

Part 2 Migratory Bird Production Area

23-28-201 Creation of a migratory bird production area.

- (1)
 - (a) On or before July 1, 2010, an owner or owners of at least 500 contiguous acres of land in an unincorporated area may dedicate the land as a migratory bird production area by filing a notice of dedication with the county recorder of the county in which the land is located.
 - (b) The notice of dedication shall contain:
 - (i) the legal description of the land included within the migratory bird production area;
 - (ii) the name of the owner or owners of the land included within the migratory bird production area; and
 - (iii) an affidavit signed by each landowner that all of the land, except as provided by Subsection (2), within the migratory bird production area is:
 - (A) actively managed for migratory bird:
 - (I) production;
 - (II) habitat; or
 - (III) hunting; and
 - (B) used for a purpose compatible with the purposes described in Subsection (1)(b)(iii)(A).
 - (c) A person who files a notice of dedication under this section shall give a copy of the notice of dedication within 10 days of its filing to the legislative body of the county in which the migratory bird production area is located.
- (2)
 - (a) The notice of dedication may designate land, the amount of which is less than 1% of the total acreage within a migratory bird production area, upon which the landowner may build a structure described in Subsection 23-28-302(1)(b).
 - (b)
 - (i) An owner may build or maintain a road, dike, or water control structure within the migratory bird production area.
 - (ii) A road, dike, or water control structure is not considered a structure for purposes of Subsection (2)(a).
- (3)
 - (a) Within 30 days of the day on which the county legislative body receives a copy of the notice of dedication under Subsection (1)(c), the county legislative body may bring an action in district court to cancel or revise a migratory bird production area on the basis that an affidavit filed as part of the notice of dedication under Subsection (1)(b)(iii) is inaccurate.
 - (b) In bringing the action, the county legislative body shall specify the portion of the migratory bird production area and the affidavit subject to the action.
 - (c) In an action brought under this Subsection (3), the person who files an affidavit described in Subsection (3)(a) has the burden to prove by a preponderance of the evidence that the affidavit is accurate.
 - (d) If the court cancels or revises a migratory bird production area, the person who filed the original notice of dedication shall file a revision notice with the county recorder reflecting the court's order.

Enacted by Chapter 273, 2009 General Session

23-28-202 Removing property from a migratory bird production area.

- (1) A landowner may file a revision notice with the county recorder of the county in which the migratory bird production area is located to remove land from a migratory bird production area.
- (2) The revision notice shall contain:
 - (a) a legal description of the land removed from the migratory bird production area; and
 - (b) the name of the owner or owners of the land removed from the migratory bird production area.
- (3) A person who files a revision notice under this section shall give a copy of the revision notice within 10 days of its filing to the legislative body of the county in which the migratory bird production area is located.
- (4) If removing land from a migratory bird production area results in a migratory bird production area of less than 300 contiguous acres:
 - (a) the migratory bird production area ceases to exist; and
 - (b) the landowner shall:
 - (i) notify each landowner within the former migratory bird production area; and
 - (ii) file the revision notice required by this section for the entire migratory bird production area.

Amended by Chapter 218, 2010 General Session