

TITLE 49. CONSERVATION AND ECOLOGY
CHAPTER 27. COASTAL WETLANDS PROTECTION ACT
COASTAL WETLANDS PROTECTION ACT
MISS. CODE §§ 49-27-1 - 49-27-71 (2003).

§ 49-27-1. Short title

This chapter is to be known as the "Coastal Wetlands Protection Act" and may also be cited by its common or popular name of "Wetlands Act."

§ 49-27-3. Declaration of public policy

It is declared to be the public policy of this state to favor the preservation of the natural state of the coastal wetlands and their ecosystems and to prevent the despoliation and destruction of them, except where a specific alteration of specific coastal wetlands would serve a higher public interest in compliance with the public purposes of the public trust in which coastal wetlands are held.

§ 49-27-5. Definitions

- (a) "Coastal wetlands" means 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.
- (b) The term "coastal wetlands" shall be interpreted to include the flora and fauna on the wetlands and in the wetlands.
- (c) "Regulated activity" means any of the following activities:
- (i) The dredging, excavating or removing of soil, mud, sand, gravel, flora, fauna or aggregate of any kind from any coastal wetland;
 - (ii) The dumping, filling or depositing of any soil, stones, sand, gravel, mud, aggregate of any kind or garbage, either directly or indirectly, on or in any coastal wetlands;
 - (iii) Killing or materially damaging any flora or fauna on or in any coastal wetland;
 - (iv) The erection on coastal wetlands of structures which materially affect the ebb and flow of the tide; and
 - (v) The erection of any structure or structures on suitable sites for water dependent industry.
- (d) "Dredging" means the removal or displacement by any means of soil, sand, gravel, shells or other material, whether of intrinsic value or not, from coastal wetlands.

(e) "Filling" means either the displacement of waters by the deposition into coastal wetlands of soil, sand, gravel, shells or other material; or the artificial alteration of water levels or water currents by physical structures, drainage ditches or otherwise.

(f) "Person" means any natural person, partnership, joint stock company, corporation, unincorporated association or society, or the state and any agency thereof, or any county, municipality or political subdivision, or any other corporation of any character whatsoever.

(g) "Commission" means the Mississippi Commission on Marine Resources.

(h) "Water dependent industry" means those commercial, industrial or manufacturing activities which, for purposes basic to their existence must occur or locate on or adjacent to the estuaries, sounds, channels, shores or marshlands of the coast. "Suitable sites for water dependent industry" means those areas of land which are suitable for the development of water dependent industry because of their proximity to waters of navigable depth, size and configuration, topography, soil conditions and access to other means of transportation. After consultation with local governments, port authorities, development commissions, port and harbor commissions and other interested parties, and after full consideration of zoning ordinances duly adopted by local governments, the commission shall designate those sites it deems suitable for water dependent industry. The definition of "suitable sites for water dependent industry" shall be limited to, but not necessarily inclusive of, waterfront sites owned by county port authorities, development commissions and port and harbor commissions, and to areas that are now or are later made to be within one thousand (1,000) feet of the centerline of any natural or maintained channel having a depth of seven (7) feet or greater at mean low water. However, additional sites may be included in the definition of suitable sites for water dependent industry with the concurrence of the board of supervisors in the county affected.

§ 49-27-7. Exempt activities, areas and entities

This chapter shall not apply to the following activities, areas and entities:

(a) The accomplishment of emergency decrees of any duly appointed health officer of a county or municipality or of the state, acting to protect the public health;

(b) The conservation, repletion and research activities of the Commission on Marine Resources, the Mississippi Gulf Coast Research Laboratory, the Commission on Wildlife, Fisheries and Parks, and the Mississippi-Alabama Sea Grant Consortium when acting through the Mississippi Universities Marine Center;

(c) Hunting, erecting duck blinds, fishing, shellfishing and trapping when and where otherwise permitted by law;

(d) Swimming, hiking, boating or other recreation that causes no material harm to the flora and fauna of the wetlands;

(e) The exercise of riparian rights by the owner of the riparian rights, if the construction and maintenance of piers, boathouses and similar structures are constructed on pilings that permit a reasonably unobstructed ebb and flow of the tide. The riparian owner may reasonably alter the wetland at the end of his pier in order to allow docking of his vessels;

(f) The normal maintenance and repair of bulkheads, piers, roads and highways existing on the date of enactment of this chapter, and all interstate highways planned but not yet under construction; and financed in part by Federal Interstate Highway Trust Funds;

(g) Wetlands developed in the future by federal, state or county governments for the establishment of a superport or a pipeline buoy terminal for deep- draft, ocean-going vessels, including but not limited to, wetlands adjacent to Petit Bois Island and the Bayou Casotte Channel in Jackson County, Mississippi;

(h) The Biloxi Bridge and Park Commission, Biloxi Port Commission, Long Beach Port Commission, Pass Christian Port Commission, Pascagoula Port Commission, and any municipal or local port authorities;

(i) Wetlands used under the terms of the use permit granted by Chapter 395, Laws of 1954;

(j) Any activity affecting wetlands that is associated with or is necessary for the exploration, production or transportation of oil or gas when such activity is conducted under a current and valid permit granted by a duly constituted agency of the State of Mississippi;

(k) Activities of any mosquito control commission which is a political subdivision or agency of the State of Mississippi;

(l) The Fisherman's Wharf in Biloxi and the Buccaneer State Park in Hancock County;

(m) Wetlands conveyed by the state for industrial development thereon pursuant to Section 211, Mississippi Constitution of 1890, and pursuant to Section 29-3-61, Mississippi Code of 1972;

(n) The activities of the Hancock County Port and Harbor Commission affecting wetlands within its jurisdiction;

(o) The activities of the Harrison County Development Commission affecting wetlands within its jurisdiction;

(p) The activities of the Jackson County Port Authority affecting wetlands within its jurisdiction;

(q) The activities of the Mississippi State Port at Gulfport affecting wetlands within its jurisdiction; and

(r) In the case of regulated activities which, in the judgment of the director or his delegate, after an on-site inspection, have no harmful impact on the environment and which make no substantial change in the wetlands, the director may issue a certificate of waiver, and no permit shall be required.

All activities, areas and entities exempt from the regulatory provisions, whether by name or reference, when carrying out what would otherwise be regulated activities in coastal wetlands shall at all times adhere to the policy as set forth in Section 49-27-3. Each entity shall notify the commission of all such activities so that the commission may be fully advised of all activities in the coastal wetlands.

§ 49-27-9. Permit requirement

(1) No regulated activity shall affect any coastal wetlands without a permit unless excluded in Section 49-27-7. Any person proposing to conduct or cause to be conducted a regulated activity shall file an application for a permit with the commission in such form and with such information as the commission may prescribe. An application fee in an amount of Fifty Dollars (\$50.00) for residential type regulated activity and Five Hundred Dollars (\$500.00) for commercial and industrial type related activity shall accompany each application and shall be payable to the

commission. No permit shall be required for a regulated activity as defined in Section 49-27-5(c)(v) if such activity is an activity by a water dependent industry, nor shall a permit be required pursuant to Section 49-27-5(c)(v) of any individual who seeks to construct a home, fishing camp or similar structure on his own property.

(2) If the commission determines that the activity, area or entity is exempt or requires no permit, and that the activity, area or entity complies with the notification requirement and the coastal wetland policy as required under Section 49-27-7, the commission may reduce the application fee by fifty percent (50%).

§ 49-27-11. Content of application

(1) An application shall include the following:

(a) The name and address of the applicant;

(b) The names and addresses of the present owners of record of adjacent land, as determined by current tax assessment rolls and of known claimants of riparian or water rights in or immediately adjacent to the coastal wetland, or a certification that after diligent search and inquiry the names and addresses could not be found;

(c) A detailed description of the proposed activity and a map, drawn to an appropriate and uniform scale showing by section, township and range, or by latitudinal and longitudinal coordinator, the location and area of the coastal wetlands to be affected, indicating the location and area of existing and proposed fill, excavation or other regulated activities; showing the location, width, depth and length of any proposed channel and dredge spoil disposal site; showing all existing and proposed structures, sewage collection and treatment facilities, utility installations, roadways and related appurtenances or facilities, including those on adjacent uplands; describing the type of equipment to be used and the means of equipment access to the activity site;

(d) An estimate of the cost of the activity;

(e) The primary and secondary purposes of the project, including contemplated future projects;

(f) A description of any public benefit to be derived from the proposed project dependent upon the proposed activity;

(g) A complete description of measures to be taken to reduce detrimental off- site effects to the coastal wetlands during and after the proposed activity;

(h) The completion date of the proposed activity and of the project dependent upon the activity;

(i) An appropriate written report or statement of the environmental impact of the proposed regulated activity and of the final project dependent on it upon the affected coastal wetlands and the life dependent upon them, provided that an environmental impact statement treating the same activity in the same area and supplied to another federal or state agency for considering a permit shall satisfy this requirement if submitted by the applicant; and

(j) A certification that a permit from the Mississippi Air and Water Pollution Control Commission has been applied for or that such permit is not required; that a permit from the United States Corps of Engineers has been applied for or that such permit is not required; that permits or other

certificates of compliance with applicable municipal or county building codes and zoning ordinances have been applied for or are not required.

(2) Any person filing an application to dredge an existing channel for navigational purposes shall complete an application for such activities in accordance with application procedures required in this section.

§ 49-27-13. Mailing application to parties

The commission shall cause a copy of any application to be mailed immediately to the following parties:

- (1) The chief administrative officer in the municipality or municipalities where any part of the proposed activity will be located;
- (2) The president of the board of supervisors of any county where any part of the proposed activity will be located;
- (3) The executive director of the Department of Wildlife, Fisheries and Parks;
- (4) The county attorney of any county in which any part of the proposed activity will be located or in any county which may be affected by such activity;
- (5) The district attorney of any judicial district in which any part of the proposed activity will be located or of any district which may be affected by such activity; and
- (6) The Director of the Gulf Regional Planning Commission.

§ 49-27-15. Objections to application; notice

Not later than sixty (60) days from the receipt of any application, the commission shall publish notice of a date on or before which written objections to any application must be filed. If written objection is filed or if the applicant requests a hearing, then a hearing must be held within twenty (20) days after the date on or before which objections must be filed unless a later date for the hearing is agreed to by all parties. Notice of the date on or before which objections must be filed shall be published once a week for at least three (3) consecutive weeks in at least one (1) newspaper of general circulation in the county in which the affected wetlands are located. The last publication of such notice shall be made not more than seven (7) days prior to such date. The published notice shall describe the site of the proposed activity and shall give a general description of the proposed regulated activity. Further, notice shall be given describing the date, time and place for the hearing by U.S. Mail, postage prepaid, to each of the objectors and to the applicant at the address furnished to the commission by the parties, and by causing a copy of such notice to be published at least one (1) time in one (1) newspaper having a general circulation in the county in which the affected wetlands are located.

§ 49-27-17. Notice to parties of hearing

The following parties shall be notified of a hearing by the commission by mail prior to the date set for the hearing, but a failure to meet this requirement shall not invalidate any permit granted thereafter:

- (a) All of those parties who are entitled to receive a copy of such application in accordance with Section 47-27-13 of this chapter; and

(b) All known present owners of record of adjacent land as reflected by current tax assessment rolls and all known claimants to water or riparian rights in or adjacent to the coastal wetlands affected.

§ 49-27-19. Appearance by objector

(a) Any person who files a written objection pursuant to section 49-27-15 may appear at the public hearing and be heard.

(b) The burden of proof shall be on the applicant, whether a hearing is held or not; provided, however, no application shall be denied without giving the applicant a right to a hearing according to the provisions of this chapter.

§ 49-27-21. Public inspection of documentary evidence

Documentary evidence offered at hearings and all applications and related documents shall be open for public inspection at the office of the commission at reasonable times. Oral testimony shall be recorded and shall not be required to be transcribed except in the event of appeal.

§ 49-27-23. Acquisition of permits

In granting, denying, suspending, revoking or limiting any permit, the commission shall consider the effect of the proposed activity with reference to the public policy expressed in Section 49-27-3 of this chapter. A permittee under this chapter must obtain a permit from the Mississippi Commission on Environmental Quality if required by that commission under Sections 49-17-29 through 49-17-43, and nothing in this chapter is intended to waive the requirements and standards of such commission. A Mississippi Commission on Environmental Quality permit granted to an applicant under this chapter shall be proof of the applicant's meeting any water quality standard considered by the commission under this chapter. Any conflict between the commission under this chapter and the Commission on Environmental Quality shall be resolved in favor of the Commission on Environmental Quality. The commission may undertake studies regarding water quality and submit the results of such studies to the Commission on Environmental Quality.

§ 49-27-27. New channel permits

In considering permits to dredge new channels by applicants under subsection (c) of Section 49-27-11, the commission shall take into consideration in addition to Section 47-27-23 the benefit of such channel to the public at large, or to surrounding landowners, and the extent of use projected for the channel, as well as the ecological, economic, commercial, recreational and aesthetic value of the wetlands affected. The commission shall, where practical, require applicants to use existing channels, so as to reduce the coastal wetlands affected.

§ 49-27-29. Limitations on permit

In granting any permit, the commission may impose conditions or limitations on the proposed activity designed to carry out the public policy set forth in this chapter. Upon the expiration of a coastal wetlands permit issued under this chapter, the commission may extend the permit in time.

§ 49-27-31. Requirement of performance bond

The commission may require a performance bond in an amount to be set by the commission with surety and satisfactory conditions securing to the state compliance with the conditions and limitations set forth in any permit.

§ 49-27-33. Revocation of permit

The commission, after reasonable notice in writing to the holder of a permit and after a hearing in the manner as provided in Sections 49-27-15 through 49-27-21 of this chapter, shall suspend or revoke a permit if it finds that the applicant has not substantially complied with one or more of the conditions or limitations set forth in the permit or has exceeded the scope of the activities as set forth in the application.

§ 49-27-35. Commission's findings recorded

The commission shall state, upon its record, its findings and reasons for all actions taken pursuant to Sections 49-27-23 through 49-27-37. When a permit is granted, the commission shall describe the public interest to be served by granting a permit. When a permit is refused, the commission shall describe the public interest which would be adversely affected by granting the permit.

§ 49-27-37. Order sent to parties

The commission shall send a copy of any order in issuance, denial, revocation or suspension of a permit to the parties stated in Section 49-27-17, and such orders must be sent within ninety (90) days from the receipt of the application in the case of granting or denying or thirty (30) days from the date of the hearing in the case of suspension or revocation.

§ 49-27-39. Council's order affirmed on appeal

(a) An appeal may be taken by the applicant, or any person or corporation, municipal corporation, county or interested community group who has been aggrieved by such order, from the denial, suspension or revocation of a permit or the issuance of a permit or conditional permit and who has filed written protest or objection as specified in sections 49-27-9 to 49-27-21, within thirty (30) days after the mailing to the parties of the order of issuance, denial, suspension or revocation of any such permit, to the chancery court of any county having jurisdiction over the property which may be affected by any such proposed activity to be authorized by such permit.

(b) If the court finds that the order appealed from is supported by substantial evidence, consistent with the public policy set forth in this chapter, is not arbitrary or capricious and does not violate constitutional rights, it shall affirm the council's order.

§ 49-27-41. Appeal by complaint

Such appeal shall be brought by a complaint in writing, stating fully the reasons therefor, signed by an authorized party, and shall be served at least twelve (12) days before the return date upon the commission and upon all parties having an interest adverse to the appellant as designated under subsection (a) of Section 49-27-39. Such appeals shall be brought to the next return day of the court after the filing of such appeal or may be returned to a day set by fiat of the court. A cost bond must be posted with sufficient sureties payable to the state in the sum of not less than One Hundred Dollars (\$100.00) nor more than Five Hundred Dollars (\$500.00), to be fixed in the order appealed from and to be filed with and approved by the executive director of the commission, who shall forthwith certify the same, together with a certified copy of the transcription record of the proceedings in the matter to the chancery court to which the appeal is taken, which shall

thereupon become the record of the cause. An appeal to the chancery court as provided herein shall not stay the execution of an order of the commission. Any party aggrieved by an order of the commission may petition the chancery court for an appeal with supersedeas and the chancellor shall grant a hearing on the petition, and upon good cause shown may grant the appeal with supersedeas in which case the appellant shall be required to post a bond with sufficient sureties according to law in an amount to be determined by the chancellor.

§ 49-27-43. Appeal notice served upon commission

Upon the filing of an appeal, the clerk of the chancery court shall serve notice thereof upon the commission, whereupon the commission shall within sixty (60) days, or within such additional time as the court may for cause allow, from the service of such notice certify to the chancery court the record in the case, which record shall include a transcript of all testimony, all objections, all exhibits or copies thereof, all pleadings, proceedings, orders, findings and opinions entered in the case; provided, however, that the parties and the commission may stipulate that only a specified portion of the record shall be certified to the court as the record on appeal.

§ 49-27-45. Case referred to commission

If, upon hearing such appeal, it appears to the court that any testimony has been improperly excluded by the commission or that the facts disclosed by the record are insufficient for the equitable disposition of the appeal, it shall refer the case back to the commission to take such evidence as it may direct and report the same to the court with the commission's findings of fact and conclusions of law.

§ 49-27-47. Power of chancellor upon appeal

Such appeal shall have precedence in the order of trial, and the chancellor may order the granting, denial, revocation, suspension or limitation of any permit or may remand to the council for such order.

§ 49-27-49. Appeals from chancery court

Appeals may be taken from the chancery court to the supreme court in the manner as now required by law, except that if a supersedeas is desired by the party appealing from the chancery court, he may apply therefor to the chancellor thereof, who shall award a writ of supersedeas without additional bond if, in his judgment, material damage is not likely to result thereby, but otherwise he shall require such supersedeas bond as he deems proper which shall be liable to the state or applicant for such damage.

§ 49-27-51. After-the-fact work authorization

(1) If the person or persons believed to be in violation of this chapter submit a proper application for any unauthorized work and the commission determines that the work has been conducted in accordance with the public policy as set forth in Section 49-27-3, the commission shall issue after-the-fact authorization for the work. For conducting the work without first obtaining a current and valid permit, the commission may further order and levy a fine not less than Fifty Dollars (\$50.00) nor more than One Thousand Dollars (\$1,000.00) for residential type regulated activity and a fine of not less than One Thousand Dollars (\$1,000.00) nor more than Ten Thousand Dollars (\$10,000.00) for commercial and industrial type regulated activity.

(2) If the procedure described in subsection (1) fails to resolve the violation, the Attorney General of the State of Mississippi at the request of the commission, a district attorney having jurisdiction,

or a county attorney having jurisdiction may initiate the civil or criminal actions, or both civil and criminal actions, as described in this chapter against any person or persons believed to be in violation of this chapter.

(3) The parties described in subsection (2) of this section may initiate action to enjoin any person or persons believed to be in violation of this chapter.

§ 49-27-53. Jurisdiction and venue

Jurisdiction and venue for judicial actions brought pursuant to this chapter shall lie in any county or counties in which the alleged violation occurs or in which property affected by such violation is located.

§ 49-27-55. Civil liability

(a) Any person who performs or causes to be performed any activity regulated by this chapter for which a permit has not been obtained, violates any provision of this chapter, regulation promulgated pursuant to this chapter or any condition of a permit, shall be liable to the State of Mississippi for the restoration of all affected coastal wetlands to their condition prior to such violation, insofar as such restoration is possible, and for any and all damages to the wetlands. The appropriate chancery court by writ of mandatory injunction shall allow a reasonable time for completion of the restoration 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 restoration of the wetland. If injunctive relief is not sought, the appropriate circuit or county court shall have jurisdiction over any action for damages and/or punitive damages as set forth in this paragraph.

(b) Nothing in this chapter shall preclude other statutory or common law remedies by public or private parties against violators or nonviolators of this chapter.

§ 49-27-57. Penalties

(a) In addition to civil liability under this chapter, a violation of this chapter is a misdemeanor and shall be punished by a fine of not less than one hundred dollars (\$100.00) and not more than one thousand dollars (\$1,000.00) or by imprisonment of not more than thirty (30) days, or both.

(b) In the case of continuing violations, each day shall constitute a separate charge; however, separate violations under this chapter need not be severed for trial when an identity of parties and location exists.

(c) It shall be a misdemeanor to materially harm or disturb scientific devices and recording instruments left in coastal wetlands by authorized agencies of the state or federal government, and a violation of this subsection shall be punishable by a fine of not more than five hundred dollars (\$500.00) or imprisonment of not more than thirty (30) days or both.

§ 49-27-59. Rules and regulations

The commission shall adopt, promulgate and publish rules and regulations for the implementation of this chapter. Before becoming effective, such rules and regulations, and any changes, must be published once a week for at least three (3) consecutive weeks in a newspaper having general circulation throughout the State of Mississippi. Such rules and regulations shall provide procedure

whereby an individual or organization may receive at their own expense copies of the applications provided for in Section 47-27-13 of this chapter.

§ 49-27-61. Charge for materials removed

The commission shall charge Fifty Cents (50¢) per cubic yard for any sand or gravel removed from wetlands and Twenty-five Cents (25¢) per cubic yard for any other materials removed from coastal wetlands by a permittee or his agent under the terms of any permit issued. There shall be no charge levied by the commission for the removal of one hundred (100) cubic yards or less of any material removed from wetlands by a permittee or his agent under the terms of any permit issued. The commission shall waive the herein specified charges on any project of a governmental agency or any project wherein expenditures are made as the result of a governmental grant or governmental bond proceeds.

§ 49-27-63. Coastal wetlands inspection

The commission shall, from time to time, inspect the coastal wetlands to determine whether violations have been or are being committed.

§ 49-27-65. Preparation of coastal wetlands charts

(a) To implement the policy set forth in the chapter and to assist in the protection of coastal wetlands, the commission acting with the cooperation and assistance of the Gulf Regional Planning Commission and the Gulf Coast Research Laboratory shall evaluate the coastal wetlands and prepare charts at an appropriate scale showing the distribution of coastal wetlands as defined in this chapter. These charts will be provided to the offices of the chancery clerk of affected counties and to the Gulf Regional Planning Commission. The charts will be updated and reissued periodically as needed to provide a current inventory of coastal wetlands.

(b) The commission shall promote the education of the public about scientific and economic knowledge concerning coastal wetlands.

(c) In recognition of the national policy expressed in the Coastal Zone Management Act of 1972, Public Law 92-583, the commission is directed to include an overall plan for use of coastal and private wetlands in the Mississippi Coastal Zone Management Plan being prepared by the commission. The commission is further directed to identify and include in such plan specific coastal and private wetlands which should be set aside as estuarine sanctuaries.

§ 49-27-67. Abutting landowner exclusion, assessment

Any coastal wetlands now assessed for ad valorem taxes against the abutting landowner shall be excluded from the assessment of the said landowner's property upon proper application being made as otherwise provided by law.

§ 49-27-69. Fees deposited to Seafood Fund

All fees and other sums received by the commission pursuant to this chapter shall be deposited to the credit of the "Seafood Fund".

§ 49-27-71. Removing derelict and other vessels; restoration and disposition proceedings; liability

(1)(a) The department may remove from the coastal wetlands, as defined in Section 49-27-5(a), Mississippi Code of 1972, or from any private or manmade canal with a navigable connection to

coastal wetlands, any vessel which is derelict, or has been determined by the department to be a public safety or environmental hazard, having been relinquished, deserted or left by the owner with the intention of abandoning the vessel. 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. For the purposes of this section, no vessel submerged more than one hundred (100) years will be considered derelict.

(b) Any owner or operator of 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 the vessel.

(2)(a) If 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 the affected coastal wetlands within thirty (30) days of the date of the notice. Failure to remove the vessel may result in the imposition of the damages provided in subsection (3).

(b) When the owner or operator of the derelict vessel is unknown or cannot be located after diligent search and inquiry, notice shall be given by publishing in a newspaper having general circulation in the county where the derelict vessel is located the intent to remove and dispose of the derelict vessel. The notice shall be published once a week for three (3) consecutive weeks. The derelict vessel may be removed ten (10) days after the last date of publication.

(c) The municipality or county where the vessel is located may remove the derelict vessel or request the department to contract for the removal of the derelict vessel. The cost of the removal of the derelict vessel shall be paid by the municipality or the county where the vessel is located. If the county or municipality cannot pay the cost of removal, the department may pay the cost of removal, if funds are available.

(d) 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 vessel and restoration of the affected coastal wetlands.

(e) If 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, attorneys' fees and all costs of court. Upon recovery of these damages, the county, municipality or department, as the case may be, shall be reimbursed the costs of the removal of the derelict vessel and restoration of the coastal wetlands.

(f) In addition to providing notice by publication or to the known owner or operator, 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 archaeological, historical or architectural significance under the state antiquities law. 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.

(3) 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 vessel by the owner or operator. The chancery court shall allow a reasonable time for completion of the restoration of the coastal wetlands and removal of the vessel. The chancery court may, in its discretion, order as 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 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 attorneys' fees and all costs of court.

(4) Any reimbursed cost of removal and any fines and damages collected in excess of the cost of the removal of the 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 department. Any funds deposited in the fund shall be used to cover the administrative costs and removal costs incurred by the department for the removal of vessels. Any remaining funds shall be used as a match for municipal and county funds to cover the costs of removing additional vessels.

(5) Any sunken or submerged vessel in or on the coastal wetlands within any designated navigation channel or within one hundred (100) yards of the boundaries of any state, county or municipal port may be declared a hazard to navigation and subject to immediate removal and disposal by the department. Any sunken or submerged vessel in or on the coastal wetlands that is leaking any hazardous substances, chemicals or fuels may be declared an environmental hazard and subject to immediate removal and disposal by the department. The owners of a vessel removed in accordance with this subsection shall be liable for the costs associated with the salvage and disposal of the vessel and any damages to the flora and fauna within the coastal wetlands.

(6) The department is authorized to enter into contracts with individuals, firms and corporations for the removal of vessels. The salvage value, if any, of the vessel may be used to offset the cost of the removal of the vessel and the restoration of the coastal wetlands. The department may enter into noncompetitive contracts or agreements with any state or federal entity for the removal of vessels.

(7) The commission shall adopt rules and regulations necessary and appropriate to carry out this section. The commission may also enter into interstate or intrastate efforts toward this end, and may seek and utilize aid from all federal, state and local sources in this endeavor.

(8) The State of Mississippi, the commission, the department and their employees and representatives shall not be liable for any damage resulting from the removal, sale or disposal of any vessel declared a derelict or hazardous vessel pursuant to this section.