

The Mississippi Department of Marine Resources (MDMR) does hereby give public notice that on July 20, 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 11. Said Notice of Intent was filed with the Mississippi Secretary of State's office on July 22, 2021. A complete copy of Title 22 Part 11 and the proposed changes are available at www.dmr.ms.gov. Public comments on the proposed regulation changes will be accepted through August 16, 2021. All comments should be mailed to the MDMR, Attn: Chief Kyle Wilkerson, 1141 Bayview Avenue, Biloxi, MS 39530 or emailed to: Chief Kyle Wilkerson at publiccomments@dmr.ms.gov and delivered by 5:00 PM on August 16, 2021.

Complete description of proposed changes:

TITLE 22 – MISSISSIPPI DEPARTMENT OF MARINE RESOURCES

PART 11 EQUIPMENT AND/OR NETS SEIZED BY THE MISSISSIPPI DEPARTMENT OF MARINE RESOURCES IN THE STATE OF MISSISSIPPI

Chapter 1 INTRODUCTION

Rule 1.1 This Part establishes procedures for the disposition of equipment and/or nets seized by the Mississippi Department of Marine Resources (MDMR).

MISS. CODE ANN. §§49-15-1, 49-15-15, 49-15-21, 49-15-65, 49-15-100, 49-15-100.1, 49-15-100.3, 49-15-201, 49-15-203, 49-15-205 and 49-15-207.

Chapter 02 SALE AND DISPOSITION OF SEIZED EQUIPMENT AND/OR NETS

Rule 2.1 Forfeiture proceedings for property seized will be in accordance with Miss. Code Ann. §§ 49-15-201 through 49-15-205 or 49-15-207.

Rule 2.2 All property subject to forfeiture shall be sold at public auction in accordance with Miss. Code Ann. §§49-15-205(4) or destroyed upon approval of the MDMR Executive Director.

Rule 2.3 Prior to the sale of any equipment or nets seized the MDMR shall review each item and determine which shall be sold and which shall be destroyed.

Rule 2.4 At the discretion of the agency, the equipment or nets to be sold may be viewed by the public prior to the auction, whereupon notice of same shall be included in the advertisements of public auction.

Rule 2.5 Sales of equipment or nets seized shall be held each year, forty-five days, more or less, following the opening of shrimp season. Additional sales may be scheduled at the discretion of the MDMR.

MISS. CODE ANN. §§49-15-1, 49-15-15, 49-15-21, 49-15-65, 49-15-100, 49-15-100.1, 49-15-100.3, 49-15-201, 49-15-203, 49-15-205 and 49-15-207.

Chapter 03 CHAPTERS AND SUBCHAPTERS DECLARED SEPARABLE

Rule 3.1 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 11 shall remain in full force and effect.

MISS. CODE ANN. §§49-15-1, 49-15-15, 49-15-21, 49-15-65, 49-15-100, 49-15-100.1, 49-15-100.3, 49-15-201, 49-15-203, 49-15-205 and 49-15-207.

TITLE 22 – MISSISSIPPI DEPARTMENT OF MARINE RESOURCES

~~PART 11 RULES AND REGULATIONS ESTABLISHING PROCEDURES FOR THE DISPOSITION OF EQUIPMENT AND/OR NETS SEIZED BY THE MISSISSIPPI COMMISSION~~ DEPARTMENT OF MARINE RESOURCES IN THE STATE OF MISSISSIPPI

Chapter 1 ~~Introduction~~ INTRODUCTION

Purpose

~~Rule 1.1~~⁴⁰⁰ This Part establishes ~~regulations for~~ procedures for the disposition of equipment and/or nets seized by the Mississippi ~~Commission on Marine Resources~~ Department of Marine Resources (MCMR MDMR).

MISS. CODE ANN. §§49-15-1, 49-15-21, 49-15-15, 49-15-65, 49-15-100, 49-15-100.1, 49-15-100.3, 49-15-201, 49-15-203, 49-15-205 and 49-15-207.

~~CHAPTER 02 JUSTIFICATION AND AUTHORITY~~¹⁰⁰ The MCMR is required by law to ~~seize certain equipment or nets during the course of enforcing the provisions of § 49-15-1, et seq., of the Mississippi Code Ann. of 1972, as amended.~~

~~101~~ The MCMR is required in § ~~49-15-15 (1) (k), as amended, to provide for the disposition of this equipment if the sale thereof is not directed by the justice court as provided in § 49-15-65 of the Mississippi Code Ann. of 1972, as amended.~~

~~Chapter 023 Regulations on Sale and Disposition of Seized Equipment and/or Nets~~ REGULATIONS ON SALE AND DISPOSITION OF SEIZED EQUIPMENT AND/OR NETS

~~Rule 2.1~~⁴⁰⁰ Prior to the sale of any equipment or nets seized pursuant to § ~~49-15-1, et seq.~~ of the

Mississippi Code Ann. of 1972, as amended, the MACMR shall review each item and determine which shall be sold and which shall be destroyed.

Rule 2.2 ~~101~~ All equipment or nets seized by the law enforcement officers of the MDCMR pursuant to ~~§ 49-15-1 et seq. of the Mississippi Code Ann. of 1972, as amended,~~ to be sold, shall be sold at public auction for cash to the highest and best bidder. Each public auction held by the MDCMR shall be advertised at least once each week for three consecutive weeks prior to the auction, the last notice to appear not more than ten days nor less than five days prior to such auction. Such advertisement shall be printed in a newspaper having general circulation in the coastal counties of the State of Mississippi.

Rule 2.3 ~~102~~ The advertisements providing notice of said public auction shall contain a description of the property to be sold and a statement of the time and place of the sale. The name of the owner of said property shall be included at the discretion of the agency.

~~103~~ Rule 3.4 At the discretion of the agency, the equipment or nets to be sold may be viewed by the public prior to the auction, whereupon notice of same shall be included in the advertisements of public auction.

Rule 3.5 ~~104~~ Sales of equipment or nets seized shall be held each year, forty-five days, more or less, following the opening of shrimp season, ~~as provided in § 49-15-15 of the Mississippi Code Ann. of 1972, as amended.~~ Additional sales may be scheduled at the discretion of the MDCMR. Proceeds from sales conducted pursuant to this Part shall be paid into the Seafood Fund of the MDCMR.

~~105~~ Rule 3.6 Equipment or nets shall be destroyed only after approval has been obtained from the MACMR and the MACMR has been notified of the reasons for the destruction of said equipment or nets and the manner in which said equipment or nets are to be destroyed.

MISS. CODE ANN. §§49-15-1, 49-15-21, 49-15-15, 49-15-65, 49-15-100, 49-15-100.1, 49-15-100.3, 49-15-201, 49-15-203, 49-15-205 and 49-15-207.

Chapter 04 Penalties PENALTIES

~~100~~ Rule 4.1 ~~Any unlawful act under Violations of 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, as amended, unless a penalty is specifically provided elsewhere in the Mississippi Code Ann. of 1972, as amended.~~

Chapter 05 ~~Chapters and Subchapters Declared Separable~~ CHAPTERS AND SUBCHAPTERS DECLARED SEPARABLE

100 Rule 5.1 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 11 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 and punished as such.~~

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Chapter 06 Administrative Procedures Act

~~100 Pursuant to the amendments to the Administrative Procedures Act, § 25-43-1.101, *et seq.*, of the Mississippi Code Ann. of 1972, as amended, and the rules and regulations promulgated pursuant thereto by the Secretary of State; the former Ordinance 11.001 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 11 RULES AND REGULATIONS ESTABLISHING PROCEDURES FOR THE DISPOSITION OF EQUIPMENT AND/OR NETS SEIZED BY THE MISSISSIPPI COMMISSION ON MARINE RESOURCES IN THE STATE OF MISSISSIPPI, shall take effect and be in force from and after the 1st day of January 2007~~

~~Adopted this the 19th day of December 2006~~

MISSISSIPPI COMMISSION ON MARINE RESOURCES

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

MISSISSIPPI DEPARTMENT OF MARINE RESOURCES

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

Mississippi Secretary of State
125 S. Congress Street, Jackson, MS 39201

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 7/22/21 | Name or number of rule(s): Title 22 Part 11 | | |

Short explanation of rule/amendment/repeal and reason(s) for proposing rule/amendment/repeal: TITLE 22 – MISSISSIPPI DEPARTMENT OF MARINE RESOURCES Part was updated to remove wording already codified in Mississippi Code. References to the Mississippi Code were placed in the regulation. The structure and format were changed to comply with the Secretary of States Guidelines.

Specific legal authority authorizing the promulgation of rule: Mississippi Code Ann. § 49-15-15 et seq.

List all rules repealed, amended, or suspended by the proposed rule: Title 22, Part 11.

ORAL PROCEEDING:

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

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

ECONOMIC IMPACT STATEMENT:

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

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

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

Signature of person authorized to file rules: 

| | | |
|--|---|--|
| <p>OFFICIAL FILING STAMP</p> <div style="border: 1px solid black; height: 100px; width: 100%;"></div> <p>Accepted for filing by</p> | <p>DO NOT WRITE BELOW THIS LINE OFFICIAL FILING STAMP</p> <div style="border: 1px solid black; padding: 10px;"> <p align="center">FILED</p> <p align="center">JUL 22 2021</p> <p align="center">MISSISSIPPI SECRETARY OF STATE</p> </div> <p>Accepted for filing by <i>d5745 Pom</i></p> | <p>OFFICIAL FILING STAMP</p> <div style="border: 1px solid black; height: 100px; width: 100%;"></div> <p>Accepted for filing by</p> |
|--|---|--|

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Adopted this the 19th day of December 2006

~~MISSISSIPPI COMMISSION ON MARINE RESOURCES~~

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

~~MISSISSIPPI DEPARTMENT OF MARINE RESOURCES~~

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