

TITLE 22 – MISSISSIPPI DEPARTMENT OF MARINE RESOURCES

PART 14 RULES AND REGULATIONS TO IMPLEMENT THE DERELICT VESSEL ACT IN THE STATE OF MISSISSIPPI

Chapter 01 Introduction

Purpose

100 This Part establishes regulations to implement the derelict vessel act.

Chapter 02 Justification and Authority

100 The Mississippi Commission on Marine Resources (MCMR) is vested with the jurisdiction and authority over all marine aquatic life and is authorized to enact all regulations necessary for the protection, conservation and propagation of all seafood in the waters under the territorial jurisdiction of the State of Mississippi, as provided for in Miss. Code Ann. § 49-15-15, as amended.

101 The MCMR is vested with the jurisdiction and authority over all coastal wetlands including the flora and fauna on and in the wetlands, and is charged with the protection of the coastal wetlands pursuant to the Coastal Wetlands Protection Act, Miss. Code Ann. § 49-27-1, *et seq.*, as amended.

102 The MCMR is vested with the jurisdiction and authority over the removal of derelict vessels from the coastal wetlands within the territorial jurisdiction of the State of Mississippi, as provided for in Miss. Code Ann. § 49-27-71, as amended.

Chapter 03 Derelict Vessel Removal Regulations

100 The Mississippi Department of Marine Resources (MDMR) shall not remove or cause the removal of any derelict vessel of known ownership from the coastal wetlands of Mississippi without the approval of the MDMR Executive Director.

102 MCMR or the MDMR Executive Director may authorize the removal of derelict vessels as provided by law. For the purposes of this Part, derelict vessels are defined as any vessel having remained submerged in or on the coastal wetlands in excess of thirty (30) days as provided for in Miss. Code Ann. § 49-27-71 (1) (a), as amended. Submerged in or on the coastal wetlands shall include vessels grounded on the coastal wetlands though not completely submerged.

103 Municipalities and counties may contract directly for the removal of derelict vessels. Municipalities and counties shall coordinate with the MDMR prior to the removal of

derelict vessels to determine permitting requirements. Prior to authorizing the removal of a derelict vessel by the MDMR, the MCMR must receive an official request from the municipality or board of supervisors where the derelict vessel is located. The official request must appear on the minutes of the governing authority requesting the removal of the derelict vessel and shall include the following:

103.01 the location of the derelict vessel;

103.02 a detailed description of the derelict vessel;

103.03 a statement that the vessel has been submerged in or on the coastal wetlands in excess of ninety days;

103.04 the names and addresses of any known owners of the derelict vessel; and

103.05 a commitment to pay for all of the costs associated with the removal of the derelict vessel and restoration of the affected coastal wetlands.

104 Following the receipt of a request to remove a derelict vessel the MCMR will review the request for sufficiency and either authorize the MDMR to remove the derelict vessel or notify the requesting agency that the request is deficient.

Chapter 04 Liability of Derelict Vessels

100 Any person, firm or corporation, owning or operating a vessel that is or becomes a derelict vessel shall be liable to the State of Mississippi for the restoration of all affected coastal wetlands and all costs associated with the removal of said vessel. When the last known owner or operator of a derelict vessel is ascertainable the owner or operator shall be notified by certified mail to remove the derelict vessel and restore, in accordance with MDMR staff recommendations, the affected coastal wetlands within thirty (30) days of the date of the notice. The owner of the derelict vessel shall coordinate with the MDMR to obtain all necessary permits, if any. Failure to remove the vessel and restore affected coastal wetlands may result in the imposition of the damages provided for in Chapter 6 of this Part.

Chapter 05 Removal of Derelict Vessels

100 Prior to the removal of any derelict vessel notice of intent to remove and dispose of the derelict vessel shall be given to the owner. Notice shall be given to unknown owners by publishing in a newspaper having general circulation in the county where the derelict vessel is located. Said notice shall be published once a week for three consecutive weeks. The derelict vessel may be removed ten (10) days after the last date of publication. In addition to providing notice to the unknown owner, notice shall be sent by mail to the Mississippi Department of Archives and History for a determination as to whether the vessel to be removed is of archeological, historical, or architectural significance under the provisions of the Antiquities Law of Mississippi. The Department of Archives and History shall respond within thirty (30) days to the notice and advise whether or not the vessel should be preserved.

Chapter 06 Fines Assessed on Derelict Vessels

100 In the event that the owner of a derelict vessel fails to remove the vessel within thirty (30) days of the date of the notice the MDMR may initiate litigation as provided for in Miss. Code Ann. § 49-27-71, as amended, and any other legal action that it deems necessary and appropriate to facilitate the removal of the derelict vessel. The chancery court of the county where the vessel is located shall have jurisdiction and by writ of mandatory injunction order the removal of the derelict vessel by the owner or operator thereof and shall allow a reasonable time for completion of the restoration and removal and may, in its discretion, order as punitive damages a sum not to exceed Five Hundred Dollars (\$500.00) per day for each day such violation has existed. The chancery court may further order as punitive damages a sum not to exceed Five Hundred Dollars (\$500.00) per day for each day that the violation exists beyond the date set by the court in its injunction for the removal of the vessel and the restoration of the coastal wetlands. Additionally, the owner or operator shall be liable for reasonable attorney's fees and all costs of court.

Chapter 07 Contract/Salvage Removal of Derelict Vessels

100 The MDMR is authorized to enter into contracts with individuals, firms and corporations for the removal of derelict vessels. The MDMR will follow standard contracting and bidding procedures for obtaining the services of a salvage operator. The salvage value, if any, of the derelict vessel may be used to offset the cost of the removal of the vessel and the restoration of the coastal wetlands. The cost of the removal of the derelict vessel and restoring the affected coastal wetlands shall be paid by the municipality or the county where the vessel is located directly to the salvage operator.

Chapter 08 Environmental Assessment(s) of Removing Derelict Vessels

100 Prior to the removal of any derelict vessel, an environmental assessment shall be performed to determine the potential impacts to the coastal wetlands from the removal of the derelict vessel. The environmental assessment shall include the following:

- 100.01 an assessment of the amount and type of fuels, oils, and coolants on the vessel;
- 100.02 the presence of any other deleterious substances that may be discharged into the coastal wetlands as a result of the removal of the vessel;
- 100.03 a description of the process to be employed to remove the derelict vessel and the materials identified with minimum impacts to the coastal wetlands; and
- 100.04 a disposal plan for the deleterious materials removed from the derelict vessel.

101 The environmental assessment is part of the cost of the removal of a derelict vessel. Further, any depressions resulting from the removal of a derelict vessel within 1500 feet of the shoreline must be filled.

102 In the event that an owner or operator is subsequently identified, the owner or operator shall

be liable for double the cost of the removal of the derelict vessel and the restoration of the affected coastal wetlands, attorney fees and all costs of court. Upon recovery of said damages the county or municipality shall be reimbursed the costs of the removal of the derelict vessel and restoration of the coastal wetlands.

Chapter 09 Fines and Damages Associated with Derelict Vessel Removal

100 Any fines and damages collected in excess of the cost of the removal of the derelict vessel and the restoration of the affected coastal wetlands shall be deposited in a special fund in the State Treasury to be known as the "Derelict Vessel Fund." The fund shall be administered by the MDMR. Any funds deposited in said fund shall be used to cover the administrative costs incurred by the MDMR for the removal of derelict vessels. Any remaining funds shall be used as a match for municipal and county funds to cover the costs of removing additional derelict vessels.

101 Any derelict vessel salvaged may be destroyed or otherwise disposed of without additional notice to the owner or operator and the value thereof, if any, applied as an offset to the cost of the removal of the derelict structure and restoration of the affected coastal wetlands.

Chapter 10 Penalties

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

Chapter 11 Chapters and Subchapters Declared Separable

100 Each chapter and subchapter of this Part is hereby declared separable, and if any chapter or subchapter or part thereof shall be held invalid or unconstitutional, the balance of said Title 22 Part 14 shall remain in full force and effect.

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

Chapter 12 Administrative Procedures Act

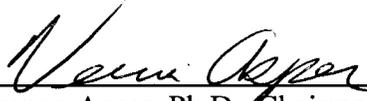
100 Pursuant to the amendments to the Administrative Procedures Act, § 25-43-1.101, *et seq.*, of the Mississippi Code Ann. of 1972, as amended, and the rules and regulations promulgated pursuant thereto by the Secretary of State; the former Ordinance 14.001 has been modified and the MCMR and MDMR have adopted the terminology and numbering system

developed by the Secretary of State. Therefore, references to “ordinance” or to “Part” appearing in these regulations or the underlying statutes are used interchangeably and refer to the same instrument.

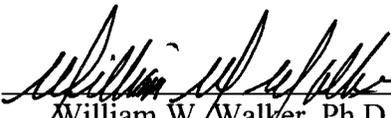
**TITLE 22 – MISSISSIPPI DEPARTMENT OF MARINE RESOURCES
PART 14 RULES AND REGULATIONS TO IMPLEMENT THE DERELICT VESSEL
ACT IN THE STATE OF MISSISSIPPI, shall take effect and be in force from and after the 1st
day of January 2007.**

Adopted this the 19th day of December 2006

MISSISSIPPI COMMISSION ON MARINE RESOURCES

By:  _____
Vernon Asper, Ph.D., Chairman

MISSISSIPPI DEPARTMENT OF MARINE RESOURCES

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