

State of Alaska

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

NOAA Marine Debris Region:
Alaska



Definition of a Vessel

Alaska state statutes define a “vessel” in the following manner under Alaska Stat. § 30.30.170:

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

Definition of an Abandoned and/or Derelict Vessel

Alaska laws do not provide an explicit definition for abandoned vessels but under Alaska Stat. § 30.30.020 a vessel is considered as abandoned if it:

“...has been left unattended for more than 30 consecutive days in the waters of the state or on public property or on private property without authorization of the owner or occupant of the property”.

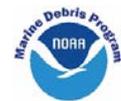
Alaska statutes define derelict vessels under Alaska Stat. § 30.30.090 as follows:

Derelict Vessel: A vessel that has been left unattended for more than 24 consecutive hours is a derelict if:

1. the vessel is sunk or in immediate danger of sinking, is obstructing a waterway, or is endangering life or property; or
2. the vessel has been moored or otherwise left in the waters of the state or on public property contrary to law or regulations adopted by a state agency or municipality or the vessel has been left on private property without authorization of the owner or occupant of the property, and if
 - A. the vessel's certificate of number or marine document has expired and the registered owner no longer resides at the address listed in the vessel registration or marine document records of a state agency or the United States Coast Guard;
 - B. the last registered owner of record disclaims ownership and the current owner's name or address cannot be determined;
 - C. the vessel identification numbers and other means of identification have been obliterated or removed in a manner that nullifies or precludes efforts to locate or identify the owner; or
 - D. the vessel registration records of a state agency and the marine document records of the United States Coast Guard contain no record that the vessel ever has been registered or documented, and the owner's name or address cannot be determined.

Alaska also provides a definition for derelict vessels in relation to Harbor and Harbor Facilities under Alaska Admin. Code tit. 17, § 80.110:

Derelict Vessel: means any boat berthed or otherwise located within the boundaries of any state harbor facility which has been or gives the appearance of being forsaken, abandoned, deserted or cast away, or which in the opinion of the commissioner is unsound, unseaworthy or



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unfit for its trade or occupation or which by any substantial evidence of neglect may be considered abandoned.

Formal State Program for Abandoned Vessels

There is no formal state program in Alaska addressing abandoned or derelict vessels, but the state has enacted the Abandoned and Derelict Vessels Act (see Alaska Stat. § 30.30.010 - § 30.30.180). The State has established an ad-hoc ADV Task Force to bring together state and federal agencies, municipalities and other interested stakeholders to address ADV in a coordinated manner. State laws, which are administered by the Alaska's Department of Transportation and Public Facilities, include provisions for the designation, taking, notification and disposal of abandoned and derelict vessels.

Under State law it is unlawful to abandon any vessel in state waters. Pursuant to Alaska Stat. § 30.30.010a, a person may not store or leave a vessel in a wrecked, junked, or substantially dismantled condition or abandoned:

- 1) on the waters of the state or at a port or harbor of the state or a municipality without the consent of the state agency or municipality having jurisdiction over the water, port, or harbor; or
- 2) docked at any private property without the consent of the owner of the property.

It is also unlawful to store a vessel on waters of the state for more than 14 consecutive days if it has been denied entrance to a harbor by the state or municipality unless all hazardous materials and petroleum products have been removed (Alaska Stat. § 30.30.010(d)).

Pursuant to Alaska Stat. § 30.30.010(e), any person who abandons a vessel and violates this section can be charged with a misdemeanor, which is punishable by a maximum fine of up to \$500, or by imprisonment for a period not longer than six months, or both.

Designation of Abandoned and/or Derelict Vessels

There is no formal designation process in Alaska for vessels that are considered abandoned or derelict as long as they meet the definitional requirements outlined under the definitions section (above). However, this does not apply in all locations or circumstances. Pursuant to Alaska Stat. § 30.30.030, you are allowed to anchor, moor or leave a vessel in ports, harbors or the waters of the state in locations outside of organized municipalities where it has become customary or accepted to do so, as long as it does not threaten or obstruct navigation and permission to leave the vessel has been granted. It is also legal to store or leave an unattended vessel without permission for more than 30 days on public or private property, if climatic conditions make use of the vessel impracticable or existing laws preclude use of the vessel during that period of time.

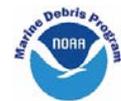
Responsibility for Removal of Abandoned or Derelict Vessels

Any vessel that is designated an abandoned vessel "may be taken into custody by a state agency, municipality, or peace officer and disposed of by the state agency or municipality" (Alaska Stat. § 30.30.020).

Pursuant to Alaska Stat. § 30.30.020(b), derelict vessels can be removed from waters of the state under the authority of a state agency, municipality, or peace officer if the vessel obstructs or threatens to obstruct navigation, contributes to air or water pollution, or in any other way constitutes a danger or potential danger to the environment.

Removal and Disposal Requirements/Guidelines

When an abandoned vessel is taken into custody under Alaska Stat. § 30.30.020, a written notice must be immediately placed on the vessel and a duplicate must be sent by certified mail to the registered owners last known address and all known lease holders (Alaska Stat. § 30.30.040). The notice must contain:



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- a brief description of the vessel;
- the location of custody;
- and the intended disposition of the vessel if not repossessed within 20 days after the mailing of the notice.

If the abandoned vessel is not repossessed by the owners within 20 days after the mailing of the notice, it can be disposed of by public auction, through oral tenders, or by sealed bids (Alaska Stat. § 30.30.050). Prior to disposing of the vessel a public advertisement must be posted once in a newspaper of general circulation, and the vessel cannot be auctioned until 5 days after the publication of the advertisement. If the vessel is not sold at auction it can be sold by negotiation, donated to a governmental agency, disposed of as junk or destroyed.

Pursuant to Alaska Stat. § 30.30.060, a person having an interest in an abandoned vessel may repossess it before the date of the public auction if they pay for all costs and fees associated with the taking, including those for port or harbor use fees, towing, handling, storage, appraisal, advertising, and any other expenses incurred by the state agency or municipality. If the person taking possession of the vessel is not the registered owner, in addition to paying all the costs and fees as stated above, they are also required to post adequate security, which can be as much as the vessel's appraised value. If not forfeited, the security deposit shall be returned to the person after one year.

Under Alaska Stat. § 30.30.070, a public auction is not required when the appraised value of an abandoned vessel is less than \$100. If the vessel is appraised at under \$100 by an independent and experienced appraiser then the state agency or municipality may sell the vessel by negotiation, dispose of it as junk, donate the vessel to a governmental agency, or destroy it after following the notification requirements outline under Alaska Stat. § 30.30.040. The transfer of interest by sale shall be evidenced by a bill of sale from the state agency or municipality (Alaska Stat. § 30.30.080).

Derelict vessels may be taken into custody immediately by a state agency, municipality, or peace officer or can cause it to be taken in custody pursuant to Alaska Stat. § 30.30.100(a). When a derelict vessel is taken into custody, the state agency or municipality shall concurrently

- 1) publish a notice of intended disposition once in a newspaper of general circulation;
- 2) when possible, post a notice of intended disposition on the vessel; and
- 3) serve a duplicate of the notice of intended disposition by certified mail, with a return receipt, on
 - A. the registered owner of the vessel, if known, at the registered owner's last known address or the address on record with a state agency or the United States Coast Guard; and
 - B. all lienholders who have filed a financing statement indexed in the name of the registered owner or who are shown on the records of a state agency or the United States Coast Guard.

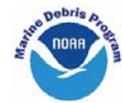
If the derelict vessel is not repossessed within 20 days after the publication or mailing of the notice the vessel may be disposed of by negotiated sale, or when there are two or more prospective buyers the vessel will be sold at public auction to the highest bidder (Alaska Stat. § 30.30.0100(b)). If no buyer is identified, the vessel may be disposed of as junk, donated to a governmental agency, or destroyed (Alaska Stat. § 30.30.0100(c)).

Differences between Commercial and Recreational Vessel Treatment

Alaska statutes do not distinguish between commercial and recreational boats for the purpose of designating a vessel as abandoned or derelict.

Vessel Size Requirements or Limits

There are no vessel size limits or requirements for abandoned or derelict vessel declaration or removal under Alaska State Statutes.



Funding Sources

Because Alaska does not have a formal program in place for abandoned and derelict vessels, there is no dedicated funding source. The Department may recover some costs through the proceeds from the sale of derelict and abandoned vessels at public auction.

Lead State Agency

Alaska's Department of Transportation and Public Facilities is the lead agency with regards to abandoned and derelict vessels in the state.

Email: through website
Telephone: 907-465-3911
Website: <http://www.dot.state.ak.us/>

The ad-hoc Alaska ADV Task Force is currently an informal group of stakeholders working to improve coordination for addressing ADV and identifying long-term needs for prevention and effective management of ADV around Alaska. For more information you can contact Rachel Lord at InletKeeper.org.

Email: rachel@inletkeeper.org
Telephone: 907-235-4068 ext. 29
Website: <http://alaskacleanharbors.org/resources/harbor-management/derelict-vessels/>

Alaska's Department of Natural Resources has an interest in addressing abandoned and derelict vessels, but does not have any enforcement authority.

Email: dnr.pic@alaska.gov or fbx-pic@alaska.gov
Telephone: 907-269-8400
Website: <http://dnr.alaska.gov/>

Insurance Requirements for Vessels

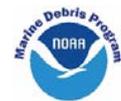
Boat insurance is not required in the State of Alaska.

Specific Location Factors, Limitations and Additional Information

Alaska also has statutes that pertain explicitly to vessels abandoned at vessel repair businesses. When a vessel is abandoned on the premises of a vessel repair business, the owner of the business or the business owner's authorized representative may sell or dispose of the vessel (Alaska Stat. § 30.30.0110).

Pursuant to Alaska Stat. § 30.30.120, a vessel is considered abandoned on the premises of a vessel repair business when all of the following conditions have been satisfied:

- 1) the service requested or required by a person whose vessel is towed or brought to a vessel repair business, including but not limited to towing and rendering estimates of the cost of repairs, has been performed;
- 2) no authorization is given to perform any further service with respect to the vessel, but the vessel is left on the repair business premises;
- 3) the owner of the repair business or the business owner's authorized representative has given notice by registered or certified mail, with a return receipt, to the registered owner of the vessel at the address on record at the vessel repair business and the address on record in a state agency or the United States Coast Guard, and to any person with a recorded interest in the vessel, stating that, if the vessel is not repossessed within 30 days after the mailing of the notice, it will be sold or disposed of; the notice also must contain a description of the vessel and its location, and it need not be sent to an owner or a person with an unrecorded interest in the vessel whose name or address cannot be determined; and



- 4) the vessel is not repossessed within the 30-day period specified in (3) of this section.

The owner of the vessel repair business in possession of the abandoned vessel, or the business owner's authorized representative, is required to post one public advertisement in a newspaper of general circulation in the state (Alaska Stat. § 30.30.130). After five days from the date of the posting the business owner or authorized representative may negotiate a sale of the vessel or dispose of it.

Under Alaska Stat. § 30.30.140, the authorized seller of the abandoned vessel is entitled to the proceeds of the sale in an amount that covers the services rendered with respect to the vessel and any reasonable and customary charges for towing, handling, storage, and the cost of the required notices and advertising. Any proceeds remaining are distributed first, to any lienholder(s) to cover the extent of the lien and then to the registered owner of the vessel. If the registered owner cannot be found the remaining balance shall be deposited with the commissioner of administration. However, the commissioner is required to return the remaining proceeds to the registered owner if they file a proper claim within one year from the execution of the sale agreement. If no claim is made within that year, the money shall escheat to the state.

Derelict vessels are also addressed under State administrative codes for Harbors or Harbor Facilities. The definition of a state harbor facility is provided under Alaska Admin. Code tit. 17, § 80.110:

State Harbor Facility: means any float, grid, dock, launching ramp, approach, piling, dolphin, buoy, breakwater, dredged basin or channel, navigation aid, and appurtenances constructed or operated by the State of Alaska, including an area extending a reasonable distance from each of these structures to permit unobstructed maneuvering and safe navigation

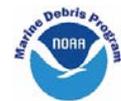
Pursuant to Alaska Admin. Code tit. 17, § 80.070 derelict vessels that are found in any state harbor facilities are considered a nuisance and subject to removal by the State when they are:

- maintained in such manner as to make them liable to sinking;
- maintained in a manner to constitute a fire hazard to other boats or otherwise damage the harbor facilities;
- or sunken.

Any vessel in a state harbor facility which is derelict, abandoned, or declared to be a public nuisance may be impounded, removed, sold, or otherwise disposed under Alaska Admin. Code tit. 17, § 80.080 as follows:

- 1) immediately upon determination that a boat is derelict or a public nuisance, the commissioner shall notify the owner, master, or managing agent of the boat, at his last known address, of the intent to impound, remove, sell or otherwise dispose of the boat;
- 2) any boat impounded or removed shall be subject to and liable for storage charge of \$20 per month and costs incurred by reason of the impounding or removal;
- 3) any boat impounded or removed shall be held by the commissioner for a period of not less than 30 days after which time the commissioner may destroy, sell, or otherwise dispose of the boat; proceeds from sale of the boat shall be first applied to the costs of conducting the sale, impounding, removal, berthing and service fees accrued, and the balance held in trust for the owner to claim; and if not claimed within two years, the balance shall be deposited in the state general fund;

In addition, if an owner, master or managing agent fails to pay any designated berthing fees, as provided under Alaska Admin. Code tit. 17, the vessel shall be presumed to be abandoned (Alaska Admin. Code tit. 17, § 80.080-4).



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Prioritization Scheme

Alaska does not have a prioritization scheme for the removal of abandoned or derelict vessels defined under state statutes.

Legislation and Administrative Codes

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

Alaska Statutes (2014):

<http://www.legis.state.ak.us/basis/statutes.asp>

Alaska Administrative Code (2014):

<http://www.legis.state.ak.us/basis/aac.asp>

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.