

Rule No.: 941 - 7501 - 09017

Agency: Mississippi Department of Transportation

Agency Effective Date: May 15, 2005

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Secretary of State Authority Date: May 15, 2005

Supercedes Rule:

Division: MAINTENANCE

Rule Title: Removal of Illegally Located Automobile Graveyards and Junkyards

The person to be contacted regarding the proposed rule is: Facility and Records Management Director

Name of person originating the proposed rule: John Vance

Name of supervisor or person who approved the proposed rule: Melinda McGrath

Purpose:

To establish a policy and procedure on removal or screening of automobile graveyards and junkyards located within 1000 feet of any Interstate and Federal Aid Primary Highway and within view from said highway. Reference is made to Section 49-25-1 et. seq., Mississippi Code of 1972 as amended, and the Commission's order of July 12, 1966.

Summary:

This rule establishes a policy for the removal and screening of automobile graveyards and junkyards as per Section 49-25-1 et. seq., Mississippi Code of 1972 as amended, and the Commission's order of July 12, 1966.

The full text of the proposed rule is:

All cites herein refer to the most current version of the cited document.

A. STATEMENT OF POLICY

Pursuant to Public Law 89-285, 89th Congress, the Highway Beautification Act of 1965 and Section 49-25-1, et. seq., Mississippi Code of 1972 as amended, the regulation of automobile graveyards and junkyards adjacent to Interstate and Federal Aid Primary highway is necessary in order to (1) prevent unsightly distraction of operators of motor vehicles; (2) attract tourists and promote the prosperity, economic well-being and general welfare of the state; (3) promote the safety, recreational value and enjoyment of travel on highways within the state; (4) protect the public investment in highways; and (5) preserve and enhance the natural scenic beauty and aesthetic features of the highways and adjacent areas.

It is intended to provide a basis for regulation of automobile graveyards and junkyards consistent with public policy declared by the Congress of the United States and the Legislature of the State of Mississippi.

Nothing in this Rule shall be construed to abrogate or affect the provisions of any lawful ordinance, regulation or resolution more restrictive than the provisions of this Rule.

B. DEFINITIONS

Automobile Graveyard: An establishment or place of business which is maintained, used, or operated for storing, keeping, buying, or selling wrecked, scrapped, ruined or dismantled motor vehicles or motor vehicle parts.

Junk: Old or scrap copper, brass, rope, rags, batteries, paper, trash, rubber debris, concrete, asphalt, brick, mortar, limbs, other vegetation, waste, or junked, dismantled or wrecked automobiles or parts thereof, iron, steel, and other old or scrap ferrous or non-ferrous material.

Junkyard: An establishment or place of business which is maintained, operated, or used for storing, keeping, buying, or selling junk, or for the maintenance or operation of an automobile graveyard, and the term shall include garbage dumps and sanitary fills.

Unzoned Industrial Area: An unzoned industrial area shall mean the land occupied by the regularly used building, parking lot, storage or processing area of an industrial or manufacturing activity, and that land within 1000 feet thereof which is:

1. Located on the same side of the highway as the principal part of said activity, and
2. Not predominantly used for residential, business, or other commercial purposes, and
3. Not zoned by State or local law, regulation or ordinance.

Industrial activities, for purposes of this definition, shall mean those permitted only in industrial zones, or in less restrictive zones by the nearest zoning authority within the State, except that none of the following shall be considered industrial activities:

1. Outdoor advertising structures.
2. Agricultural, forestry, ranching, grazing, farming and related activities, including, but not limited to, wayside fresh produce stands.
3. Activities normally and regularly in operation less than three months of the year.
4. Activities not housed in a permanent building or structure.
5. Activities not visible from the traffic lanes of the main traveled way.
6. Activities more than 300 feet from the nearest edge of the main traveled way.
7. Activities conducted in a building principally used as a residence.
8. Railroad right of way.
9. Junkyards as defined above and in Section 136, Title 23, United States Code.
10. Act not engaged in manufacture or industry.

Business Area: Any part of an adjacent area which is at any time (1) zoned industrial or commercial under the authority of any law of this State, which shall include, without limiting the generality of the foregoing, zoning districts customarily referred to as "B" or business, "C" or commercial, "I" or industrial, "M" or manufacturing, and "S" or service and all similar classification.

Interstate System: That portion of the National System of Interstate and Defense Highways located within this State, as officially designated, or as may hereafter be so designated, by

the Mississippi Department of Transportation (hereafter referred to as MDOT), and approved by the Secretary of Commerce, pursuant to the provisions of Title 23, United States Code, "Highways."

Primary System: That portion of connected main highways, as officially designated, or as may hereafter be so designated, by the MDOT, and approved by the Secretary of Commerce, pursuant to the provisions of Title 23, United States Code, "Highways."

C. PROCEDURE

1. The State Maintenance Engineer or designated agent will be responsible for locating, identifying, and securing the removal of any and all Automobile Graveyards and Junkyards in existence in violations of Section 49-25-1, et. seq., Mississippi Code 1972, as amended.
2. The State Maintenance Engineer or designated agent shall regularly inspect the Interstate and Federal Aid Primary Highways within his assigned area and locate all automobile graveyards and junkyards which are within 1000 feet of the right of way and visible from the main traveled way of such highways. Previous inventories of automobile graveyards and junkyards shall be maintained and may be used in making any determination hereafter required.
3. Any automobile graveyard or junkyards found to have been located, established or otherwise placed within 1000 feet of the nearest edge of the right of way of Interstate or Federal Aid primary Highways, after June 16, 1966, is illegal under Section 49-25-7, Mississippi Code 1972, as amended, EXCEPT:
 - (a) Those which are screened by natural objects, plantings, fences or other appropriated means, so as not to be visible from the main traveled way, or otherwise removed from sight.
 - (b) Those located within areas which are zoned for industrial use under authority of law.
 - (c) Those located within unzoned industrial areas as defined in this Rule.
 - (d) Those which are not visible from the main traveled.
4. Upon finding an illegal automobile graveyard or junkyard, the State Maintenance Engineer or designated agent will:
 - (a) Ascertain the owner(s) of the automobile graveyard or junkyard.
 - (b) Ascertain the owner(s) of the property upon which the automobile graveyard or junkyard is located.
 - (c) Ascertain the date the automobile graveyard or junkyard was established.
 - (d) Contact the owner of the automobile graveyard or junkyard, preferable in person, or by telephone, and advise him the facility is illegal, and why, and request that the violation be remedied.
 - (e) Follow up with a letter to the owner, restating the facts as to why this facility is illegal, and give him twenty (20) days to remedy the violation. This letter will be sent by Certified Mail, Return Receipt Requested, or by personal delivery, properly witnessed.

5. If, at the expiration of the twenty (20) day period the owner has not remedied the violation or made satisfactory arrangements to do so the State Maintenance Engineer or designated agent will forward the following to the Legal Division for action.
 - (a) The name(s) and address of the owner(s) of the facility.
 - (b) The name(s) and address of the property upon which the facility is located.
 - (c) The date the facility was established.
 - (d) A sketch showing:
 - (1) the facility in relation to the highway.
 - (2) The section, township, range and county in which the facility is located.
 - (3) Any other information helpful in pin pointing the location of the facility.
 - (e) Picture(s) of the junkyard. (Show on the sketch the location which the picture(s) was taken).
 - (f) A copy of the Notice Letter to the owner(s).
 - (g) A full account of what has transpired relative to this removal.
6. The State Maintenance Engineer or designated agent will meet with the appropriate County or District Attorney or will file affidavits against the owners, when and as deemed necessary, and as directed by Legal Counsel.

D. EXISTING JUNKYARDS AND AUTOMOBILE GRAVEYARDS

Any junkyard which was lawfully in existence on June 16, 1966, which is within one thousand (1,000) feet of the nearest edge of the right of way and visible from the main traveled way of any highway on the Interstate or Primary System and not located within a zoned or unzoned manufacturing or industrial area shall be screened, if feasible, by the MDOT at locations on highway right of way so as not to be visible from traveled way of such highways or removed from view of the highway as a right of way consideration in keeping with the law.

E. SYSTEM CHANGE

Any automobile graveyard or junkyard located along any highway made a part of the Interstate or Primary System after June 16, 1966, shall be considered to have been lawfully established for the purpose of this act and in the event the automobile graveyard or junkyard is not located within either a zoned or unzoned manufacturing or industrial area or that cannot be made to so conform by screening it shall be required to be removed from view of the highway as a right of way consideration in keeping with the law.

F. SCREENING STANDARDS

Standards for screening all junkyards will be established by the Roadway Design Division of the MDOT in cooperation with the Federal Highway Administration.

REFERENCES: (All references herein to other materials are as to the most current version of that particular document.)

- For Mississippi Code see www.state.ms.us
- For Federal Government U.S. Code see www.gpoaccess.gov or www.dot.gov