



State of Mississippi

Abandoned and Derelict Vessel (ADV) Legislative and Administrative Review - 2015

NOAA Marine Debris Region:
Gulf of Mexico



Definition of a Vessel

The State of Mississippi provides a definition of a “vessel” under Chapter 21, Boats and Other Vessels, of Title 59, Ports, Harbors, Landings and Watercraft (Miss. Code Ann. § 59-21-3(l)):

Vessel: means every description of watercraft, other than seaplane on the water, used or capable of being used as a means of transportation on water.

Definition of an Abandoned and/or Derelict Vessel

Mississippi law does not provide explicit definitions for “abandoned: or “derelict” vessels. They do allow for the designation of a vessel as abandoned and derelict under the Coastal Wetlands Protection Act pursuant to Miss. Code Ann. § 49-27-71(1)(a):

“Any vessel submerged in or on the coastal wetlands or submerged in any private or manmade canal, with a navigable connection to coastal wetlands, in excess of thirty (30) days is declared abandoned and a derelict vessel.” (note: vessels submerged more than 100 years are not considered derelict under this definition)

Mississippi Administrative Codes governing the Department of Marine Resources provide a similar definition for a “derelict” vessel under their Rules and Regulations to Implement the Derelict Vessel Act (22 Miss. Admin. Code Pt. 14, Ch. 3. § 102):

Derelict Vessel: 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.

Formal State Program for Abandoned Vessels

The State of Mississippi does have a formal program to address abandoned and derelict vessels that is administered by the Department of Marine Resources (Department) pursuant to Miss. Code Ann. § 49-27-71 and through 22 Miss. Admin. Code Pt. 14. These statutes and administrative codes covering abandoned and derelict vessels address liability issues, removal and disposal requirements, salvage and violations.

It does not address abandoned or derelict vessels that are found on private property, unless it is a private canal with a navigable connection to coastal wetlands.

Mississippi’s Derelict Vessel Removal Program is funded primarily through the state’s Derelict Vessel Fund; however, monies from the Tidelands Trust Fund can also be used by the Department or applied for by municipalities, counties or private entities in order to remove and dispose of derelict vessels, as appropriate.

Although Mississippi laws concerning abandoned and derelict vessels do not expressly make abandoning a vessel illegal they do assign liability to the owner for the costs associated with removing and disposing of the vessel and for any environmental damages that occur from the



abandonment (Miss. Code Ann. § 49-27-71(1)(b)). In the event that the owner of a derelict vessel fails to remove a vessel after receiving notice to do so the Department of Marine Resources can initiate litigation or other legal actions to facilitate the removal of the derelict vessel. The court, at its discretion, may order the owner to pay punitive damages of up to \$500 per day for every day the owner is in violation of the removal order. The owner or operator will also be liable for reasonable attorney's fees and all court costs associated with the actions taken by the state. In addition, any unlawful act committed under 22 Miss. Admin. Code Pt. 14, by any person, firm or corporation can result in a misdemeanor charge (22 Miss. Admin. Code Pt. 14, Ch. 10. § 100).

Designation of Abandoned and/or Derelict Vessels

Mississippi does not have a formal designation process for declaring vessels abandoned or derelict. If a vessel meets the requirements outlined in Miss. Code Ann. § 49-27-71(1)(a), or meets the definition provided under 22 Miss. Admin. Code Pt. 14, Ch. 3. § 102 it can be declared as an abandoned and derelict vessel and removed.

Responsibility for Removal of Abandoned or Derelict Vessels

In Mississippi, the Department of Marine Resources may remove or caused to be removed any derelict vessel, or vessel determined to be a hazard to public safety or the environment, from coastal wetlands or from any private or manmade canals with a navigable connection to coastal wetlands if the vessel has been intentionally abandoned by the owner (Miss. Code Ann. § 49-27-71(1)(a)). Any owner or operator of a derelict vessel is liable to the State of Mississippi for all costs associated with the vessel's removal and for the restoration of all affected coastal wetlands (Miss. Code Ann. § 49-27-71(1)(b)).

Municipalities or counties may also remove derelict vessels within their jurisdiction, at their expense, or they can request the Department to contract for the removal (Miss. Code Ann. § 49-27-71(2)(c)). If the municipalities or counties cannot pay for the removal the costs, it may be paid by the Department, if funds are available.

"Coastal wetlands" are defined as "all publicly-owned lands subject to the ebb and flow of the tide; which are below the watermark of ordinary high tide; all publicly-owned accretions above the watermark of ordinary high tide and all publicly-owned submerged water-bottoms below the watermark of ordinary high tide and includes the flora and fauna on the wetlands and in the wetlands." (Miss. Code Ann. § 49-27-5(a)).

Removal and Disposal Requirements/Guidelines

Prior to removing a vessel that has been declared abandoned and derelict pursuant to Miss. Code Ann. § 49-27-71(1)(a)), the Department of Marine Resources must provide notification as provided for under Miss. Code Ann. § 49-27-71(2). If the last known owner or operator is ascertainable, they must be notified by certified mail to remove the vessel and restore any affected coastal wetlands within 30 days, and that failure to do so may result in the imposition of the damages. Notice must also be sent by mail to the Mississippi Department of Archives and History, who then has 30 days to determine if the vessel is of archaeological, historical, or architectural significance under the state antiquities law (Miss. Code Ann. § 49-27-71(2)(f)).

If the owner fails to remove the vessel after receiving notice, state courts have jurisdiction to order the owner or operator to remove the vessel within a reasonable amount of time (Miss. Code Ann. § 49-27-71(3)). The court may, in its discretion, fine the owner up to \$500.00 per day



Mississippi ADV Legislative and Administrative Review 2015

for each day such violation exists. The owner is also liable for reasonable attorneys' fees and court costs. The owner of the derelict vessel who intends to remove it from coastal wetlands is also required to coordinate with the Department of Marine Resources to obtain all necessary permits, if any (22 Miss. Admin. Code Pt. 14, Ch. 4. § 100).

When the owner or operator cannot be identified and/or located the notice must be published once a week for three consecutive weeks in a newspaper with general circulation in the county where the vessel is located (Miss. Code Ann. § 49-27-71(1)(b)). The notice must inform the owner/operator of the intent to remove and dispose of the vessel, which can be done 10 days after the last notice was published.

Once the required notice has been given, derelict vessels may be destroyed or otherwise disposed of by the Department of Marine Resources without additional notice (Miss. Code Ann. § 49-27-71(2)(d)). Municipalities or counties can also remove derelict vessels within their jurisdiction, at their expense, or they can request the Department to contract for the removal (Miss. Code Ann. § 49-27-71(2)(c)). If the municipalities or counties cannot pay for the removal the costs, it may be paid by the Department, if funds are available. Proceeds from the disposal/sale of the vessel or those received from the owner will first be applied to offset the cost of removal and restoration of the affected coastal wetlands (Miss. Code Ann. § 49-27-71(2)(d)). If any proceeds remain after reimbursement for the costs associated with the removal and disposal they must be deposited into the Derelict Vessel Fund to be used for other vessel removals (Miss. Code Ann. § 49-27-71(4)).

The Department of Marine Resources is also allowed, pursuant to Miss. Code Ann. § 49-27-71(6), to enter into contracts with individuals, firms or corporations for the removal of abandoned and derelict vessels, and enter into non-competitive contracts/agreement with any state or federal entity.

If, after the removal and disposal of the vessel, the owner or operator is identified they will be liable for double the cost of the removal and wetland restoration, attorneys' fees, and court costs (Miss. Code Ann. § 49-27-71(2)(e)). Any money received from the owner/operator pursuant to this provision should be used to reimburse the Department, municipalities, counties or others for the removal and restoration costs. The State of Mississippi, the Commission on Marine Resources, and the Department of Marine Resources are not liable for any damage result from the removal, sale, or disposal of any vessel declared a derelict or hazardous vessel (Miss. Code Ann. § 49-27-71(8)).

Municipalities and counties are required to coordinate with the Commission on Marine Resources prior to the removal of derelict vessels to determine permitting requirements (22 Miss. Admin. Code Pt. 14, Ch. 3. § 103). The Commission must also receive an official request from the municipality or the board of supervisors where the derelict vessel is located before they can authorize the removal of the vessel, as outlined under 22 Miss. Admin. Code Pt. 14, Ch. 3. § 103)

Prior to the removal of any derelict vessel, an environmental assessment must be performed to determine the potential impacts to the coastal wetlands (22 Miss. Admin. Code Pt. 14, Ch. 8. § 100). The environmental assessment should include the following:

1. an assessment of the amount and type of fuels, oils, and coolants on the vessel;



Mississippi ADV Legislative and Administrative Review 2015

2. the presence of any other deleterious substances that may be discharged into the coastal wetlands as a result of the removal of the vessel;
3. 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
4. a disposal plan for the deleterious materials removed from the derelict vessel.

Differences between Commercial and Recreational Vessel Treatment

Mississippi laws addressing abandoned and derelict vessels do not make a distinction between commercial or recreational vessels.

Vessel Size Requirements or Limits

There are no vessel size requirements or limits defined under Mississippi's Derelict Vessel Act.

Funding Sources

The Mississippi Derelict Vessel Act established the Derelict Vessel Fund under Miss. Code Ann. § 49-27-71(4), to cover the administrative costs and removal costs incurred by Department of Marine Resources during the removal of vessels. Monies from this fund can also be used as a match for municipal and county funds to cover the costs of removing additional vessels. Any reimbursed cost of removal and any fines and damages collected in excess of the removal and restoration costs are to be deposited in back into the Fund.

Funding for abandoned and derelict vessel removal is also available from the Tidelands Trust Fund, established under Miss. Code Ann. § 25-15-9, which is administered by the Secretary of State. This fund receives monies that are derived from lease rentals of tidelands and submerged lands, except those funds derived from mineral leases. The Department of Marine Resources can make funds available from the Tidelands Trust Fund for the purpose of using such funds as a match or leverage for federal or other funds that are available for designated tidelands project. Tidelands Trust Fund proposals can be submitted to the Department of Marine Resources for abandoned and derelict vessel removal projects (go to <http://www.dmr.ms.gov/index.php/tidelands-application> for more information).

Lead State Agency

The Mississippi Commission on Marine Resources is vested with the jurisdiction and authority over the removal of derelict in the State of Mississippi, through the Department of Marine Resources.

Email: through website

Phone: 228-374-5000 or 800-374-3449

Website: <http://www.dmr.ms.gov/index.php/environment/derelict-vessels>

Insurance Requirements for Vessels

Mississippi does not require vessels to be insured.

Specific Location Factors, Limitations and Additional Information

Sunken or submerged vessels found in or on coastal wetlands within any designated navigation channel or within 100 yards of a state, county, or municipal port boundary may be declared a hazard to navigation pursuant to Miss. Code Ann. § 49-27-71(5). In addition, any sunken or submerged vessels that are leaking hazardous substances, chemicals or fuels may be declared an environmental hazard. Vessels declared as hazards are subject to immediate removal and disposal. The owners of a vessel declared a navigation or environmental hazard are liable for



Mississippi ADV Legislative and Administrative Review 2015

the costs associated with the salvage and disposal of the vessel and any damages to the flora and fauna within the coastal wetlands.

Private Property

Mississippi's Department of Marine Resources only has authority to remove derelict vessels from coastal wetlands and private and manmade canals with a navigable connection to coastal wetlands. The salvage laws under Title 89, chapter 17 of Mississippi Code govern the removal of vessels from all other waters and private property.

In Mississippi, boats which have been relinquished, deserted, or left by the owner with the intent of abandonment in any of the waters or watercourse of the state or in the beds thereof, except for waters of the Mississippi Sound or of the Gulf of Mexico within the jurisdiction and control of the State of Mississippi, are considered the property of the owner of the bed of the stream where such property may be found (Miss. Code Ann. § 89-17-1). Landowners may raise, float, or salvage or authorize the raising, floating, or salvaging of abandoned/derelict vessels found on their property.

Any person claiming to be the owner of the removed property may file an action in court to recover it (Miss. Code Ann. § 89-17-3). If a bond covering the vessel/property is not posted by either party within 72 hours after the seizure of the property under writ, the sheriff on the written demand of either party may sell the boat after posting notice of the time and place of sale at three or more public places in the county. The proceeds of the sale are to be held by the court until a final decision is made in the case. The person who raised, floated, or salvaged the boat is entitled to a lien on it for the reasonable expenses associated with their efforts. In such action, proof that the property was relinquished, deserted, or left for a period of 3 years without any effort being made to salvage such property is prima facie evidence of the intention to abandon (Miss. Code Ann. § 89-17-5).

Prioritization Scheme

The Department of Marine Resources does not have a formal prioritization scheme for the removal of abandoned and derelict vessel they do remove vessels based on the highest threat. In addition, abandoned and derelict vessels that are declared a navigation, pollution or environmental hazard can be removed immediately by the Department.

Legislation and Administrative Codes

The laws and administrative codes referenced in this document can be accessed from:

Mississippi Code Unannotated (2015) – on LexisNexis

<http://www.lexisnexis.com/hottopics/mscode/>

Mississippi Administrative Code (2015):

<http://www.sos.ms.gov/admincodesearch/>

These Legislative and Administrative Reviews are intended for informational purposes only. They are summaries and not meant to be legal references, and should not be used as such. See the official state statutes and administrative codes for current state laws and rules and regulations for any legal references.