

O.C.G.A. § 12-3-80

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*** Current through the 2007 Regular Session ***

TITLE 12. CONSERVATION AND NATURAL RESOURCES
CHAPTER 3. PARKS, HISTORIC AREAS, MEMORIALS, AND RECREATION
ARTICLE 3. HISTORIC AREAS
PART 3. SUBMERGED CULTURAL RESOURCES

O.C.G.A. § 12-3-80 through § 12-3-83 (2007)

§ 12-3-80. "Submerged cultural resources" defined; title and exclusive right to regulate investigation, survey, and recovery; exceptions

As used in this part, the term "submerged cultural resources" means all prehistoric and historic sites, ruins, artifacts, treasure, treasure-trove, and shipwrecks or vessels and their cargo or tackle which have remained on the bottom for more than 50 years, and similar sites and objects found in the Atlantic Ocean within the three-mile territorial limit of the state or within its navigable waters. Title to, and the exclusive right to regulate the investigating, surveying, and recovery of, all such submerged cultural resources is declared to be in the State of Georgia; provided, however, that the Board of Natural Resources may determine and provide by rule that certain submerged cultural resources are of no cultural or economic value to the State of Georgia such that items or areas so designated are not subject to the provisions of this part, including any permit requirements of Code Section 12-3-82.

HISTORY: Code 1981, § 12-3-80, enacted by Ga. L. 1985, p. 906, § 4; Ga. L. 1988, p. 945, § 1.

§ 12-3-81. Department named custodian of submerged cultural resources; rules and regulations; reporting findings; duties of state archeologist

(a) The custodian of all submerged cultural resources shall be the Department of Natural Resources. The Board of Natural Resources is empowered to promulgate such rules and regulations as may be necessary to preserve, survey, protect, and recover such underwater properties and are necessary for the effective administration of this part.

(b) All findings of submerged cultural resources shall be reported to the department within two days, Saturdays, Sundays, and legal holidays excluded, after being found.

(c) The state archeologist shall have such duties in conducting and supervising the

surveillance, protection, preservation, survey, and recovery of submerged cultural resources as he is given by Code Section 12-3-53 for similar land resources.

HISTORY: Code 1981, § 12-3-81, enacted by Ga. L. 1985, p. 906, § 4; Ga. L. 1988, p. 945, § 2.

§ 12-3-82. Permits and authorization to contract for investigation, survey, or recovery operations; renewal and revocation of permits

(a) Any person desiring to conduct investigation, survey, or recovery operations, in the course of which any part of a submerged cultural resource may be endangered, removed, displaced, or destroyed, shall first make application to the department for a permit to conduct such operations. The applicant shall submit a detailed plan outlining the location, objectives, scope, methods, plans for the preservation and storage of any submerged cultural resources to be recovered, and such other information about its proposed operation as the department may require. The applicant shall also submit the name of the professional archeologist who will supervise or conduct the operation.

(b) If the department determines that the public interest and the preservation and protection of the submerged cultural resource will be served by allowing the operation for which a permit is sought, the department shall grant a permit subject to such terms and conditions as the department deems appropriate for the protection of the public interest and the preservation and protection of the submerged cultural resource. No permits shall be issued allowing the permittee to retain any recovered submerged cultural resources, or portion thereof, unless the department determines the resources to be retained are of no significant historical, archeological, or monetary value or are of such limited historical, archeological, or monetary value as to be reasonable compensation for the efforts of the permittee in furthering the public interest through the investigation, survey, protection, preservation, or recovery of other related underwater cultural resources.

(c) Permits may be renewed upon or prior to expiration upon such terms and conditions as the department deems appropriate.

(d) A permit may be revoked by the department upon a determination by the department that the permit holder has violated this part or any term or condition of its permit. Any determination to revoke or deny a permit may be administratively and judicially reviewed in the manner provided in subsection (d) of Code Section 12-3-52.

(e) The department is authorized to contract with any person for the investigation, survey, protection, preservation, or recovery of underwater cultural resources on such terms and conditions as the department deems appropriate.

(f) (Repealed effective January 1, 2008.) This Code section shall not apply to deadhead logs, which shall be subject to the provisions of Code Section 12-3-82.1. This subsection shall stand repealed on January 1, 2008.

HISTORY: Code 1981, § 12-3-82, enacted by Ga. L. 1985, p. 906, § 4; Ga. L. 1988, p. 945, § 3; Ga. L. 2005, p. 632, § 1/SB 283. *O.C.G.A. § 12-3-82.1*

§ 12-3-82.1. (Repealed effective January 1, 2008) Permits for investigation, survey, or recovery of deadhead logs

(a) As used in this Code section, the term:

(1) "Deadhead logs" means logs that were commercially harvested from forests in this state during the nineteenth or twentieth century and that sank or were sunken in a river either while in the process of being floated to mill or market or intentionally for storage.

(2) "River" means a navigable part of the Altamaha or Flint River only; provided, however, that such term does not include any segment of a stream of water which segment is a boundary of the State of Georgia as described in Article 1 of Chapter 2 of Title 50, nor does such term include any other parts or tributaries of the Altamaha or Flint Rivers or any part of any other river.

(b) The department shall establish a program for the granting, renewal, and revocation of exclusive permits for investigation, survey, or recovery of deadhead logs from particular segments of rivers, any such segment to be two river miles in length. Except as otherwise provided by subsection (i) of this Code section, the provisions for disposition of surplus property under Article 4 of Chapter 5 of Title 50 shall not apply to disposition of deadhead logs recovered pursuant to permits issued under this Code section.

(c) Upon the establishment of such program, any person desiring to conduct any deadhead logs recovery operation in a river shall first make application to the department for a permit to conduct such operation in a specific location. The applicant shall submit a plan outlining the specific river segment, objectives, scope, and methods of recovery of deadhead logs.

(d) Prior to granting any application for a permit under this Code section, the department shall conduct a prerecovery assessment of the proposed recovery site. The department may specify the scope of studies that need to be conducted in specific areas where state or federal endangered species may be present, where other submerged cultural resources may be found, to investigate wildlife habitat or outdoor recreation related issues, or to address other scientific or archaeological issues. The department's employee or agent conducting such assessment shall be accompanied by the applicant or a designated representative thereof. During such assessment, habitat, bank stability, boat ramp conditions, and other relative factors shall be noted, and any areas where recovery of deadhead logs is specifically restricted shall be mapped or flagged on site.

(e)(1) If the department determines that the public interest, including without limitation public safety, water quality, wildlife and wildlife habitat, commercial and recreational fisheries, state and federal threatened and endangered species, land use, effects on stream bank property, and other submerged cultural resources, may be adequately protected while allowing the operation for which a permit is sought, the department may grant an annual permit for such operation, which shall grant the permittee exclusive rights for such purposes for a specific two-mile segment of a river. Multiple, noncontiguous permits, each separated by at least one two-mile river segment, may be issued to the same applicant.

(2) Any such permit shall be conditioned upon compliance with such terms and conditions, including days, times, places, and methods, as the department deems appropriate for the protection of the public interest, including without limitation such terms and conditions as are relative to the protection of the public safety and water quality, wildlife and wildlife habitat, commercial and recreational fisheries, state and federal threatened and endangered species, land use, effects on stream bank property, protection of public boat landings or other public assets, and the preservation and protection of other submerged cultural resources.

(3) No permit issued under this Code section for the investigation, survey, or recovery of deadhead logs shall authorize the permittee to retain any other submerged cultural resources that are disturbed, located, or incidentally recovered.

(f) Any person to whom a permit is issued under this Code section shall:

(1) Prior to issuance of the permit:

(A) Pay an annual permit fee of \$10,000.00 for each two-mile segment of a river. Revenues derived from such fees shall be paid into the general treasury in accordance with Code Section 45-12-92; and

(B) Post a bond with the commissioner in the form of government securities, cash, irrevocable letter of credit, or any combination thereof up to, but not exceeding, \$50,000.00 per permitted river segment. If the applicant does not comply with this part, rules and regulations of the board, or the conditions of the permit after issuance, the commissioner may call the bond or any part thereof to be forfeited and may use the proceeds to hire a contractor to repair or stabilize the site of the damage arising from the deadhead logs recovery activity and bring it into compliance. Upon amendment of a permit as provided in paragraph (2) of subsection (h) of this Code section, a new or amended bond shall be posted to cover the amended conditions of the permit;

(2) Notify the department on the last state business day of each week of where and when such recovery operations will occur during the following calendar week;

(3) Prominently post and maintain during the recovery operation signs near the recovery site, either on buoys or on the recovery boat or boats, to inform the public that the recovery operation is authorized. Such signs shall include the permit number and the telephone number of the appropriate department inspector; and

(4) Keep a copy of the permit on the recovery boat or boats at all times during operations.

(g)(1) The department shall provide for periodic inspection of ongoing operations to determine compliance with the requirements of this part, rules and regulations of the board, and permit conditions.

(2) The department is authorized to contract with any person for the investigation, survey, protection, preservation, or recovery of other submerged cultural resources on such terms and conditions as the department deems appropriate.

(h)(1) Permits may be renewed upon or prior to expiration upon such terms and conditions as the department deems appropriate and payment of the annual permit fees.

(2) Permits may also be amended by the department upon discovery of previously unknown or nondisclosed facts that warrant additional conditions or terms of the permit for the protection of the public interest, including without limitation such terms and conditions relative to the protection of the public safety and water quality, wildlife and wildlife habitat, commercial and recreational fisheries, state and federal threatened and endangered species, land use, effects on stream bank property, protection of public boat landings or other public assets, and the preservation and protection of other submerged cultural resources.

(3) A permit may be revoked by the department upon a determination by the department that the permittee has violated this part, any rule or regulation of the board, or any term or condition of its permit. Any determination to amend, revoke, or deny a permit or to deny the renewal of a permit may be administratively and judicially reviewed in the manner provided in subsection (e) of Code Section 12-3-52.

(i) The state shall retain title to any deadhead logs recovered pursuant to a permit issued under this Code section until such time as the permittee has paid adequate consideration to the department for such recovered deadhead logs, which consideration shall be in addition to the annual permit fee. The sale price rate or rates for deadhead logs shall be established by the board by rule or regulation. If the permittee fails or refuses to pay to the department the amount due as consideration within 60 days of recovery, the recovered deadhead logs may be disposed of by the department pursuant to the provisions for disposition of surplus property under Article 4 of Chapter 5 of Title 50.

(j) The provisions of Code Section 45-12-92 notwithstanding, the department is authorized to retain all funds received as consideration for sales of recovered deadhead logs under subsection (i) of this Code section for use in administration of the program established under this Code section; provided, however, that any such funds not expended for such purpose in the fiscal year in which they are generated shall be deposited in the state treasury.

(k) This Code section shall stand repealed on January 1, 2008.

HISTORY: Code 1981, § 12-3-82.1, enacted by Ga. L. 2005, p. 632, § 2/SB 283; Ga. L. 2006, p. 72, § 12/SB 465. *O.C.G.A. § 12-3-83*

§ 12-3-83. Prohibited acts constituting misdemeanor

Any person who violates this part by failing to obtain a required permit or who intentionally defaces, injures, destroys, displaces, or removes any underwater cultural resource or portion thereof in any manner not in accordance with a permit issued by the department shall be guilty of a misdemeanor.

HISTORY: Code 1981, § 12-3-83, enacted by Ga. L. 1985, p. 906, § 4.