

# 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/](http://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. APPROVED CULTCH MATERIAL - Materials that have been authorized or accepted by the relevant regulatory or governing body for use in on-bottom molluscan shellfish cultivation. These materials are typically used to provide a suitable substrate or surface for shellfish to attach and grow on, such as oyster spat or other natural or synthetic materials. A list of suitable materials will be listed in the Molluscan Shellfish Growing Waters Operational Plan.
- E. 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.
- F. AQUACULTURE MARKET SIZE SHELLSTOCK – Molluscan shellstock which measures 51 mm or more (2 inches or greater) from end to end.
- G. 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.
- H. 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.
- I. 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.
- J. 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.
- K. 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.
- L. 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).
- M. 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.

- N. 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.
- O. 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.
- P. 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.
- Q. DEPURATION – The process of reducing the pathogenic organisms that may be present in shellstock by using a controlled aquatic environment as the treatment process.
- R. EVENT OF DEFAULT – A circumstance where the leaseholder fails to fulfill their contractual obligations or breaches the terms and conditions of the “Lease Agreement for Oyster Production”.
- S. 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.
- T. 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.
- U. INTRASTATE COMMERCE – The movement that originates in a single state, moves in that state only and delivers in that originating state.
- V. 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.

- W. LANDED – The point at which shellstock is put on land or a dock.
- X. 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.
- Y. MISBRANDED – Molluscan shellfish labeled with false or misleading information in any way or with a missing label.
- Z. MOLLUSCAN SHELLFISH – All bivalve species of oysters, clams, mussels, or scallops in the shell, shucked, fresh, frozen or in part.
- AA. 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.
- BB. 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.
- CC. ON-BOTTOM PROPERTY CLASSIFICATIONS – The categorization or classification of submerged lands or water bottoms that are suitable for leasing or cultivating molluscan shellfish. As of July 1, 2023, the classifications are as follows:
1. Class I – Substantial Shellfish Resource/Recently Improved Bottoms
  2. Class II – Minimal Shellfish Resource/Improved Bottoms
  3. Class III – No Resource/Unimproved Bottoms
- DD. OYSTER SPAT - The early juvenile stage of an oyster, which is the larval oyster that has settled and attached to a hard substrate, such as a shell, or rock.
- EE. PLAT - A detailed map drawn to scale, used to show the divisions and boundaries of a piece of land. It identifies the corner coordinates (decimal degrees), describes the piece of land, its boundaries, and gives a description of the approved cultch material and amount to be deployed.
- FF. 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.
- GG. PUBLIC REEF – On-bottom molluscan shellfish reefs, either natural, historic, or created by the state that are managed by the state.
- HH. 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.

- II. 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.
- JJ. 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.
- KK. 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.
- LL. SANITARY SURVEY – The evaluation of all actual and potential pollution sources and environmental factors having a bearing on shellfish growing water quality.
- MM. SEED – Shellstock which measures less than three (3) inches from end to end.
- NN. 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.
- OO. SHELLSTOCK – Live molluscan shellfish in the shell.
- PP. 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.
- QQ. SHORELINE – The area where the water contacts the land including the mainland and all offshore and barrier islands.
- RR. SHOULD – Used to state recommended or advisory procedures or to identify recommended equipment.
- SS. 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.
- TT. STATE-OWNED REEFS - A designated area within the state's tidal waters that is set aside for the protection, propagation, and management of oyster populations for

the benefit of the environment and the oyster industry.

- UU. 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.
- VV. 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.
- WW. 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.
- XX. 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 Shellfish Growing Waters Openings and Closings for State-Owned Reefs and Private Leases

- A. The MDMR will set the opening date of oyster season on state-owned 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. Allowable gear type
  7. 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 3.5 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 3.6 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 3.7 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 3.8 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 3.9 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 State-Owned Reefs

- A. The following reef locations are hereby defined as state-owned reefs:
  1. The location and boundaries within Henderson Point Reef are defined beginning at 30.28911, -89.306056; thence running south to 30.275936, -89.307225; thence running easterly to 30.276742, -89.286143; thence running north-northwest to 30.285544, -89.287495; thence northwest to 30.286804, -89.298546; thence north-northwest to 30.288524, -89.301152; thence west-northwest to the starting point of 30.28911, -89.306056.
  2. The location and boundaries within Pass Christian Reef are defined beginning at 30.295625, -89.259498; thence running due south to 30.266667, -89.259722; thence running eastward to 30.266706, -89.239754; thence running due north to 30.295594, -89.238995; thence running northwest to 30.307562, -89.243751; thence east-southeast to 30.304763, -89.253733; thence southeast to the starting point of 30.295625, -89.259498.
  3. The location and boundaries within Pass Marianne Reef are defined beginning at 30.260434, -89.257656; thence running due south to 30.232937, -89.257053; thence running east-northeast to 30.237694, -89.235895; thence heading north-northeast to 30.261201, -89.229848, thence running westerly to the starting point of 30.260434, -89.257656.
  4. The location and boundaries within Biloxi Bay Reef are defined beginning at 30.390865, -88.850817; thence north-northeast to 30.397775, -88.849747; thence running easterly 30.398098, -88.840548; thence southeast to 30.397022, -88.838840; thence due south to 30.390560, -88.839293; thence westerly to the starting point of 30.390865, -88.850817.
  5. The location and boundaries within Shearwater Reef are defined beginning at

- 30.395348, -88.828985; thence running north-northeast to 30.396273, -88.828634; thence running east-northeast to 30.396738, -88.823464; thence running southeast to 30.395822, -88.820765; thence running due south to 30.392236, -88.820854; thence running northwest to the starting point of 30.395348, -88.828985.
6. The location and boundaries within Pascagoula West Reef are defined beginning at 30.350556, -88.629745, thence running north to 30.351887, -88.629707; thence running east to 30.351965, -88.619731; thence southeast to 30.346569, -88.615309; thence southwest to 30.345063, -88.619559; thence northwest to the starting point of 30.350556, -88.629745.
  7. The location and boundaries within the Pascagoula Causeway Reef are defined beginning at 30.337473, -88.586133; thence running west-northwest to 30.338845, -88.592265; thence northwest to 30.343418, -88.596595; thence north-northeast to 30.349412, -88.595152; thence east to 30.349177, -88.588124; thence running south-southeast to starting point of 30.337473, -88.586133.
- B. All molluscan shellstock taken from state-owned 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.
- C. Any person, firm or corporation harvesting molluscan shellfish on state-owned reefs must first register on the day of harvest with the MDMR.
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. Any exception to these conditions due to unforeseen circumstances must have prior approval by an MDMR Authority.
- D. All molluscan shellfish must be properly tagged immediately upon landing on the date of harvest.
- E. All shellstock must be packed in clean containers before the boat or vessel leaves the reef from which they were harvested.

- F. Molluscan shellstock harvested from state-owned reefs 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.
- G. 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.
- H. 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.
- I. 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.
- J. Upon registration, while harvesting, or upon check-out, each person may be required to show their license to an MDMR Authority.
- K. 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 abide by all statements, terms, conditions or clauses in the: Department of the Army, Mobile District Corps of Engineers Permit and the MDMR Wetlands Permit (available on the MDMR website), Lease Agreement for Oyster Production, and MDMR Shellfish Bureau Commercial Molluscan Shellfish Lease Permit and adhere to the rules outlined in 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.
- C. All on-bottom molluscan shellfish reef leases are subject to closure based on area classifications and the management for shellfish growing waters within the state of Mississippi per Rule 3.4 of this Title and Part.

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.
- C. All off-bottom molluscan shellfish aquaculture leases are subject to closure based on area classifications and the management for shellfish growing waters within the state of Mississippi per Rule 3.4 of this Title and Part.

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 Private Leases and State-Owned Reefs

- A. All on-bottom and off-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.
- B. 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.
- C. It is unlawful for any person, firm, or corporation harvesting from state-owned reefs to have possession of tags in excess of the daily sack limit.
- D. 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

### **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](mailto: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 off-bottom 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 in writing and submit it to the MDMR Authority. Applications are available at the MDMR office.

2. An application fee of \$50 must be rendered at the time of submission.
3. 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.
4. The time and date of the receipt of each application will be noted on the application.
5. Each application must be accompanied by a plat showing the proposed lease area using decimal degrees coordinates, a map taken from NOAA nautical charts, 11371, 11372, 11373, or 11374, depicting the area to be leased and a description of cultch material and amount to be deployed.
6. Upon initial leasing of new areas, pursuant to Senate Bill 2544, 2023 Regular Legislative Session, the MDMR will issue a "Request for Proposals," the response to which must include the following information in addition to the application:
  - a. Identification of the classification of property for lease
  - b. Evidence of the applicant's financial stability
  - c. Proposed acreage to be leased
  - d. Amount of proposed acreage to be cultched/seeded
  - e. Timeframe for cultivation on the proposed lease
  - f. Experience in reef development.

B. Lease Application Review

1. The MDMR Authority will review and evaluate each lease application based on the information provided in the application and in the response to the "Request for Proposals.
2. Approval of lease applications will be based on the criteria established by the "Request for Proposals" and an evaluation of the information provided in the response.
3. The MDMR Authority may request additional information from the applicant or conduct site visits as part of the evaluation process.
4. Upon approval of the lease application, the applicant will be required to enter into a lease agreement with the MDMR, which will outline the terms and conditions of the lease, including rental rates, lease duration, and reporting requirements.
5. Lease holders must comply with all applicable federal, state, and local laws

and regulations, including environmental and conservation requirements, throughout the term of the lease.

6. Applications will be reviewed by the MDMR staff for compliance with application guidelines and completeness.
7. 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.
8. 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 no less than 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 fifteen (15) years, with the right of the lessee to renew the lease for an additional fifteen (15) years and continue to renew at fifteen -year (15) 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 fifteen (15) years from the date of the lease.
5. All leases expire on December 31 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 one (1) acre but must not exceed 2,500 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. No proposed lease areas will be approved that are within 100 feet yards of an existing lease area or lease area that is pending final approval, unless the same person holds both leases.
12. No areas designated as state-owned reefs, as defined in this Part will be leased for shellfish harvest by the MDMR.
13. Leases must be active and engaged in ensuring maximum cultivation and propagation of oysters on their lease 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.

D. Cultivation and Propagation Requirements

1. Lessee shall propagate no less than 50% of the total bottom area leased within the first five (5) years of the lease, with a minimum of 20% being propagated by Year two (2) of the lease agreement. A minimum of 10% per year shall be propagated for each year thereafter. This provision will not apply to Class III of the On-Bottom Property Classifications.
2. The minimum planting density shall be no less than 60 cubic yards of approved cultch per acre OR no less than 5 cubic yards of approved cultch material with a minimum of 75,000 oyster spat per cubic yard.
3. Must only culture species native to the Gulf of Mexico. Polyploid native species are prohibited. Imported shellfish 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.
4. In instances of extreme environmental conditions designated by the Department that are not conducive to oyster recruitment or survival (i.e. hurricanes, freshwater intrusion, prolonged dissolved oxygen events, harmful algal blooms, federal fisheries disaster declarations) the cultivation requirements may be waved until favorable conditions resume.
5. Planting, harvest, and cultivation activities shall be reported to the MDMR annually by December 31st.
6. MDMR staff will inspect cultch material and volume prior to deployment to

ensure conditions of USACE Permit are adhered to.

7. Failure to meet the above requirements may be deemed an “Event of Default”.

E. 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 with supporting documentation of lease activity to the MDMR Shellfish Bureau for the previous lease period within 30 days on or before January 30<sup>th</sup> of each year.

F. Termination and Waivers

1. The MDMR may conduct inspections, audits, and investigations of lease holders' compliance with lease terms, laws, and regulations.
2. Non-compliance with lease terms, laws, and regulations may result in termination of the lease and forfeits to the MDMR all the works, improvements, betterments, and oysters on the leased water bottom.
3. On the termination of any lease, the lessee must remove any poles, stakes, buoys, or other structures associated with the lease.
4. 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.

G. Failure of the lessee to meet the cultivation and propagation requirements of the agency will be deemed an “Event of Default”. 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.

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 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 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 11.6 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 11.7 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

