

The Mississippi Department of Marine Resources (MDMR) does hereby give public notice that on November 21, 2023, 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 9 Confidentiality of Statistical Data, addition of language pertaining to offshore permit establishment. Said Notice of Intent was filed with the Mississippi Secretary of State's office on November 21, 2023. A complete copy of Title 22 Part 9 and the proposed changes are available at www.dmr.ms.gov. Public comments on the proposed regulation changes will be accepted through Monday December 18, 2023. All comments should be mailed to the MDMR, Attn: Trevor Moncrief, 1141 Bayview Avenue, Biloxi, MS 39530 or emailed to: Trevor Moncrief at publiccomments@dmr.ms.gov and delivered by 5:00 PM on December 18, 2023.

Short explanation of rule/amendment/repeal and reason(s) for proposing rule/amendment/repeal:

TITLE 22 – MISSISSIPPI DEPARTMENT OF MARINE RESOURCES PART 9
Confidentiality of Statistical Data, addition of language pertaining to offshore permit establishment. Specific legal authority authorizing the promulgation of rule: Mississippi Code Ann. § 49-15-15, APA, § 25-43-1.101 *et seq.*

For a complete description of the proposed changes, please visit www.dmr.ms.gov

Mississippi Secretary of State

ADMINISTRATIVE PROCEDURES NOTICE FILING

AGENCY NAME Mississippi Department of Marine Resources		CONTACT PERSON T.J. Moran	TELEPHONE NUMBER (228) 523-4184	
ADDRESS 1141 Bayview Ave.		CITY Biloxi	STATE MS	ZIP 39530
EMAIL Tj.moran@dmr.ms.gov	SUBMIT DATE: 11/21/2023	Name or number of rule(s): Title 22 Part 9		

Short explanation of rule/amendment/repeal and reason(s) for proposing rule/amendment/repeal: TITLE 22 – MISSISSIPPI DEPARTMENT OF MARINE RESOURCES PART 9 Confidentiality of Statistical Data, addition of language pertaining to offshore permit establishment
 Specific legal authority authorizing the promulgation of rule: Mississippi Code Ann. § 49-15-15, APA, § 25-43-1.101 *et seq.*

List all rules repealed, amended, or suspended by the proposed rule: Title 22, Part 9: (see above summary description; complete description attached).

ORAL PROCEEDING:


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

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

ECONOMIC IMPACT STATEMENT:

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

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

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

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

TITLE 22 – MISSISSIPPI DEPARTMENT OF MARINE RESOURCES

PART 9 STATISTICAL REPORTING AND CONFIDENTIALITY OF STATISTICAL DATA FOR MARINE FISHERIES

CHAPTER 01 INTRODUCTION

Rule 1.1 This Part provides regulations for the recording, reporting, and confidentiality of Mississippi seafood landings.

MISS. CODE ANN. §§49-13-3, 49-15-1 et seq. and 79-23-1.

CHAPTER 02 JUSTIFICATION AND AUTHORITY

Rule 2.1 It is necessary to obtain information on seafood landed or processed in the State of Mississippi to properly manage the marine fisheries resource.

MISS. CODE ANN. §§49-13-3, 49-15-1 et seq. and 79-23-1.

Rule 2.2 Information gathered may often be of a confidential nature, the unauthorized disclosure of which could be prejudicial or harmful.

MISS. CODE ANN. §§49-13-3, 49-15-1 et seq. and 79-23-1.

Rule 2.3 Proprietary information required to be submitted to the Mississippi Department of Marine Resources (MDMR) is exempt from disclosure.

MISS. CODE ANN. §§49-13-3, 49-15-1 et seq. and 79-23-1.

CHAPTER 03 CONFIDENTIALITY

Rule 3.1 All data collected or otherwise obtained by statistical personnel in the course of their duties and other landings data collected by information confidentiality officers of the MDMR are confidential, and unless specific authorization is given, are not to be divulged, except in aggregate form, to any person except employees of the MDMR designated as information confidentiality officers, the National Oceanic and Atmospheric Administration, National Marine Fisheries Service (NOAA/NMFS), or agencies of other states that have executed a memorandum of understanding for the sharing of statistical information with the MDMR and the NMFS; whose duties require this information, and have provisions at least as protective for maintaining the confidentiality of such information, except as permitted by law or court order.

MISS. CODE ANN. §§49-15-1 et seq., NAO 216-100, 5 U.S.C. 552, 50 CFR 229.10, 16 U.S.C. 1361 et seq., 16 U.S.C. 1801 et seq.

Rule 3.2 Information confidentiality officers for the MDMR must be designated as such in writing by the Executive Director. Aggregate form, with respect to data, shall mean data or information submitted by three (3) or more persons that have been summed or assembled in such a manner so as not to reveal, directly or indirectly, the identity or business of any such person.

MISS. CODE ANN. §§49-15-1 et seq., NAO 216-100, 5 U.S.C. 552, 50 CFR 229.10, 16 U.S.C. 1361 et seq., 16 U.S.C. 1801 et seq.

Rule 3.3 The MDMR will not voluntarily release confidential information to other state or federal agencies, except as provided for above, and to the fullest extent possible, will oppose other agency and congressional subpoenas to obtain confidential information. The MDMR will not disclose confidential statistics under court order without specific approval by the State Attorney General's Office.

MISS. CODE ANN. §§49-15-1 et seq., NAO 216-100, 5 U.S.C. 552, 50 CFR 229.10, 16 U.S.C. 1361 et seq., 16 U.S.C. 1801 et seq.

CHAPTER 04 ENFORCEMENT PERSONNEL AUTHORIZED TO INSPECT SALES RECEIPTS

Rule 4.1 MDMR enforcement personnel are authorized to inspect any and all seafood purchase and/or sales receipts from firms or individuals, whether or not licensed by the MDMR to ensure reporting requirements listed in this Part.

MISS. CODE ANN. §§49-15-1 et seq., NAO 216-100, 5 U.S.C. 552, 50 CFR 229.10, 16 U.S.C. 1361 et seq., 16 U.S.C. 1801 et seq.

CHAPTER 05 FRESH PRODUCT PERMIT/SECONDARY FRESH PRODUCT PERMIT

Rule 5.1 A licensed commercial fisherman may only sell to a seafood dealer or processor.

MISS. CODE ANN. §§49-15-1 et seq., NAO 216-100, 5 U.S.C. 552, 50 CFR 229.10, 16 U.S.C. 1361 et seq., 16 U.S.C. 1801 et seq.

Rule 5.2 A validly licensed commercial fisherman may sell only their catch to a consumer if they have in their possession a fresh product permit obtained from the MDMR.

MISS. CODE ANN. §§49-15-1 et seq., NAO 216-100, 5 U.S.C. 552, 50 CFR 229.10, 16 U.S.C. 1361 et seq., 16 U.S.C. 1801 et seq.

Rule 5.3 A secondary fresh product permit may be obtained from the MDMR for a commercial fisherman's spouse or family member that will allow them to sell their catch to consumers while the commercial fisherman continues to fish. There will be no fee for this permit.

MISS. CODE ANN. §§49-15-1 et seq., NAO 216-100, 5 U.S.C. 552, 50 CFR 229.10, 16 U.S.C. 1361 et seq., 16 U.S.C. 1801 et seq.

CHAPTER 06 SEAFOOD REPORTING REQUIREMENTS

Rule 6.1 Each seafood dealer or processor is required to accurately complete Mississippi trip tickets using the electronic reporting system provided by the MDMR. Commercial fishermen, who sell their catch to individuals other than a Mississippi dealer or processor or transport their catch out-of-state, are required to accurately complete Mississippi trip tickets provided by the MDMR and be in possession of a fresh product permit.

Rule 6.2 A completed Mississippi trip ticket is only required for the initial point of sale of the seafood product. All completed trip tickets must be submitted to the MDMR on or before the tenth of each month for actual transactions from every commercial fisherman during the preceding month. A trip ticket summary form that states the total trips taken (including zero trips) in a given month must be submitted by the 10th of each month by the seafood dealer, processor or commercial fisherman. The fisherman is required to provide to the dealer complete and accurate information necessary for the completion of the fisherman portion of the trip ticket.

Rule 6.3 All applicable fields on a trip ticket must be filled out completely. The seafood dealer, processor, or fisherman is required to verify the accuracy of the tickets before electronic submission or by signing each paper ticket.

Rule 6.4 Menhaden processors must provide information on catch in accordance with the requirements of the National Marine Fisheries Service.

MISS. CODE ANN. §§49-15-1 et seq., NAO 216-100, 5 U.S.C. 552, 50 CFR 229.10, 16 U.S.C. 1361 et seq., 16 U.S.C. 1801 et seq.,

CHAPTER 07 BAIT OPERATOR LANDINGS REPORTING REQUIREMENTS

Rule 7.1 Daily records on catches and sales of live bait shrimp and must be kept and be readily available at the camp location.

MISS. CODE ANN. §§49-15-1 et seq., NAO 216-100, 5 U.S.C. 552, 50 CFR 229.10, 16 U.S.C. 1361 et seq., 16 U.S.C. 1801 et seq.

Rule 7.2 Monthly records on catches of live bait shrimp and sales of bait (shrimp, croakers, chum, squid, crabs, bull minnows) and other bait products must be reported on forms furnished by the MDMR and submitted to the MDMR on a monthly basis.

MISS. CODE ANN. §§49-15-1 et seq., NAO 216-100, 5 U.S.C. 552, 50 CFR 229.10, 16 U.S.C. 1361 et seq., 16 U.S.C. 1801 et seq.

Rule 7.3 Live Bait Dealer Reports must be postmarked no later than the tenth day of the month following the monthly reporting period.

MISS. CODE ANN. §§49-15-1 et seq., NAO 216-100, 5 U.S.C. 552, 50 CFR 229.10, 16 U.S.C. 1361 et seq., 16 U.S.C. 1801 et seq.

CHAPTER 08 RECREATIONAL FISHING LANDINGS REPORTING REQUIREMENTS

Rule 8.1 Persons engaged in recreational fishing in waters under the jurisdiction of the MDMR or landing fish in Mississippi are required to furnish information, including a harvest report, pertaining to such fishing upon request from MDMR.

MISS. CODE ANN. §§49-15-1 et seq., NAO 216-100, 5 U.S.C. 552, 50 CFR 229.10, 16 U.S.C. 1361 et seq., 16 U.S.C. 1801 et seq.

Rule 8.2 In addition to the reporting required pursuant to this paragraph, the following reporting is also required.

A. TailsnScales Reporting for Red Snapper Recreational Harvest

The Captain of the vessel is responsible for ensuring that someone onboard the vessel has obtained the appropriate trip authorization number from the Tails n' Scales reporting system prior to fishing activity. The person onboard the vessel obtaining the appropriate trip authorization number is hereby required to complete an accurate vessel harvest report through the Tails n' Scales reporting system within 24 hours of trip creation.

B. TailsnScales Reporting for Additional Species Recreational Harvest upon

Request. When requested by the MDMR, the Captain of the vessel is responsible for ensuring that someone onboard the vessel has obtained the appropriate trip authorization number from the Tails n' Scales reporting system prior to fishing activity for additional species. The person onboard the vessel obtaining the appropriate trip authorization number are required to complete an accurate vessel harvest report for any additional species through the Tails n' Scales system within 24 hours of trip creation.

MISS. CODE ANN. §§49-15-1 et seq., NAO 216-100, 5 U.S.C. 552, 50 CFR 229.10, 16 U.S.C. 1361 et seq., 16 U.S.C. 1801 et seq.

Rule 8.3 **Charter and Head Boat Reporting.** Charter Boat and Head Boat captains operating in Mississippi waters may complete questionnaires furnished by the MDMR. Completed questionnaires must be furnished to the MDMR upon request. In addition to the reporting required pursuant to this paragraph, the following reporting is also required.

A. TailsnScales Reporting for Charter and Head Boat Red Snapper Harvest. Charter boat and head boat captains operating in waters under the jurisdiction of the MDMR or landing Red Snapper in Mississippi are required to obtain the appropriate trip authorization number from the Tails n' Scales reporting system prior to fishing activity. Charter boat and head boat captains operating in waters under the jurisdiction of the

MDMR or landing Red Snapper in Mississippi are required to complete an accurate vessel harvest report through the Tails n' Scales reporting system within 24 hours of trip creation.

B. TailsnScales Reporting for Additional Species Charter and Head Boat Harvest.

When requested by the MDMR, charter boat and head boat captains operating in waters under the jurisdiction of the MDMR or landing Red Snapper in Mississippi are required to obtain the appropriate trip authorization number from the Tails n' Scales reporting system prior to fishing activity for additional species. Captains are required to complete an accurate vessel harvest report for any additional species through the Tails n' Scales reporting system within 24 hours of trip creation.

MISS. CODE ANN. §§49-15-1 et seq., NAO 216-100, 5 U.S.C. 552, 50 CFR 229.10, 16 U.S.C. 1361 et seq., 16 U.S.C. 1801 et seq.

Rule 8.4 Recreational Offshore Landing Permit. Any person, except those persons currently exempt from purchasing a fishing license (those under 16 or disabled as described in MS. Code 49-15-69), possessing any one of the following fish species or species groups on board a vessel taken from within or outside of Mississippi territorial waters shall be required to have obtained and have in their immediate possession a recreational offshore landing endorsement. Any person on a trip aboard a charter vessel, who pays a fee for that trip, is not required to have this permit, but the permit is required for the owner of the licensed charter vessel. Permits may be obtained at no cost from the Department, or authorized method, by persons who hold any valid license authorizing the taking and possessing of saltwater species of fish. Permits shall be valid for the duration of the calendar year in which they were purchased, regardless of the duration of the valid recreational fishing license. The recreational offshore landing permit shall be available for inspection by a duly authorized agent of the department:

A. Reef fish species:

- a. any species of snapper, excluding Mangrove Snapper harvested within a line formed by the Intercoastal Waterway;
- b. any species of amberjack;
- c. any species of grouper or hind;
- d. Gray Triggerfish;

B. Pelagics:

- a. Cobia;

MISS. CODE ANN. §§49-15-1 et seq., NAO 216-100, 5 U.S.C. 552, 50 CFR 229.10, 16 U.S.C. 1361 et seq., 16 U.S.C. 1801 et seq.

CHAPTER 09 UNAUTHORIZED DISCLOSURES

Rule 9.1 The unauthorized disclosure by any individual of any confidential information obtained by the MDMR is a violation of this Part and is punishable upon conviction in accordance with

Mississippi. Code Ann. § 49-15-63, as amended.

MISS. CODE ANN. §§49-15-1 et seq., 18 U.S.C. 1905, 5 U.S.C. 552, 16 U.S.C. 1858, and 16 U.S.C. 1375.

CHAPTER 10 PENALTIES

Rule 10.1 Violations under this part will be charged in accordance with the provisions of Miss. Code Ann. §49-15-1 et seq. Each day of a continuing violation constitutes a separate violation. Violations of more than one chapter or subchapter of this part or part thereof shall be considered separate offenses and punished as such.

MISS. CODE ANN. §§49-15-1 et seq.

CHAPTER 11 CHAPTERS DECLARED SEPARABLE

Rule 11.1 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 09 shall remain in full force and effect.

MISS. CODE ANN. §§49-15-1 et seq.

TITLE 22 – MISSISSIPPI DEPARTMENT OF MARINE RESOURCES

PART 9 STATISTICAL REPORTING AND CONFIDENTIALITY OF STATISTICAL DATA FOR MARINE FISHERIES

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Rule 2.1 It is necessary to obtain information on seafood landed or processed in the State of Mississippi to properly manage the marine fisheries resource.

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Rule 3.1 All data collected or otherwise obtained by statistical personnel in the course of their duties and other landings data collected by information confidentiality officers of the MDMR are confidential, and unless specific authorization is given, are not to be divulged, except in aggregate form, to any person except employees of the MDMR designated as information confidentiality officers, the National Oceanic and Atmospheric Administration, National Marine Fisheries Service (NOAA/NMFS), or agencies of other states that have executed a memorandum of understanding for the sharing of statistical information with the MDMR and the NMFS; whose duties require this information, and have provisions at least as protective for maintaining the confidentiality of such information, except as permitted by law or court order.

MISS. CODE ANN. §§49-15-1 et seq., NAO 216-100, 5 U.S.C. 552, 50 CFR 229.10, 16 U.S.C. 1361 et seq., 16 U.S.C. 1801 et seq.

Rule 3.2 Information confidentiality officers for the MDMR must be designated as such in writing by the Executive Director. Aggregate form, with respect to data, shall mean data or information submitted by three (3) or more persons that have been summed or assembled in such a manner so as not to reveal, directly or indirectly, the identity or business of any such person.

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Rule 3.3 The MDMR will not voluntarily release confidential information to other state or federal agencies, except as provided for above, and to the fullest extent possible, will oppose other agency and congressional subpoenas to obtain confidential information. The MDMR will not disclose confidential statistics under court order without specific approval by the State Attorney General's Office.

MISS. CODE ANN. §§49-15-1 et seq., NAO 216-100, 5 U.S.C. 552, 50 CFR 229.10, 16 U.S.C. 1361 et seq., 16 U.S.C. 1801 et seq.

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Rule 4.1 MDMR enforcement personnel are authorized to inspect any and all seafood purchase and/or sales receipts from firms or individuals, whether or not licensed by the MDMR to ensure reporting requirements listed in this Part.

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Rule 5.2 A validly licensed commercial fisherman may sell only their catch to a consumer if they have in their possession a fresh product permit obtained from the MDMR.

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Rule 5.3 A secondary fresh product permit may be obtained from the MDMR for a commercial fisherman's spouse or family member that will allow them to sell their catch to consumers while the commercial fisherman continues to fish. There will be no fee for this permit.

MISS. CODE ANN. §§49-15-1 et seq., NAO 216-100, 5 U.S.C. 552, 50 CFR 229.10, 16 U.S.C. 1361 et seq., 16 U.S.C. 1801 et seq.

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Rule 6.2 A completed Mississippi trip ticket is only required for the initial point of sale of the seafood product. All completed trip tickets must be submitted to the MDMR on or before the tenth of each month for actual transactions from every commercial fisherman during the preceding month. A trip ticket summary form that states the total trips taken (including zero trips) in a given month must be submitted by the 10th of each month by the seafood dealer, processor or commercial fisherman. The fisherman is required to provide to the dealer complete and accurate information necessary for the completion of the fisherman portion of the trip ticket.

Rule 6.3 All applicable fields on a trip ticket must be filled out completely. The seafood dealer, processor, or fisherman is required to verify the accuracy of the tickets before electronic submission or by signing each paper ticket.

Rule 6.4 Menhaden processors must provide information on catch in accordance with the requirements of the National Marine Fisheries Service.

MISS. CODE ANN. §§49-15-1 et seq., NAO 216-100, 5 U.S.C. 552, 50 CFR 229.10, 16 U.S.C. 1361 et seq., 16 U.S.C. 1801 et seq.,

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Rule 8.1 Persons engaged in recreational fishing in waters under the jurisdiction of the MDMR or landing fish in Mississippi are required to furnish information, including a harvest report, pertaining to such fishing upon request from MDMR.

MISS. CODE ANN. §§49-15-1 et seq., NAO 216-100, 5 U.S.C. 552, 50 CFR 229.10, 16 U.S.C. 1361 et seq., 16 U.S.C. 1801 et seq.

Rule 8.2 In addition to the reporting required pursuant to this paragraph, the following reporting is also required.

C. TailsnScales Reporting for Red Snapper Recreational Harvest

The Captain of the vessel is responsible for ensuring that someone onboard the vessel has obtained the appropriate trip authorization number from the Tails n' Scales reporting system prior to fishing activity. The person onboard the vessel obtaining the appropriate trip authorization number is hereby required to complete an accurate vessel harvest report through the Tails n' Scales reporting system within 24 hours of trip creation.

D. TailsnScales Reporting for Additional Species Recreational Harvest upon

Request. When requested by the MDMR, the Captain of the vessel is responsible for ensuring that someone onboard the vessel has obtained the appropriate trip authorization number from the Tails n' Scales reporting system prior to fishing activity for additional species. The person onboard the vessel obtaining the appropriate trip authorization number are required to complete an accurate vessel harvest report for any additional species through the Tails n' Scales system within 24 hours of trip creation.

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Rule 8.3 **Charter and Head Boat Reporting.** Charter Boat and Head Boat captains operating in Mississippi waters may complete questionnaires furnished by the MDMR. Completed questionnaires must be furnished to the MDMR upon request. In addition to the reporting required pursuant to this paragraph, the following reporting is also required.

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A. Reef fish species:

- a. any species of snapper, excluding Mangrove Snapper harvested within a line formed by the Intercoastal Waterway;
- b. any species of amberjack;
- c. any species of grouper or hind;
- d. Gray Triggerfish;

B. Pelagics:

- a. Cobia;

MISS. CODE ANN. §§49-15-1 et seq., NAO 216-100, 5 U.S.C. 552, 50 CFR 229.10, 16 U.S.C. 1361 et seq., 16 U.S.C. 1801 et seq.

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Rule 9.1 The unauthorized disclosure by any individual of any confidential information obtained by the MDMR is a violation of this Part and is punishable upon conviction in accordance with

Mississippi. Code Ann. § 49-15-63, as amended.

MISS. CODE ANN. §§49-15-1 et seq., 18 U.S.C. 1905, 5 U.S.C. 552, 16 U.S.C. 1858, and 16 U.S.C. 1375.

CHAPTER 10 PENALTIES

Rule 10.1 Violations under this part will be charged in accordance with the provisions of Miss. Code Ann. §49-15-1 et seq. Each day of a continuing violation constitutes a separate violation. Violations of more than one chapter or subchapter of this part or part thereof shall be considered separate offenses and punished as such.

MISS. CODE ANN. §§49-15-1 et seq.

CHAPTER 11 CHAPTERS DECLARED SEPARABLE

Rule 11.1 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 09 shall remain in full force and effect.

MISS. CODE ANN. §§49-15-1 et seq.