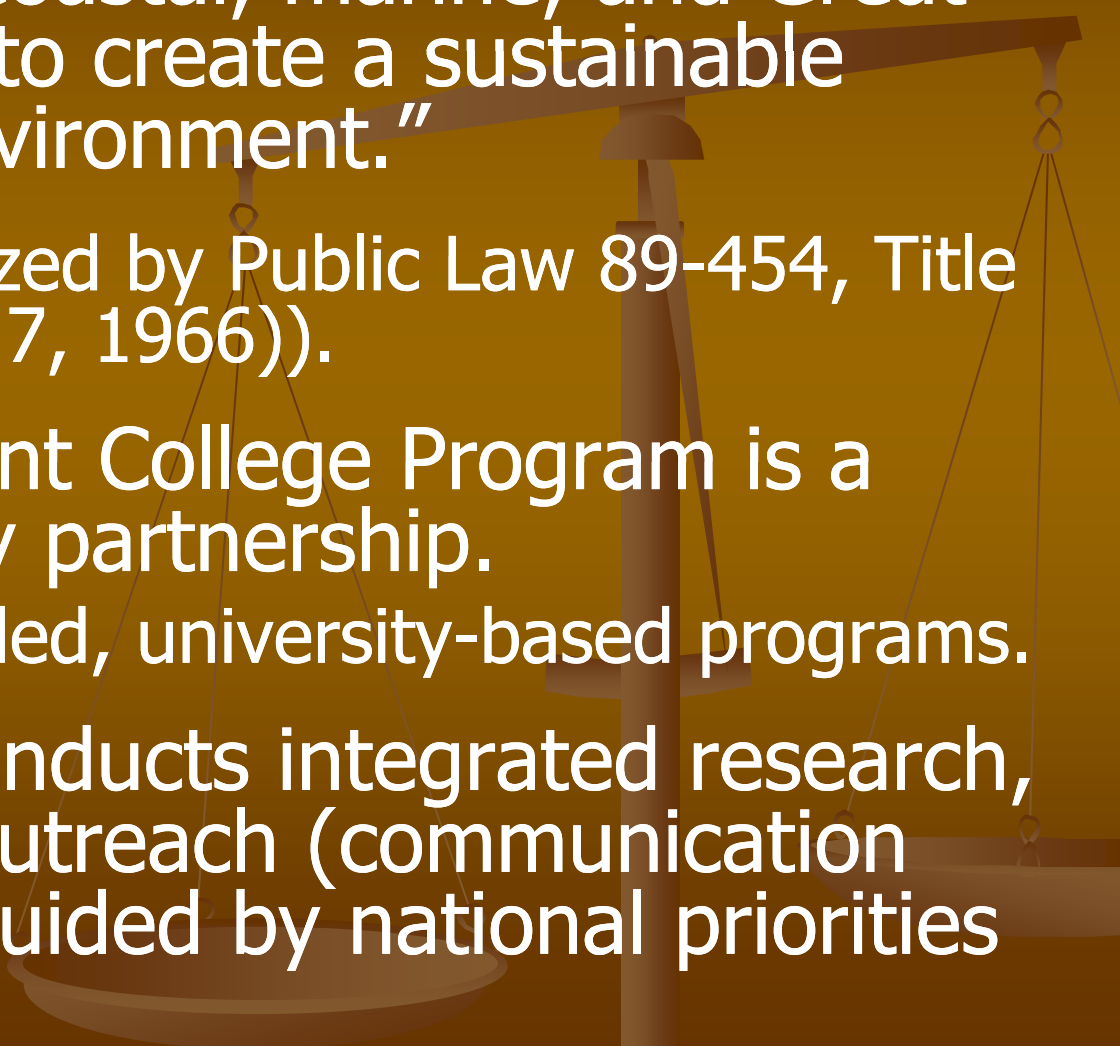




An Overview of the National Sea Grant Law Center

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Sea Grant 101

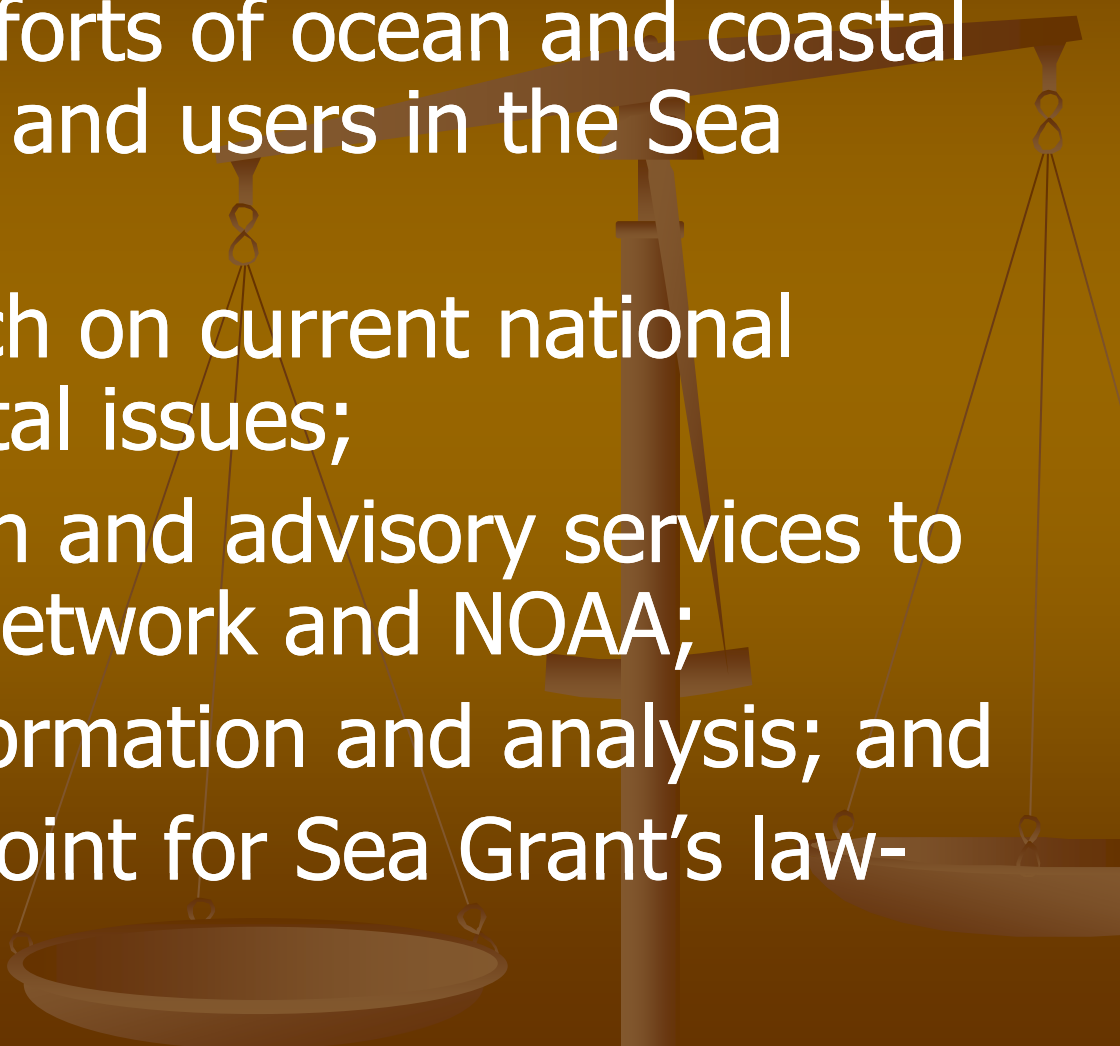
- Mission – “Enhance the practical use and conservation of coastal, marine, and Great Lakes resources to create a sustainable economy and environment.”
 - Program Authorized by Public Law 89-454, Title II, § 201 (June 17, 1966).
 - National Sea Grant College Program is a federal-university partnership.
 - 30 federally-funded, university-based programs.
 - Each program conducts integrated research, education, and outreach (communication and extension) guided by national priorities and local needs.
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Establishment



- In 2001, the National Sea Grant Office issued an RFP calling for “the creation of a law center to coordinate and enhance Sea Grant’s activities in legal scholarship and outreach related to coastal and ocean law issues.”
- At the time, three Sea Grant Programs (Louisiana, North Carolina, and Mississippi-Alabama) had state legal programs.
- University of Mississippi hosts the National Sea Grant Law Center.

Major Responsibilities

- Integrate the efforts of ocean and coastal law researchers and users in the Sea Grant network;
 - Conduct research on current national ocean and coastal issues;
 - Provide outreach and advisory services to the Sea Grant Network and NOAA;
 - Disseminate information and analysis; and
 - Serve as focal point for Sea Grant's law-related issues.
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Organizational Structure

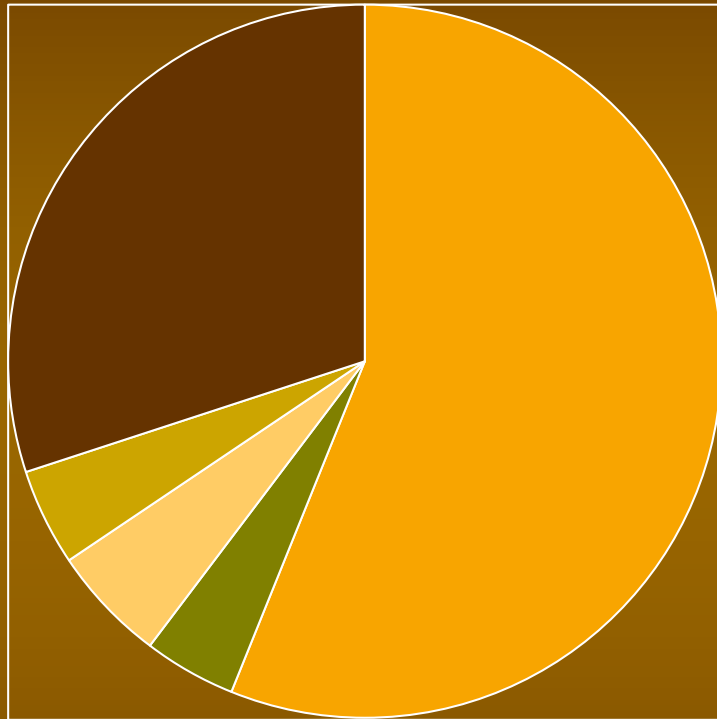


Funding Sources



- Sea Grant Law Center receives \$150,000 annually (\$100,000 federal funding, \$50,000 institutional match).
- Law Center is operated in conjunction with Mississippi-Alabama Sea Grant Legal Program (\$100,000 federal, \$50,000 match).
 - Legal Program funds portions of the salaries of the Director, webmaster, and law students.
- Small federal grants provide some additional funds for discrete projects.

Funding Allocation



- Personnel
- Travel
- Publications
- Misc.
- Indirect Costs

Personnel:

- o Director - ~.375 FTE
- o Staff Attorney – 1 FTE
- o Web Designer - .5 FTE

Guiding Principles



- Provide neutral, non-biased, legal advice.
- Design research projects around the needs of Sea Grant programs, especially extension agents and their constituents (bottom-up).
- Incorporate all three Sea Grant prongs - research, education, and outreach – to improve understanding of ocean and coastal legal issues.

Law Center Components



Research
Advisory Service

Outreach
Newsletters

Education
Research Associate Program



Research



- Center attorneys conduct research on a variety of developing ocean and coastal policy issues including aquaculture, public access, and invasive species.
- Research findings are frequently published as scholarly articles in legal journals.
 - Showalter, S. E. 2004. Commentary, *The Legal Status of Autonomous Underwater Vehicles*, Marine Technology Society Journal, 38:1, pp. 80 – 83.
 - Showalter, S.E. 2005. *The United States and Rising Shrimp Imports from Asia and Central America: An Economic or Environmental Issue?*, Vermont Law Review (in press).

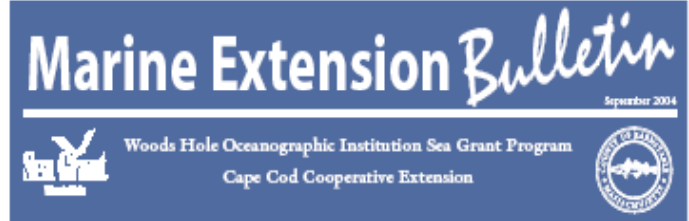
Advisory Service



- Research questions are often an outgrowth of the Law Center's Advisory Service.
 - Legal research service provided free of charge to the Sea Grant College Program and its constituents.
- Law Center attorneys are prohibited from providing actual legal advice or becoming involved in litigation.
 - However, we can give our constituents the information they need to understand the law.

Advisory Request Process

1. Constituent (management agency, extension agent, private citizen) contacts Law Center.
2. Law Center attorneys work with constituent to identify discrete legal question.
3. Research conducted by attorney and law students.
4. Final product prepared – memorandum of law, joint publication with constituent, etc.



Some Liability Issues for Massachusetts Shellfish Farmers

As Massachusetts' shellfish aquaculture industry continues to grow, issues of risk and liability may arise. This bulletin describes some of the potential risks and liabilities, while providing some tips for protecting shellfish farmers, shellfish consumers, and the public from harm.

It takes a great deal of time and energy to get a shellfish farm up and running, from getting an area licensed, planting the juvenile shellfish, to putting nets and scrubbing gear. When the time comes to harvest those shellfish, it's also time to think about what is at stake and how risks can be minimized. What are some of the liabilities associated with a shellfish farm? For example, what happens if a member of the public is injured on a licensed area? What responsibilities do shellfish farmers have for employees

injuries? What happens if a customer becomes ill after consuming cultured shellfish?

Some Background

In Massachusetts, licensed aquaculturists are granted the exclusive use of an area for the purposes of growing shellfish (§ 57 of Chapter 130, Massachusetts General Laws). Under the law, the public has reserved the right to use the waters and lands as long as that use is compatible with aquaculture. What does that mean? It means that no one without the consent of the license holder can take shellfish from that area, disturb the area or the growth of the shellfish, discharge any substances that injure the shellfish, or willfully destroy or remove the gear. And if they do! Violators may be sued by

the license holder for triple damages and costs under § 63 of Chapter 130, Massachusetts General Laws.

In the event of a lawsuit, proper documentation is critical for both the plaintiff and the defendant. License holders should completely document, including the specific extent of damage caused, any costs incurred, and any steps taken to repair the damages. In addition to written records and receipts, it is advisable to seek professional legal advice. It is also a good idea to notify the shellfish officer and the town, as the town may choose to pursue the matter.

Injury to a Member of the Public

Responsible shellfish farmers should do their best to maintain a safe and clean shellfish farm. Still, the Massachusetts



Many shellfish aquaculturists head out to work their farm when the tide is out and their farms are exposed.

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Cape Cod Cooperative Extension, Deed & Probate Building, P.O. Box 367, Barnstable, MA 02630-0367 • (508) 375-6690

Property Disputes



- Public Access to the beach and water is major issue in the United States.
 - An estimated 70% of nation's coastline is privately owned, which makes securing public access difficult.
- The Fifth Amendment of the U.S. Constitution states that private property "shall [not] be taken for public use, without just compensation."
- Government attempts to preserve public resources and access can run afoul of this "Takings Clause."

Takings



- Private property owners are entitled to compensation when land permanently invaded by the government – i.e., for a highway.
- Property owners may also be entitled to compensation if government regulation deprives owner of all economically viable use. Courts look to:
 - Extent of government interference with investment-backed expectations;
 - Character of the governmental activity; and
 - Extent of the economic impact on the property owner

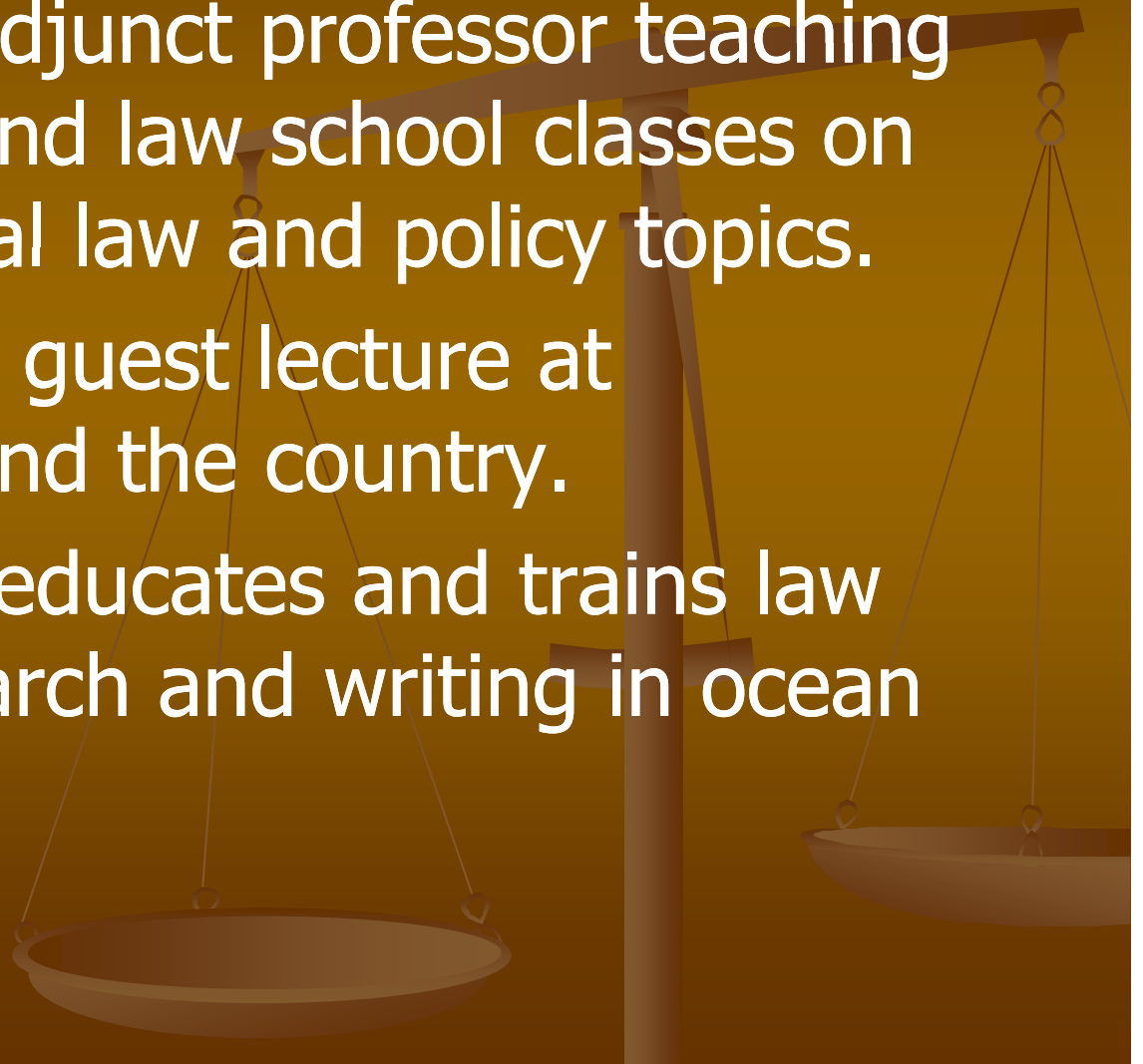
Recent Example



- Lakefront property owners in Ohio dispute the boundary between state and private land.
 - Ohio claims it is the high water mark.
 - Some deeds say water's edge or low water mark.
- Dispute is currently in federal court.
 - If court finds for the landowners, some of the Ohio coastal management programs may have exacted a taking requiring compensation.
- Law Center Research and Outreach Activities:
 - Prepared a white paper analyzing federal and Ohio law related to lake boundaries.
 - Wrote several shorter memos summarizing the legal arguments of private landowners and the state of Ohio.

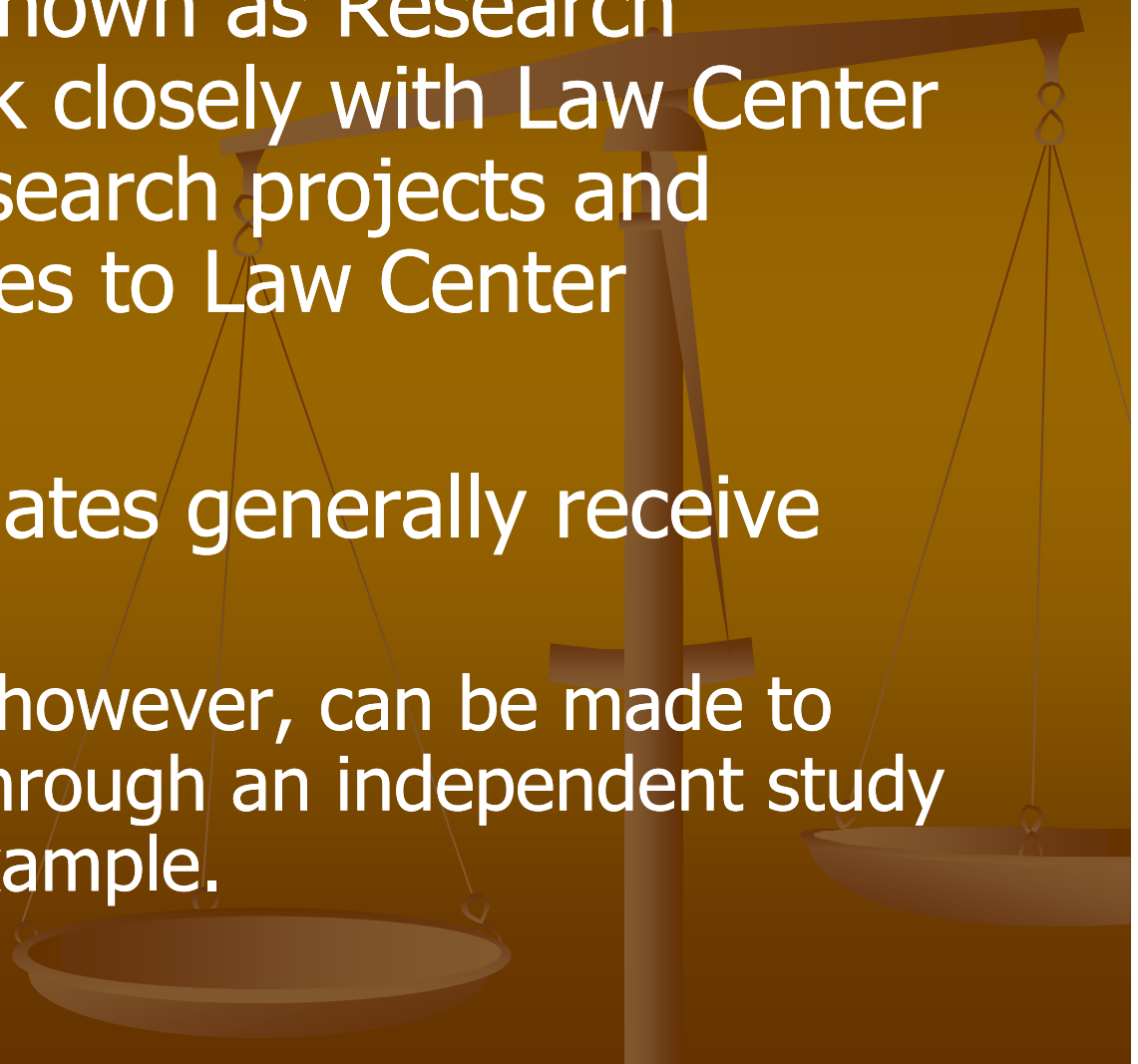
Education

- Director is also adjunct professor teaching undergraduate and law school classes on ocean and coastal law and policy topics.
- Center attorneys guest lecture at Universities around the country.
- The Law Center educates and trains law students in research and writing in ocean and coastal law.



Research Associate Program

- Law students, known as Research Associates, work closely with Law Center attorneys on research projects and contribute articles to Law Center publications.
- Research Associates generally receive hourly wages.
 - Arrangements, however, can be made to receive credit through an independent study program, for example.



Outreach - Publications



The SandBar

Summarizes cases impacting ocean and coastal resource management.

Published quarterly.



Sea Grant Law and Policy Digest

Abstracts of articles published on ocean and coastal law and policy.

Published bi-annually.

Outreach – Fact sheets



- An estimated 7.2 million U.S. residents took cruise vacations in 2002 and the industry continues to offer more cruises at more U.S. ports of call.
- Cruise ships are subject to a confusing patchwork of international, federal, and state laws which managers and general public need to understand.
- Law Center Outreach Activities:
 - Production of fact sheets explaining the regulatory framework.
 - Issuance of announcements as federal agencies and states pass new regulations and laws.

Legal Issues Regarding the Post-Harvest Treatment of Oysters



Stephanie Showalter
Sea Grant Law Center
University of Mississippi



Aquatic Nuisance Species in The Gulf of Mexico

A Guide for Future Action by the Gulf of Mexico Regional Panel and the Gulf States

**Stephanie Showalter
National Sea Grant Law Center
Coastal Zone '03**



Questions????

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