shellstock which measures 51 mm or more (2 inches or greater) from end to end.
- F. AQUACULTURE SEED – Molluscan shellstock which measures 0 to 25 mm in length (1 inch or less) from end to end, used for cultivation in controlled conditions.
- G. AUTHORITY – The State shellfish control administration or its designated agents, which are responsible for the enforcement of all rules and regulations pertaining to molluscan shellfish related activities.
- H. BASKET DREDGE – A type of molluscan shellfish dredge, also known as a “self-dumping dredge” that utilizes a rigid framed basket, instead of a flexible rope or chain bag, to retain the harvested molluscan shellfish.
- I. BULK TAGGING – When a single lot of shellstock is sold, multiple containers may be combined on a wrapped pallet or other type of containment and the unit tagged with a single tag in accordance with the most current version of the NSSP Model Ordinance.
- J. CERTIFIED INTERSTATE SHELLFISH SHIPPER – An individual, firm or corporation who has been issued a numbered license and certification by the MDMR for molluscan shellfish handling and processing. In addition, nonresidents who have been issued a license and certification from their respective state shellfish control authority are eligible to participate in the interstate shipment of molluscan shellfish.
- K. CERTIFIED SHELLFISH PLANT – A molluscan shellfish facility which possesses a valid shellfish processing plant license and certification from the MDMR for shellfish handling and processing. A certified shellfish plant is recognized as a Certified Interstate/Intrastate Shellfish Shipper. A certified shellfish plant is designated as either a: Shellstock Shipper (SS), Shucker- Packer (SP), Repacker (RP) or Reshipper (RS).
- L. COMMERCIAL MOLLUSCAN SHELLFISH AQUACULTURE PERMIT – A permit issued by the MDMR Shellfish Bureau to a Mississippi aquaculture harvester. The harvester must have an active commercial aquaculture harvesters license. The permit includes endorsements allowable for the harvester including grow-out and seed purchases, seed nursery, wet storage, intermediate shellstock

grow-out, off-site cultivation, bulk tagging, and transport of shellstock across state lines. The permit must be renewed annually at the start of the calendar year.

- M. COMMERCIAL MOLLUSCAN SHELLFISH LEASE PERMIT – A permit issued by the MDMR Shellfish Bureau to an active, on-bottom, private lease holder. The permit includes endorsements allowable for the harvester including harvest of molluscan shellfish and cultch material deployment on the lease. The permit must be renewed annually at the start of the calendar year.
- N. COMMERCIAL MOLLUSCAN SHELLSTOCK TRANSPORT PERMIT – A permit issued by the MDMR Shellfish Bureau to a Mississippi Certified Dealer and/or Processor for the transportation of shellstock by a marine vessel from waters outside of the state of Mississippi into the state of Mississippi. The permit must be renewed annually at the start of the calendar year.
- O. CONDITIONALLY APPROVED AREA – Molluscan shellfish growing waters classification that meets the criteria for approved classification except under certain environmental conditions such as rainfall and river stage. Conditions specific to each area are described in the MDMR Shellfish Bureau management plan.
- P. DEPURATION – The process of reducing the pathogenic organisms that may be present in shellstock by using a controlled aquatic environment as the treatment process.
- Q. ILLEGAL MOLLUSCAN SHELLFISH – All untagged molluscan shellstock, molluscan shellfish obtained from uncertified shops or dealers or from an unlicensed harvester, molluscan shellstock obtained from waters not declared safe and sanitary by the MDMR and offered for sale or sold, and shucked molluscan shellfish obtained from uncertified shops or dealers.
- R. INTERSTATE COMMERCE – The movement of a shipment or service across state or international borders; or the intent to continue a movement within a state that originated from another state or country.
- S. INTRASTATE COMMERCE – The movement that originates in a single state, moves in that state only and delivers in that originating state.
- T. ISLANDS – All islands in the territorial waters of the State of Mississippi, which include, but are not limited to: Petit Bois, Horn, Ship, Cat, Round and Deer Islands.
- U. LANDED – The point at which shellstock is put on land or a dock.
- V. MARINA – Any water area with a structure (docks, basin, floating docks, etc.) which is used for docking and constructed to provide temporary or permanent docking space for more than ten (10) boats.
- W. MISBRANDED – Molluscan shellfish labeled with false or misleading information in any way or with a missing label.

- X. MOLLUSCAN SHELLFISH – All bivalve species of oysters, clams, mussels, or scallops in the shell, shucked, fresh, frozen or in part.
- Y. OFF-BOTTOM AQUACULTURE – Molluscan shellfish aquaculture operations in marine waters that utilize the water column or do not otherwise fall within the definition of on-bottom aquaculture.
- Z. ON-BOTTOM AQUACULTURE – Molluscan shellfish aquaculture operations in marine waters that use natural shell, spat on shell, or other approved cultch material deployed on the water bottoms, without employing racks, cages, or other containers or support structures.
- AA. PROHIBITED AREA – Molluscan shellfish growing waters classification where the harvest of shellstock for any purpose is not permitted, except depletion, gathering of seed or nursery culture for aquaculture.
- BB. PUBLIC REEF – On-bottom molluscan shellfish reefs, either natural, historic, or created by the state that are managed by the state.
- CC. REPACKER (RP) – Any person, firm, or corporation other than the original certified shucker-packer who repacks shucked molluscan shellfish into other containers. A Repacker may also repack and ship shellstock. A Repacker is not permitted to shuck molluscan shellfish.
- DD. RESHIPPER (RS) – Any person, firm, or corporation who purchases shucked molluscan shellfish or shellstock from a certified shipper and sells the product, without repacking or relabeling, to other certified shippers, wholesalers, or retailers.
- EE. RESTRICTED AREA – Molluscan shellfish growing waters classification used to identify a growing area where harvesting shall be by special license and the shellstock, following harvest, is subjected to a suitable and effective treatment process through relaying or depuration.
- FF. RETAILER – Anyone who sells molluscan shellfish to the end user and has had no part in the processing of molluscan shellfish as defined by Miss. Code Ann. 49-15-28.
- GG. SANITARY SURVEY – The evaluation of all actual and potential pollution sources and environmental factors having a bearing on shellfish growing water quality.
- HH. SEED – Shellstock which measures less than three (3) inches from end to end.
- II. SHELLFISH RELATED ACTIVITIES – Any activity involving molluscan shellfish including, but not limited to: buying, cultivation, growing, harvesting, landing, opening, packing, processing, relaying, repacking, reshipping, selling, shipping, tagging, transplanting, transporting, or unloading.

- JJ. SHELLSTOCK – Live molluscan shellfish in the shell.
- KK. SHELLSTOCK SHIPPER (SS) – A person who grows, harvests, buys, or repacks and sells shellstock. They are not authorized to shuck molluscan shellfish or to repack shucked molluscan shellfish. A shellstock shipper may also buy, repack, and sell in-shell product as well as ship shucked molluscan shellfish.
- LL. SHORELINE – The area where the water contacts the land including the mainland and all offshore and barrier islands.
- MM. SHOULD – Used to state recommended or advisory procedures or to identify recommended equipment.
- NN. SHUCKER-PACKER (SP) – Any person, firm, or corporation that shucks and packs molluscan shellfish. A shucker-packer may act as a shellstock shipper or reshipper or may repack molluscan shellfish originating from other certified dealers.
- OO. TAG – a label attached to molluscan shellfish containers for the purpose of identification.
1. WHITE TAG – Shellstock that is commercially harvested from growing areas classified as approved or conditionally approved, in the open status, and under conditions that allow for direct marketing for raw consumption.
 2. GREEN TAG – Shellstock that is commercially harvested from growing areas classified as approved, conditionally approved, or restricted in the open status and under conditions that allow for shucking by a certified dealer or post-harvest processing only as defined in the most current version of the NSSP Model Ordinance.
 3. RED TAG – Shellstock harvested for personal use and sale is prohibited.
 4. PURPLE TAG – Shellstock that is being cultivated by a molluscan shellfish aquaculture harvester and will be returned to the harvester’s sublease. Sale is prohibited.
- PP. UNCLASSIFIED AREA – Waters that are not classified as molluscan shellfish growing waters and from which the harvest of shellfish is prohibited pending classification by the MDMR based on a sanitary survey of the area.
- QQ. WET STORAGE – The storage, by a dealer, of shellstock from growing areas in the approved classification or in the open status of the conditionally approved classification in containers or floats in natural bodies of water or in tanks containing natural or synthetic seawater at any permitted land-based activity or facility.
- RR. WHOLESALE – A person, firm or corporation that purchases and resells

molluscan shellfish to a licensed retailer or other wholesaler.

Source: MISS. CODE ANN. § 49-1-1; NSSP Model Ordinance § II-B

Chapter 14: Management and Classification of Molluscan Shellfish Growing Waters

Rule 3.11 The implementation of the requirements by the MDMR as specified herein is subject to the following:

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

Source: MISS. CODE ANN. §§49-15-15, 49-15-36, 49-15-303, 49-15-304; NSSP Model Ordinance § II-I

Rule 3.12 Nonresidents participating in molluscan shellfish related activities in the State of Mississippi must pay all fees and licenses set forth by the MDMR. This excludes the purchase of molluscan shellfish for personal consumption.

Source: MISS. CODE ANN. §§49-15-15, 49-15-30, 49-15-303, 49-15-304; NSSP Model Ordinance § II-VIII

Rule 3.13 Management Plan for Shellfish Growing Waters

- A. The MDMR will maintain a management plan in accordance with the most current version of the NSSP Model Ordinance. This plan will include the classification of shellfish growing waters, the criteria for conditionally approved growing waters, the opening and closing criteria for growing areas within the State of Mississippi, and other relevant information.
- B. The MDMR will supply a copy of the current time and temperature table by request.
- C. The MDMR may modify or change the area specific growing waters management provisions and the classifications and descriptions of shellfish growing waters as necessary and will update the molluscan shellfish management plan when a change

occurs.

Source: MISS. CODE ANN. §§49-15-15, 49-15-36, 49-15-27, 49-15-63, 49-15-303, 49-15-304; NSSP Model Ordinance §§ II-II, II-IV, II-VIII, IV-II

Rule 3.14 Tonging Line – Except as otherwise provided for leased bottoms, all waters north of a line herein described must be defined as tonging reefs. Beginning at a point on the southern shore at the mouth of Bayou Caddy, thence proceeding to a point one (1) nautical mile due east of said point, thence proceeding northeasterly, following the meandering of the shoreline one (1) nautical mile there from, and maintaining one (1) nautical mile off the CSX railroad bridge, thence proceeding easterly following the meandering of the shoreline one (1) nautical mile there from, to a point on Longitude 89°15.139’W, thence proceeding due south to a point at Latitude 30°17.138’N, Longitude 89°15.139’W , thence proceeding due east to a point at Latitude 30°17.138’N, Longitude 89°14.340’W, thence proceeding due north to a point at Longitude 89°14.340’W one (1) nautical mile from the shoreline, thence proceeding easterly following the meandering of the shoreline one (1) nautical mile from the shoreline to the intersection of the Alabama State line.

Source: MISS. CODE ANN. §§49-15-3, 49-15-39; NSSP Model Ordinance §§ II-IV, III-IV, IV-II

Rule 3.15 Shellfish Growing Waters Openings and Closings

- A. The MDMR will set the opening date of oyster season on public reefs in an opening order in accordance with the most current version of the NSSP Model Ordinance. The opening order will include:
 - 1. Opening date
 - 2. Open molluscan shellfish growing areas
 - 3. Check station location(s)
 - 4. Oyster hotline number
 - 5. Sack limits and/or quotas
 - 6. Reference to the rules and regulations of molluscan shellfish related activities
- B. The MDMR will notify the public when an area opens or closes for the harvest of molluscan shellfish.
- C. A twenty-four (24) hour recorded telephone message of closures and openings will be provided when possible.
- D. If a closure is necessitated by a rainfall event or rise in river stage occurring after 4:00 p.m., the closure will be effective no later than 4:00 p.m. the following day.
- E. If a closure is necessitated by a rainfall event or rise in river stage occurring prior to

4:00 p.m., the closure will be effective no later than 4:00 p.m. that day.

- F. Whenever sampling data indicates this time frame sequence is not adequate to protect public health, the area will be closed immediately, and any shellfish taken from the area may be required to be returned to the water.
- G. If a closure is necessitated by any polluting event which threatens public health, closure will be immediate, and any harvested molluscan shellfish deemed contaminated by an MDMR Authority must be destroyed or returned to the water.
- H. When any one or more of the following criteria are found to exist, the MDMR will delay opening or close the area, or affected portions thereof, to shellfish harvesting.
 - 1. When area specific closing criteria as published by the MDMR are met or exceeded.
 - 2. When hurricanes, storms, localized flooding, or other natural disasters strike the area.
 - 3. When reports concerning chemical spills, discharge of hazardous wastes, and/or discharge of raw untreated sewage, poorly treated sewage from malfunctioning city sewage collection system pump stations, chemical plants or users, harbors, shipping terminals, marinas, ships, barges, or the sinking or grounding of vessels carrying hazardous cargoes are substantiated.
 - 4. When there is evidence of the existence of marine biotoxins or other biological, chemical, or radiological agents in the seawater or shellfish in the area exceeding recognized acceptable limits. Designated MDMR personnel will perform monitoring of the closing criteria.
- I. If a controlling gauge for rainfall or river stage reading is missing or unavailable, evaluation of all available information will be utilized to determine if the closing criteria has been met or exceeded, in which case, the area will be closed in accordance with this Part.
- J. When molluscan shellfish growing waters are closed under the provisions listed, the affected waters are deemed not safe and molluscan shellfish reefs within these closed waters are deemed contaminated or otherwise unfit for consumption.
- K. Seawater samples will be collected from each compliant sampling station in the area for microbiological analysis.
- L. Seawater will be deemed acceptable when microbiological analysis of compliant stations in the area indicates a geometric mean fecal coliform MPN of 14 per 100 ml of water or less. This shall be deemed a sufficient time interval to permit natural biological cleansing.
- M. When shellfish tissue is sampled for verification, the results shall be less than a

fecal coliform MPN of 230 per 100 grams of meat.

- N. Areas may be opened or reopened for the harvest of molluscan shellfish by the MDMR:
1. When rainfall has subsided, and microbiological analysis of seawater samples indicate that the seawater is again acceptable and that the shellfish have gone through a sufficient time interval to permit natural biological cleansing.
 2. When any raw sewage spills or discharges are diluted to the point that they are within accepted standards as determined by microbiological analysis of seawater samples collected at the site of the spill or discharge in accordance with the most current version of the NSSP Model Ordinance.
 3. When rainfall, hurricanes, storms, localized flooding or any natural disasters have subsided; microbiological analysis of seawater and/or molluscan shellfish tissue samples indicate that the seawater is again acceptable; and the shellfish have gone through a sufficient time interval to permit natural biological cleansing in accordance with the most current version of the NSSP Model Ordinance.
 4. When any chemicals or hazardous waste residuals remaining in the seawater or molluscan shellfish tissue are less than the tolerance set for such substances by the federal agencies responsible; or, when such residuals are judged to be non-hazardous to public health by the MDMR.
 5. When there is no evidence of the existence of marine biotoxins or other biological, chemical, or radiological agents in excess of tolerances set for such biotoxins, biological, chemical or radiological agents in the seawater and molluscan shellfish tissue samples taken from the area in accordance with the most current version of the NSSP Model Ordinance.

Source: MISS. CODE ANN. §§ 49-15-15, 49-15-36, 49-15-303, 49-15-304; NSSP Model Ordinance §§ II-IV, III-IV-.03, IV-II-.02

Rule 3.16 Approved Classification of Molluscan Shellfish Growing Waters

- A. Approved growing waters are areas where the growing and harvesting of shellfish for direct market is allowed by the MDMR Authority.
- B. Approved growing waters may be opened and closed to the direct harvest of shellfish by the MDMR Authority in accordance with the most current version of the NSSP Model Ordinance.
- C. An area is considered approved when a sanitary survey shows that there are not pathogenic micro-organisms, poisonous and deleterious substances present in dangerous concentrations and where bacteriological quality of the water of every sampling station does not exceed a fecal coliform median or geometric mean in

accordance with the most current version of the NSSP Model Ordinance.

Source: MISS. CODE ANN. §§ 49-15-15, 49-15-36, 49-15-303, 49-15-304; NSSP Model Ordinance §§ II-IV, II-VII, III-IV, IV-II

Rule 3.17 Conditionally Approved Classification of Molluscan Shellfish Growing Waters

- A. An area is considered conditionally approved when a sanitary survey of the area, conducted by an MDMR Authority, shows that the area meets the conditions of approved growing waters except under certain environmental conditions such as heavy rainfall or river stage.
- B. All molluscan shellfish growing waters classified as conditionally approved may be open for the direct harvest of shellfish by the MDMR provided that water quality meets the conditions defined for that area.
- C. During any closure of a conditionally approved area, the MDMR will sample the water of the closed area until shellfish are free of pollutants in accordance with the respective growing waters management plan.

Source: MISS. CODE ANN. §§ 49-15-15, 49-15-36, 49-15-303, 49-15-304; NSSP Model Ordinance §§ II-IV, II-VII, III-IV, IV-II

Rule 3.18 Restricted Classification of Molluscan Shellfish Growing Waters

- A. All molluscan shellfish growing waters classified as restricted are closed to the direct harvest of shellfish.
- B. The MDMR may permit relaying or depuration operations of these areas after a sufficient study determines that the shellfish will depurate to the required levels within a specified period of time, and that the growing waters in these areas meet the requirements to be classified as restricted to relaying and/or depuration in accordance with the most current version of the NSSP Model Ordinance.

Source: MISS. CODE ANN. §§ 49-15-15, 49-15-36, 49-15-303, 49-15-304; NSSP Model Ordinance §§ II-IV, II-VII, III-IV, IV-II

Rule 3.19 Prohibited Classification of Molluscan Shellfish Growing Waters - All molluscan shellfish growing waters classified as prohibited are closed to the harvest of molluscan shellfish at all times.

Source: MISS. CODE ANN. §§ 49-15-15, 49-15-36, 49-15-303, 49-15-304; NSSP Model Ordinance §§ II-IV, II-VII, III-IV, IV-II

Rule 3.20 Unclassified Waters – All waters deemed unclassified by the MDMR are closed to the harvest of molluscan shellfish pending a sanitary survey of the area.

Source: MISS. CODE ANN. §§ 49-15-15, 49-15-36, 49-15-303, 49-15-304; NSSP Model

Chapter 15: Harvesting, Landing and Transfer of Molluscan Shellfish

Rule 4.6 Harvesting Molluscan Shellfish

- A. A license issued by the MDMR is required to take molluscan shellfish from the waters under the territorial jurisdiction of the State of Mississippi.
- B. All molluscan shellfish taken from waters of the territorial jurisdiction of the State of Mississippi must:
 - 1. Be properly tagged and taken legally from an area declared open for harvest by the MDMR Authority.
 - 2. Be accompanied by a trip ticket that indicate the check-out time, must remain with the catch until final delivery and must be available for inspection with the molluscan shellfish by an MDMR Authority.
- C. Nonresident recreational harvest of molluscan shellfish is not permitted in the State of Mississippi.
- D. Dredge Specifications
 - 1. Harvesters are permitted to use a dredge that weighs 115 pounds or less and has a tooth bar with 16 or less teeth. All dredge teeth must be five (5) inches or less.
 - 2. Harvesters are permitted to use a hand dredge that weighs 40 pounds or less and have a tooth bar with 10 or less teeth. All dredge teeth must be five and one quarter (5¼) inches or less. When using a hand dredge, it is illegal to use a mechanical advantage retrieval system. A hand dredge must be retrieved by hand.
 - 3. Basket dredges are not permitted for use in Mississippi waters.
 - 4. Harvesters are not permitted to use more than two (2) dredges.
- E. Marine Sanitation Device (MSD)
 - 1. All boats or vessels used in the harvest or transport of shellfish are required to have onboard, a functional, approved marine sanitation device (MSD), portable toilet or other sewage disposal receptacle to contain human sewage.
 - 2. The MSD must meet the requirements set forth by the most current version of the NSSP Model Ordinance.

Source: MISS. CODE ANN. §§ 49-15-15, 49-15-42, 49-15-303, 49-15-304, 97-15-30; NSSP Model Ordinance §§ II-VIII, III-VIII, IV-II

Rule 4.7 Harvesting Molluscan Shellfish from Public Reefs

- A. All molluscan shellstock taken from public reefs by any person, firm or corporation must measure three (3) inches or more from end to end. End to end measurement is the greatest length from the hinge to the bill. It is unlawful for any person, firm, or corporation to purchase, sell or possess molluscan shellfish harvested from public reefs that are under the legal-size limit.
- B. Any person, firm or corporation harvesting molluscan shellfish on public reefs must first register on the day of harvest at a check station drop box in the area where harvesting will occur.
 - 1. Check stations will operate from 7:00 a.m. to 4:00 p.m. local time when the area is open for harvest or until the final harvester that checked in for the day has checked out.
 - 2. All shellfish harvesting activities must cease prior to 4:00 p.m. each day and all fishermen must be checked out at the appropriate check station by 4:00 p.m. If a harvester does not return to a check station by 4:00 p.m., all shellfish harvested that day will be confiscated by an MDMR Authority.
 - 3. All harvesters must check out at the same designated check station where they checked in.
 - 4. Any exception to these conditions due to unforeseen circumstances must have prior approval by an MDMR Authority.
- C. All molluscan shellfish must be properly tagged immediately upon landing on the date of harvest.
- D. All shellstock must be packed in clean containers before the boat or vessel leaves the natural reef from which they were harvested.
- E. Molluscan shellstock must be culled.
 - 1. Harvesters must immediately scatter and broadcast evenly, all dead shells, small oysters, and oysters in excess of the daily sack limits onto the natural reefs from which they are taken.
 - 2. A ten percent (10%) tolerance by number is allowed in relation to any culling. The ten percent (10%) tolerance is determined from a representative sample of ten percent (10%) of the total catch.
- F. It is unlawful to transfer molluscan shellfish from one vessel to another vessel, until the vessels have been checked out at the appropriate check station.
- G. While engaged in the harvest of molluscan shellfish, it is unlawful for any boat or vessel to tow or to be tied to any other boat or vessel licensed for shellfish

harvesting.

- H. It is unlawful for any boats or vessels engaged in the harvest of molluscan shellfish to fail to be continuously manned by a qualified person capable of operating the boat or vessel from the time of check-in for the day until the time of check-out.
- I. Upon registration, while harvesting, or upon check-out, each person may be required to show their license to an MDMR Authority.
- J. It is unlawful for any harvester engaged in harvesting molluscan shellfish on a tonging reef to have an oyster dredge on board the boat or vessel.

Source: MISS. CODE ANN. §§ 49-15-15, 49-15-36, 49-15-38, 49-15-39, 49-15-303, 49-15-304; NSSP Model Ordinance §§ II-VIII, III-VIII, IV-II

Rule 4.8 Harvesting Molluscan Shellfish from On-Bottom Private Leases

- A. All on-bottom molluscan shellfish reef lessees must adhere to the rules outlined in the lease contract, lease permit, this Part, and the most current version of the NSSP Model Ordinance.
- B. All on-bottom molluscan shellfish aquaculture harvesters must have a trip ticket fully completed and submitted to the MDMR within twenty-four (24) hours of harvest.

Source: MISS. CODE ANN. §§ 49-15-15, 49-15-27, 49-15-36, 49-15-303, 49-15-304; NSSP Model Ordinance §§ II-VIII, III-VIII, IV-II

Rule 4.9 Harvesting Molluscan Shellfish from Off-Bottom Aquaculture Leases

- A. All off-bottom molluscan shellfish aquaculture harvesters must adhere to the rules outlined in the lease contract, lease permit, this Part, and the most current version of the NSSP Model Ordinance.
- B. All off-bottom molluscan shellfish aquaculture harvesters must have a trip ticket fully completed and submitted to the MDMR within twenty-four (24) hours of the start of harvest.

Source: MISS. CODE ANN. §§ 49-15-15, 49-15-303, 49-15-304; NSSP Model Ordinance §§ II-VIII, III-VIII, IV-II

Rule 4.10 Transferring Tagged Molluscan Shellfish

- A. When molluscan shellfish are transferred from a harvester to a dealer or from a dealer's mobile unit to another dealer's mobile unit, the transfer of tagged molluscan shellfish must take place across transfer facilities or locations that are periodically monitored by MDMR for sanitary conditions or at a certified dealer's facility that is inspected by the MDMR.

- B. There must be no such transfers at any other locations except for emergency conditions as declared by the certified dealer and approved by an MDMR Authority.

Source: MISS. CODE ANN. §§ 49-15-15, 49-15-42, 49-15-46, 49-15-303, 49-15-304; NSSP Model Ordinance §§ II-XI, II-XII; II-XIV

Chapter 16: Labeling and Tagging of Molluscan Shellfish

Rule 5.8 All molluscan shellfish shipped within, into or out of the State of Mississippi by a certified dealer must be tagged and legibly labeled in accordance with the most current version of the NSSP Model Ordinance.

Source: MISS. CODE ANN. §§ 49-15-42, 49-15-46; NSSP Model Ordinance §§ II-VIII, II-X, III-X

Rule 5.9 Bulk tagging of shellstock is permitted in accordance with the most current version of the NSSP Model Ordinance.

Source: MISS. CODE ANN. § 49-15-42; NSSP Model Ordinance §§ II-VII, II-X

Rule 5.10 All molluscan shellfish harvested for personal consumption by a commercial or recreational harvester must be red tagged and accompanied by a trip ticket indicating all harvest information.

Source: MISS. CODE ANN. § 49-15-46; NSSP Model Ordinance § II-VII

Rule 5.11 Dealer Tagging

- A. All containers or packages enclosing fresh shucked or frozen raw shucked molluscan shellfish and shucked molluscan shellfish products shipped within, into or out of the State of Mississippi must originate from a certified dealer and must be conspicuously, indelibly, and legibly labeled in accordance with the most recent version of the NSSP Model Ordinance, with the following information:
1. Name of the product.
 2. Name and address of the packer, repacker, or distributor.
 3. Size of container.
 4. Certification number.
 5. Net drained weight when packed.
 6. Packages containing sixty-four (64) fluid ounces or more must have, on the lid and sidewall or bottom, the "DATE SHUCKED" indicated as the number of the day, month and year or the month, day, and year.
 7. Packages of less than sixty-four (64) fluid ounces of fresh product must be

labeled with the wording "SELL BY" followed by a date expressed as a month, day, and year.

8. The 'sell by' date must not exceed seventeen (17) days from the date shucked.
 9. Containers of frozen shucked molluscan shellfish must show the date the product was shucked and the date frozen, labeled as "DATE SHUCKED" and "DATE FROZEN" followed by the date expressed as the month, day, and year.
 10. Shucked product previously frozen must be labeled with the wording "PREVIOUSLY FROZEN".
- B. When both the harvester and dealer tags appear on the container, the dealer's tag is not required to duplicate the information on the harvester's tag.
 - C. If molluscan shellfish are removed from the original container by the dealer, the tag on the new container must meet the requirements of the most current version of the NSSP Model Ordinance.
 - D. All molluscan shellfish shipped by a certified dealer within, into or out of the State of Mississippi must be accompanied by a bill of lading or bill of sale and legibly labeled in accordance with the most current version of the NSSP Model Ordinance.

Source: MISS. CODE ANN. §§ 49-15-15, 49-15-42, 49-15-46, 49-15-303, 49-15-304; NSSP Model Ordinance §§ II-X, IV-III

Rule 5.12 Tagging Shellstock from Public Reefs

- A. Shellstock must be tagged at the time of landing with indelible, legible information in accordance with the most current version of the NSSP Model Ordinance.
- B. It is unlawful for any person, firm, or corporation harvesting from public reefs to have possession of tags in excess of the daily sack limit.
- C. All shellstock tags must be affixed to the sack or container with the fastener provided by the MDMR.

Source: MISS. CODE ANN. §§ 49-15-15, 49-15-42, 49-15-46, 49-15-303, 49-15-304; NSSP Model Ordinance §§ II-X, III-X, II-VIII, IV-III

Rule 5.13 All on-bottom molluscan shellfish reef lessees must adhere to the labeling and tagging rules and regulations outlined in the lease contract, lease permit and the most current version of the NSSP Model Ordinance.

Source: MISS. CODE ANN. §§ 49-15-15, 49-15-42, 49-15-46, 49-15-303, 49-15-304; NSSP Model Ordinance §§ II-X, III-X, II-VIII

Rule 5.14 All off-bottom molluscan shellfish aquaculture harvesters must adhere to the labeling

and tagging rules and regulations outlined in the Public Trust Tidelands Sublease, Commercial Aquaculture Permit, this Part, and the most current version of the NSSP Model Ordinance.

Source: MISS. CODE ANN. §§ 49-15-15, 49-15-42, 49-15-46, 49-15-303, 49-15-304 II-VIII

Chapter 17: Receiving, Storage, Handling and Packing of Molluscan Shellfish

Rule 6.5 Receiving and Storage of Molluscan Shellfish

- A. Dealers receiving shellstock from a harvester must only accept shellstock that is accompanied by documentation from the harvester confirming that the shellstock was harvested in accordance with the most current time and temperature chart developed by the MDMR.
- B. Molluscan shellfish harvesters, dealers and processors must ensure that shellfish are under temperature control within the allotted time outlined in the time and temperature chart developed by the MDMR. Molluscan shellfish must be kept either adequately iced or under mechanical refrigeration until final sale.
- C. Molluscan shellfish must be stored in a mechanically refrigerated unit which is equipped with automatic temperature controls and maintains the ambient air temperature in the storage within the allotted time outlined in the time and temperature chart developed by the MDMR.
- D. Frozen molluscan shellfish must be stored in such a manner as to remain frozen.
- E. All ice used in the processing and storage of shellstock or shucked product must be made on-site from potable water in a commercial ice machine or come from a facility regulated by the MDMR or an appropriate regulatory agency.
- F. At the points of transfer, shellfish must be kept for no more than two (2) hours without being adequately iced or under mechanical temperature control.

Source: MISS. CODE ANN. §§ 49-15-15, 49-15-42, 49-15-46, 49-15-303, 49-15-304; NSSP Model Ordinance II-X, II-XI, II-XII, II-XIII, II-XIV, II-XV, III

Rule 6.6 Record Keeping and Tag Retention

- A. Certified dealers and processors must keep accurate records showing the names, addresses, and certification numbers of all persons from whom lots of molluscan shellfish are received, the source of each lot (growing area), the names and addresses of persons to whom lots are sold or shipped and the dates of these transactions.
- B. Shellfish tags are required to be attached to containers until containers are empty and thereafter kept on record for at least ninety (90) days.
- C. Certified dealers and processors must record the tag number of each container of

shellstock and to whom or from whom the shellstock were shipped, sold, bought, or received. Such records must be open to inspection at any time during operating hours, by any duly authorized representative of the MDMR.

Source: MISS. CODE ANN. §§ 49-15-15, 49-15-42, 49-15-46, 49-15-303, 49-15-304; NSSP Model Ordinance §§ II-IX, II-X, III-X

Rule 6.7 Adulterated, Misbranded or Unlabeled Molluscan Shellfish Products

- A. It is unlawful for any person, firm or corporation within the state of Mississippi to produce, harvest, provide, purchase, sell, offer, possess, expose for sale, or have in possession with intent to sell, any raw shellfish and shellfish products which are adulterated, misbranded, or unlabeled.
- B. No person, firm or corporation shall hold or pack shellfish under conditions whereby the shellfish may become adulterated.
- C. Any adulterated, misbranded, mislabeled, or unlabeled shellfish or shellfish products will be impounded by the direction of an MDMR Authority.
- D. Seizure and disposal of such shellfish products must be by the direction of an MDMR Authority.
- E. If shellstock harvested from an off-bottom molluscan shellfish aquaculture lease is found to be adulterated, misbranded, mislabeled, or unlabeled, adequate cleansing of the shellstock will be considered in accordance with the most current version of the NSSP Model Ordinance and by the guidance of an MDMR Authority.

Source: MISS. CODE ANN. §§ 49-15-15, 49-15-36, 49-15-21, 49-15-42, 49-15-44, 49-15-46, 49-15-303, 49-15-304; NSSP Model Ordinance §§ II-I

Rule 6.8 Recall of Molluscan Shellfish

- A. When molluscan shellfish have been landed and moved into or through the handling, processing and/or marketing system and have been determined by the MDMR Authority as subjected to contamination that threatens public health, the molluscan shellfish will be recalled.
- B. The recalled shellfish must be properly disposed of under the supervision of an MDMR Authority to prevent human consumption.

Source: MISS. CODE ANN. §§ 49-15-15, 49-15-36, 49-15-303, 49-15-304; NSSP Model Ordinance § IV-II; IV-V

Chapter 18: Shipping and Transportation of Molluscan Shellfish

Rule 7.3 Transporting Molluscan Shellfish

- A. Transported shellstock must be legally harvested from the originating State and legally transported in accordance with the most current version of the NSSP Model Ordinance.
- B. Licensed harvesters may transport their own daily harvested shellstock intrastate, unrefrigerated, within the time limits outlined in the most recent time and temperature chart developed by the MDMR Authority.
- C. If shellstock has been previously refrigerated, it must be transported in a refrigerated unit.
- D. Dealers and processors must ship all molluscan shellfish adequately iced or in mechanically refrigerated conveyances which are equipped with automatic temperature controls that maintain the ambient air temperature in the storage in accordance with the most current version of the time and temperature chart developed by the MDMR.
- E. All shucked molluscan shellfish must be in either mechanically refrigerated vehicles or adequately iced.
- F. All ice used in the transportation of molluscan shellfish must be made on-site from potable water in a commercial ice machine or come from a facility regulated by the MDMR or an appropriate regulatory agency.
- G. Frozen molluscan shellfish must be transported in such a manner as to remain frozen solid and the temperature of the product maintained at 0°F (-17.8°C) or less.
- H. All mechanically refrigerated transport vehicles, other than common carriers, used for transporting molluscan shellfish must be certified and inspected by the MDMR Authority.
- I. All molluscan shellfish, either refrigerated or not, must be protected from the sun and contamination during transport.
- J. During the period of May 1 through September 30 of each year, all boats or vessels transporting shellstock must protect the shellstock from direct exposure to the sun by having an awning or similar covering over the shellstock.
- K. Boats or vessels transporting shellstock legally harvested and legally transported from waters outside the State of Mississippi into Mississippi must:
 - 1. Apply for and receive a Commercial Molluscan Shellfish Transport Permit from the MDMR Shellfish Bureau before entering Mississippi territorial waters.
 - 2. Comply with all permit conditions required by the MDMR Authority.
 - 3. Properly tag shellstock in accordance with the most current version of the

NSSP Model Ordinance.

4. Mechanically refrigerate shellstock when required by the most current version of the time and temperature chart developed by the MDMR Authority.
- L. Dogs, cats, birds, and other animals are not allowed in any vehicle or vessel used to transport molluscan shellfish.
- M. It is unlawful to open containers of shucked molluscan shellfish in transit, except for inspection by an MDMR Authority or other duly authorized official.

Source: MISS. CODE ANN. §§ 49-15-15, 49-15-42, 49-15-44, 49-15-46, 49-15-303, 49-15-304; NSSP Model Ordinance II-IX, II-X, II-XIII, III-X

Rule 7.4 Interstate Commerce

- A. Interstate shipping of molluscan shellfish must only be through a licensed and certified seafood dealer and/or processor.
- B. Only a Mississippi Certified Dealer is permitted to ship molluscan shellfish, harvested from Mississippi waters, or landed in the state, into interstate commerce.
- C. No molluscan shellfish must enter or exit the state of Mississippi unrefrigerated. Marine vessels transporting molluscan shellstock must follow the rules outlined in the Commercial Molluscan Shellstock Transport Permit issued by the MDMR.

Source: MISS. CODE ANN. §§ 49-15-15, 49-15-42, 49-15-44, 49-15-46, 49-15-303, 49-15-304; NSSP Model Ordinance § II-I

Chapter 19: Molluscan Shellfish Aquaculture Operations

Rule 8.4 All molluscan shellfish aquaculture operations:

- A. Must comply with all permits and regulations governing molluscan shellfish including the most current version of the NSSP Model Ordinance. Harvested molluscan shellfish, whether from aquaculture farms, leases, or facilities, must be landed and tagged according to this Part.
- B. Must only culture species native to the Gulf of Mexico. Polyploid native species are permitted. Imported shellfish aquaculture seed to be used for grow-out in Mississippi waters must be descendants of broodstock who originated in the Gulf of Mexico. The hatchery where the aquaculture seed was produced must provide documentation of broodstock origin.
- C. Are prohibited from discharging any waste materials into the surrounding waters excluding fouling organisms, the excrement of the cultured species, and commercially prepared feeds.

Source: MISS. CODE ANN. §§ 49-15-15, 49-15-42, 49-15-44, 49-15-46, 49-15-303, 49-15-304; NSSP Model Ordinance § II-VI, III-VI

Rule 8.5 On-Bottom Molluscan Shellfish Aquaculture

- A. Any cultch materials used for molluscan shellfish aquaculture must be approved by the MDMR before use.
 - 1. Approval is based, in part, on the environmental suitability of the material.
 - 2. Cultch materials placed in the grow-out area must be a suitable substrate for attachment of molluscan shellfish larvae. These include materials such as natural molluscan shells; fossilized shell; coral, and other aquatic organisms; lithic materials such as crushed and graded limestone, granite, and gravel which contain calcium carbonate or fossilized organisms; or recycled materials which contain lithic fractions and calcium carbonate, including crushed concrete.
 - 3. Exceptions to this list of generally accepted cultch materials must be specifically approved by the MDMR Authority.

Source: MISS. CODE ANN. §§ 49-15-15, 49-15-42, 49-15-44, 49-15-46, 49-15-303, 49-15-304; NSSP Model Ordinance § II-VI, III-VI

Rule 8.6 Off-Bottom Molluscan Shellfish Aquaculture

- A. Aquaculture harvesters are permitted to grow aquaculture seed in marinas and other prohibited or unclassified growing waters.
 - 1. Harvesters must obtain a permit for this activity from the MDMR Shellfish Bureau.
 - 2. Harvesters must adhere to the rules and regulations outlined in the Public Trust Tidelands Sublease, Commercial Aquaculture Permit, this Part, and the most current version of the NSSP Model Ordinance.
- B. Record Keeping
 - 1. The aquaculture lease holder must maintain records and provide a monthly report to the MDMR Shellfish Bureau with the following information:
 - i. A daily record of the number of incidental deaths of vertebrate coastal wildlife that occur within the leased area. Additionally, the aquaculture operation must notify the MDMR immediately upon the injury or death of any threatened or endangered species, marine mammal, or raptor within the leased area.
 - ii. An accounting of aquaculture seed stock added and harvested within a

given month.

- iii. On shore culture operators must maintain records of any transfers of broodstock, seed, gametes, or larvae.
- iv. All records must be maintained for a minimum of three (3) years and must be available to the MDMR Authority for inspection.

2. This report may be mailed to the MDMR Shellfish Bureau or emailed to oyster@dmr.ms.gov.

C. The MDMR Authority will maintain the following records provided by the permittee while the aquaculture operation continues:

1. Construction and remodeling plans for any permitted aquaculture facility
2. Aquaculture operational plans
3. Aquaculture permits

Source: MISS. CODE ANN. §§ 49-15-15, 49-15-27, 49-15-29, 49-15-303, 49-15-304; NSSP Model Ordinance § II-VI, III-VI

Chapter 20: Molluscan Shellfish Dealers, Processors and Facilities

Rule 9.8 License and Certification

- D. It is unlawful for any person, firm, or corporation to engage in handling, shucking, packaging, repackaging, or shipping molluscan shellfish without a license and certification from the MDMR Authority.
- E. The license and certification must be renewed annually.
- F. This rule does not apply to:
 1. A retailer removing oysters individually from the packaging for display and/or resale to the end user.
 2. A restaurant or similar establishment, which may shuck and serve raw molluscan shellfish at a half-shell bar, under sanitary conditions, for consumption on the premises.

Source: MISS. CODE ANN. §§ 49-15-15, 49-15-303, 49-15-304; NSSP Model Ordinance § X-.04

Rule 9.9 All certified molluscan shellfish seafood facilities must follow the provisions described in the most current version of the NSSP Model Ordinance.

Source: MISS. CODE ANN. §§ 49-15-15, 49-15-303, 49-15-304; NSSP Model Ordinance § II-I, II-VI, II-VII, III-I, IV-III

Rule 9.10 Any person, firm, or corporation intending to alter an existing or construct a new molluscan shellfish handling, transporting, and/or processing facility must acquire a Mississippi Certified Shellfish Sanitation or Processing Plant license and certification from the MDMR Authority. The MDMR Authority must be contacted prior to handling or processing any molluscan shellfish in any fashion in any altered or new molluscan shellfish facility.

Source: MISS. CODE ANN. §§ 49-15-15, 49-15-303, 49-15-304; NSSP Model Ordinance § II-I, II-VI, II-VII, III-I, IV-III

Rule 9.11 Post-Harvest Processing of molluscan shellfish is permitted as described in the most current version of the NSSP Model Ordinance.

Source: MISS. CODE ANN. §§ 49-15-15, 49-15-303, 49-15-304; NSSP Model Ordinance §§ II-I, II-VI, II-VII, III-I, III-XVI, IV-III, IV-IV

Rule 9.12 MDMR Responsibility

- A. The MDMR will issue certifications and conduct routine inspections of molluscan shellfish facilities in accordance with the most current version of the NSSP Model Ordinance.
- B. The MDMR will issue to certified dealers, itemized statements of compliances and non-compliances.
- C. For the cited excessive non-compliances, the MDMR will provide the facility manager with a schedule of corrections to bring the facilities into compliance.
- D. Certification will not be issued or renewed without compliance and will be considered revoked.
- E. It is unlawful to operate a processing or shipping facility without a current valid license and certification.

Source: MISS. CODE ANN. §§ 49-15-15, 49-15-303, 49-15-304; NSSP Model Ordinance §§ II-I

Rule 9.13 It is the duty and responsibility of each owner, manager, and operator of a certified molluscan shellfish facility:

- A. To ensure that all regulations are strictly adhered to and that only safe, wholesome, unadulterated molluscan shellfish are offered for sale to the consuming public.
- B. To ensure that the facility is properly supervised at all times and all molluscan shellfish can be identified to guarantee that they were harvested from approved and conditionally approved growing waters in the open status and that they have been handled and processed in a sanitary manner.

Source: MISS. CODE ANN. §§ 49-15-15, 49-15-303, 49-15-304; NSSP Model Ordinance § II-I, II-VI, II-VII, III-I, IV-III

Rule 9.14 Suspension of License and Certification

- A. License and certification held by any person, firm or corporation will be suspended or revoked by the MDMR Authority:
 - 1. If there is reason to believe that a public health hazard exists.
 - 2. If the holder violates any of the requirements of this regulation.
 - 3. If the holder interferes with a representative of the MDMR in the performance of duties.
- B. The MDMR Authority will serve the holder a written notice of intent to suspend the license and certification.
 - 1. The notice will specify the violation(s) and afford the holder reasonable opportunity to correct the violations as agreed to by the parties or in absence of agreement fixed by the MDMR before making any order of suspension effective.
 - 2. A copy of the inspection sheet handed to the license and certification holder or their authorized representative, or in their absence, posted in a conspicuous place in the establishment, shall constitute a written notice to suspend the license and certification.
- C. A suspension of license and certification will remain in effect until the violation has been corrected to the satisfaction of the MDMR Authority.
- D. In a case where the molluscan shellfish involved create a health hazard or whenever adulterated or misbranded molluscan shellfish and/or molluscan shellfish products are found, or in any case of willful refusal to permit an inspection, the MDMR Authority may issue a cease-and-desist order, effective immediately, to suspend all molluscan shellfish related activities. This order will remain in effect until such time as proper corrective actions have been taken and the order is officially lifted.
- E. Upon request for reapplication, from any person whose license and certification has been suspended, the MDMR Authority shall make such inspection(s) and/or collect samples as deemed necessary to determine compliance with the requirement of this regulation.
- F. Upon repeated violations, the MDMR Authority will revoke a license and certification following reasonable notice to the license and certification holder and an opportunity for a hearing.

Source: MISS. CODE ANN. §§ 49-15-15, 49-15-303, 49-15-304; Nssp Model Ordinance §§ II-I

Chapter 21: Molluscan Shellfish Leases

Rule 10.4 All Molluscan Shellfish Leases must adhere to the following boundary markings:

- A. Appropriate poles, stakes, or buoys, constructed of such material as will not be injurious to watercraft, must mark all leases at the expense of the leaseholder.
- B. Each leaseholder must mark at least the four (4) corners of each lease with an appropriate marker and must maintain all markers.
- C. Each marker must list the lease number and marker position (i.e., southeast (SE) corner).
- D. Each lessee must file a "Private Aids to Navigation" application with and receive permit approval from the U.S. Coast Guard, for the lease markers, and provide a copy of the permit approval to the MDMR Director of Marine Fisheries prior to final granting of the lease and placement of the markers.

Source: MISS. CODE ANN. §§ 49-15-15, 49-15-27, 49-15-303, 49-15-304; NSSP Model Ordinance §§ II-VIII, II-X

Rule 10.5 All off-bottom molluscan shellfish aquaculture harvesters must adhere to the rules and regulations outlined in the applicable Public Trust Tidelands Sublease, Commercial Aquaculture Permit, this Part, and the most current version of the NSSP Model Ordinance.

Source: MISS. CODE ANN. §§ 49-15-15; NSSP Model Ordinance § II-VIII

Rule 10.6 On-Bottom Molluscan Shellfish Leases

- A. Lease Application
 5. Any person wanting to lease bottoms must complete an on-bottom shellfish lease application and submit it to the MDMR Director of Marine Fisheries. Applications are available at the MDMR office.
 6. Applicants must be a resident of the State of Mississippi or be organized under the laws of the State and registered with the Secretary of State's Office.
 7. The time and date of the receipt of each application will be noted on the application.
 8. Each application must be accompanied by a description of the area intended for lease using latitude and longitude coordinates, and a map taken from NOAA nautical charts, 11371, 11372, 11373, or 11374, depicting the area to be leased.
- B. Lease Application Review
 1. Applications will be reviewed by the MDMR staff for compliance with

application guidelines and completeness.

2. In the event that applications are received for overlapping areas, the applications must be processed in order of the earliest receipt and so noted by the MDMR Authority, prior to consideration of each lease application; however, the MDMR is authorized to exercise its discretion as to which bid is the highest responsible bid, and such leases must be awarded to promote the maximum cultivation and propagation of molluscan shellfish.
3. The MDMR will either grant or deny the lease application and the applicant will be notified in writing of the action on their lease application within 30 days after the action proposal.

C. Lease Conditions

1. Each proposed lease area must be located in growing waters classified as approved, conditionally approved, or restricted.
2. Leases must be for a term of five (5) years, with the right of the lessee to renew the lease for an additional five (5) years and continue to renew at five-year (5) intervals, at the same ground rental rate so long as the lessee actively cultivates and gathers shellfish, complies with all provisions, and has all applicable permits and licenses.
3. If the lessee is prevented from gathering shellfish from the leased area by a storm, or other natural phenomenon, the lessee may renew the lease if the bottoms are actively worked by the lessee during the remaining term or renewal term of the lease.
4. All leases issued before or after July 1 of each year must be prorated from the date of lease to the following expiration of five (5) years from the date of the lease.
5. All leases expire on July 1 of the expiration year.
6. Each lessee has the option to renew their lease provided they submit a written application with payment of annual or prorated rental for the subsequent lease period within thirty (30) days of the lease expiration date to the MDMR Business Office.
7. Each application for an on-bottom lease must be for five (5) acres or more but must not exceed 500 acres.
8. The proposed lease area must have a continuous border.
9. The proposed lease area must be configured as a square or rectangle with the lease area boundaries meeting at right angles. However, the lease rent may be adjusted pro rata to conform to non-rectangular shapes within the lease area.

10. The length of the proposed lease area cannot be greater than twice the distance of the width of the lease area.
11. In the case of an individual, there will not be counted towards such limitation any lands leased by a corporation, partnership, or association in which such individual owns ten percent or less interest, and, in the case of a corporation, partnership, or association, there will not be counted towards such limitation, any lands leased by an individual stockholder, partner, or associate thereof, who owns ten percent or less interest in such corporation, partnership, or association.
12. No proposed lease areas will be approved that are within 100 feet of an existing lease area or lease area that is pending final approval, unless the same person holds both leases.
13. No areas designated as tonging reefs, nor areas defined as natural reefs, nor areas within the boundaries of riparian property owners will be leased for shellfish harvest by the MDMR.
14. Leases must be active and engaged in shellfish aquaculture activities throughout their term. The applicant must not begin any activities on the lease until they have obtained all applicable permits, including MDMR wetlands permits. Failure to obtain permits is evidence that the lease is not active.
15. All leases made by the MDMR under the authority of this Part must be subject to the paramount right of the State of Mississippi and any of its political subdivisions authorized by law, to promote and develop ports, harbors, channels, industrial or recreational projects, freshwater diversion projects, and all such leases must contain a provision that in the event such authorized public body must require the area so leased or any part thereof for such public purposes, that the lease must be terminated on reasonable notice fixed by the MDMR in such lease.

D. Reporting

1. All on-bottom molluscan shellfish reef lessees must submit a report outlining all shellfish related activity pertaining to their lease to the MDMR Shellfish Bureau within thirty (30) days of activity.
2. All on-bottom molluscan shellfish reef lessees must submit an annual written summary of lease activity to the MDMR Shellfish Bureau for the previous lease period within 30 days from the lease anniversary date.

E. Termination and Waivers

1. On the termination of any lease, the lessees has the right to remove any shellfish within the leased area within such time as may be fixed by the MDMR Authority and in accordance with such reasonable rules and

regulations as the MDMR may adopt.

2. On the termination of any lease, the lessee must remove any poles, stakes, buoys, or other structures associated with the lease.
3. All lease agreements must contain provisions requiring the lessee to waive any and all claims for damages that may result from any freshwater diversion projects authorized by the State of Mississippi.

F. Subleases and Transfers

1. Subleasing is prohibited.
2. Lease transfers must first obtain prior written approval of the transfer by the MDMR Authority.
3. Transfers of portions of the lease are not permitted.
4. To obtain a transfer, the transferee must apply for the lease as if it were a new lease.
5. The lease transferee must be a Mississippi resident or corporation.
6. The new lease combined with other leases held by the lease transferee must not amount to more than 500 acres.
7. All terms and conditions, including term limitations, from the lease transfer to the transferee.

G. Subdivisions

1. Political subdivisions of the State of Mississippi may lease up to 1,000 acres of bottoms for molluscan shellfish reef development and such political subdivisions are authorized to permit residents of the State of Mississippi to harvest molluscan shellfish from such reefs and charge and receive a fee for each sack of molluscan shellfish harvested.
2. The MDMR will consider and approve the application of a political subdivision after determining that no conflicts exist with sites requested in the applications filed prior to the application of the political subdivision and a fair and reasonable rental rate of not less than five (5) dollars per acre has been set. Such lease will ensure the maximum cultivation and propagation of shellfish.

- H. The MDMR Authority will cooperate with the Jackson County Port Authority, the Harrison County Development Commission, the Municipal Port Commissions, and other port and harbor agencies, to avoid the planting of molluscan shellfish beds in close proximity to navigable channels.

Source: MISS. CODE ANN. §§ 49-15-3, 49-15-15, 49-15-27, 49-15-303, 49-15-304; NSSP Model Ordinance §§ II-VIII

Chapter 22: Other Molluscan Shellfish Related Activities: Cultch Planting, Relaying, and Transplanting

Rule 11.9 Depuration of shellstock is permitted as described in the most current version of the NSSP Model Ordinance.

Source: MISS. CODE ANN. §§ 49-15-15, 49-15-303, 49-15-304; NSSP Model Ordinance §§ II-XV, III-XV

Rule 11.10 Closed Cultch Plant Areas – It is unlawful for any person, firm, or corporation to place or cause to be placed any material or gear used in the catching or taking of saltwater fish, shrimp, crabs or shellfish, with the exception of crab traps or pots, or hook and line fishing or cast nets on any public reef area that has been planted with shells or other cultch material that has not been released or opened to harvest by the MDMR.

Source: MISS. CODE ANN. §§ 49-15-15, 49-15-303, 49-15-304

Rule 11.11 Relaying Molluscan Shellstock

A. Relaying Application

1. All persons, firms, or corporations other than the MDMR wanting to relay molluscan shellfish in the State of Mississippi must complete and submit an application for a relaying permit to the MDMR. Applications are available from the MDMR.
2. All applicants must:
 - i. Hold a valid lease for molluscan shellfish bedding grounds in the State of Mississippi.
 - ii. Have been a resident of the State of Mississippi for at least five (5) years.
 - iii. Have a valid Mississippi shellfish license.
3. Applications will be reviewed by the MDMR Authority for compliance with application guidelines and requested information.
4. When all application guidelines are met and requested information provided, the applicant's intent to relay will be advertised once a week for two (2) consecutive weeks in a newspaper of general circulation in the county or counties closest to the intended activity.
5. Written public comment will be received by the MDMR for a period of fifteen

(15) days from the first date of advertisement.

6. Applicants will be notified in writing of the MDMR actions.
- B. When the MDMR approves the request to relay molluscan shellstock, a relaying permit will be issued which will give specific conditions permitted for relaying activities and reference all regulations.
- C. The Permittee:
 1. Must hold a valid lease of molluscan shellfish bedding grounds in the State of Mississippi.
 2. Must fulfill all permit requirements as established by the MDMR Authority.
 3. Is not permitted to relay shellstock from one restricted area to another restricted area.
- D. The Permittee must not relay shellfish from the restricted area without the presence of an MDMR designated official.
- E. The MDMR designated official must be present at all times relaying activities are in progress. This will include the time the shellfish are harvested from the restricted area to their deposition on private leased grounds, or to an onshore, molluscan depuration facility.
- F. The permittee must pay, to the MDMR Business Office, an amount equal to the compensation regularly received by the MDMR Staff for the time such Staff actually spends performing the above described duties.

Source: MISS. CODE ANN. §§ 49-15-15, 49-15-37, 49-15-303, 49-15-304; NSSP Model Ordinance §§ II-V, III-V, IV-II

Rule 11.12 Harvesting Relayed Molluscan Shellstock

- A. The Permittee is not permitted to harvest relayed shellfish without prior written permission from the MDMR Authority. The Permittee must complete and submit a request to harvest relayed shellstock and receive written permission from the MDMR Authority.
- B. Harvesting of shellstock is permitted only during daylight hours and with the most efficient gear possible, consistent with conservation considerations, and in such a way not to damage the reef. This includes permission to use two (2) dredges per boat in restricted areas and on private leased grounds.

Source: MISS. CODE ANN. §§ 49-15-15, 49-15-303, 49-15-304; NSSP Model Ordinance §§ II-V, III-V, IV-II

Rule 11.13 Bonding

- A. The Permittee must be bonded in compliance with the permit system established by the MDMR.
- B. Permittees are required to post a penal bond of \$100.00 per acre leased with the MDMR.
- C. This bond must be forfeited if permittee violates any provisions of this Part.
- D. The MDMR shall approve the bond if sufficient property or sureties secure it.

Source: MISS. CODE ANN. §§ 49-15-15, 49-15-303, 49-15-304

Rule 11.14 Interval Between Relaying and Harvesting Molluscan Shellstock

- A. There must be a sufficient time interval to allow natural biological cleansing of the shellfish between the time the permittee is permitted to take the shellfish from the restricted area(s), and the time they are then allowed to harvest these shellfish or any other shellfish from their leased area, during which time neither activity is allowed.
- B. During this time interval, the permittee nor any other person or entity is allowed to harvest the relayed shellfish.
- C. This period must be at least fourteen (14) consecutive days, except if the area relayed to fails to meet growing water management plan criteria during any of those 14 consecutive days.
- D. If, during the 14 consecutive days, the area fails to meet the management plan as specified, harvesting will not be allowed until the area has once again met these conditions for 14 consecutive days, or until shorter periods of time are demonstrated to be adequate to permit natural biological cleansing to occur.
- E. The period of time to allow natural biological cleansing must be deemed sufficient and adequate if the bacteriological quality of the shellfish after relaying are of the same quality as the same species already in the approved or conditionally approved relay area; or if shellfish tissue are sampled for verification, the results must be less than a fecal coliform MPN of 230 per 100 grams of meat, provided that no evidence exists that the shellfish prior to relaying contained substances that equal or exceed the action levels, tolerances, and other established levels for poisonous or deleterious substances in seafood.

Source: MISS. CODE ANN. §§ 49-15-15, 49-15-303, 49-15-304; NSSP Model Ordinance §§ II-V, III-V, IV-II-.10

Rule 11.15 Protection from Contamination

- A. All relayed shellfish must be protected from contamination sources such as, but not limited to, boat fuel, oil, bilge, dogs, cats, birds, and other animals, and from sunlight for extended periods of time.
- B. All portions of boats and other equipment coming in contact with shellfish relayed from restricted areas to permitted approved or conditionally approved areas must be rinsed with waters from such approved or conditionally approved waters after each unloading and prior to leaving the permitted approved or conditionally approved area.

Source: MISS. CODE ANN. §§ 49-15-15, 49-15-303, 49-15-304; Nssp Model Ordinance §§ II-V, III-V, IV-II

Rule 11.16 Relaying Records

- A. The MDMR Shellfish Bureau and each permittee must maintain adequate relaying records.
- B. Each record must note the quantity and type of shellfish relayed, dates of relaying, specific areas shellfish are relayed from and to, and any other required information.
- C. Specific harvest areas should be described using differential GPS latitude and longitude coordinates.
- D. In the absence of differential GPS latitude and longitude readings, an accurate map will be supplied depicting the relay source site and the specific location within the permittees' lease where the shellfish were relayed.

Source: MISS. CODE ANN. §§ 49-15-15, 49-15-303, 49-15-304; Nssp Model Ordinance §§ II-V, III-V, IV-II

