

State of Indiana

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

NOAA Marine Debris Region:
Great Lakes



Definition of a Vessel

The State of Indiana does not have a definition for “vessel” but instead uses the term “watercraft” (which will be used throughout this document) as defined under Ind. Code § 9-13-2-198.5:

Watercraft: means a contrivance used or designed for navigation on water, including a vessel, boat, motor vessel, steam vessel, sailboat, vessel operated by machinery either permanently or temporarily affixed, scow, tugboat, or any marine equipment that is capable of carrying passengers, except a ferry.

The State also defines watercraft under Ind. Code § 14-8-2-305 for purposes related to Indiana Codes § 14-15 and § 14-29-8:

Watercraft: means any instrumentality or device in or by means of which a person may be transported upon the public water of Indiana. The term includes a motorboat, sailboat, rowboat, skiff, dinghy, or canoe:

- (1) of any length or size; and
- (2) whether or not used to carry passengers for hire.

In addition to the above definitions for “watercraft” the State of Indiana also provides a definition for “boat” for the purposes of administering excise tax collection under Ind. Code § 6-6-11:

Boat: means any device in which a person may be transported upon water and includes every motorboat, sailboat, pontoon boat, rowboat, skiff, dinghy, or canoe, regardless of size.

Definition of an Abandoned and/or Derelict Vessel

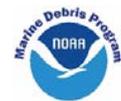
The State of Indiana does not provide an explicit definition for “abandoned” or “derelict” watercraft, however, under Ind. Code § 14-15-3-30 it states that:

“A watercraft found unattended in a sunken, beached, or drifting condition is considered to have been abandoned by the owner.”

They do provide an explicit definition for “Abandoned shipwreck” under Indiana Administrative Code under the Natural Resources Commission (312 Ind. Admin. Code r. 6-2-2):

Abandoned shipwreck: means a shipwreck to which title has been given up by the owner with the intent of never claiming a right or interest in the future. An intention to give up title may be demonstrated where an owner:

- (1) takes steps to collect insurance or pay a salvage award to a person who salvages the vessel’s cargo; or
- (2) takes no action after a wreck incident to recovering or removing the vessel and its cargo.



Formal State Program for Abandoned Vessels

Indiana currently does not have a formal program to address the issues of abandoned watercraft within its borders; however, they have passed legislation to deal with abandoned watercraft under Indiana Code Title 14: Natural and Cultural Resources. In addition, they have laws concerning abandoned shipwrecks, which are covered under administrative code Title 312 Natural Resource Commission, Article 6 Navigable Waters.

According to Indiana Code it is unlawful to abandon any watercraft on Indiana water (Ind. Code § 14-15-3-31a) with violators subject to a Class C infraction. If a person knowingly or intentionally abandons a watercraft they are committing a Class C misdemeanor under state law (Ind. Code § 14-15-3-31b). In addition, if a person obstructs a navigable stream or watercourse they are subject to the same penalties that would occur if they obstructed a public highway (Ind. Code § 14-29-1-3). It is also unlawful in Indiana for any person to remove, disturb, salvage, or destroy an “abandoned shipwreck” located, in whole or part, within a navigable waterway except under a license (312 Ind. Admin. Code r. 6-3-3a).

Designation of Abandoned and/or Derelict Vessels

In the State of Indiana, under Ind. Code § 14-15-3-30a, any “watercraft found unattended in a sunken, beached, or drifting condition is considered to have been abandoned by the owner.” The law does not set a time period for abandonment or any other process steps that are required in order to determine if the vessel has been abandoned.

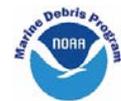
Under 312 Ind. Admin. Code r. 6-3-3c, if a person wishes to recover or salvage an abandoned shipwreck that is not believed to be located on a historic site they are required to file a notification with the Natural Resource Commission that must include:

- (1) the location of the abandoned shipwreck, and
- (2) identify how the application determined:
 - (A) the abandoned ship is not located at a historic site, and
 - (B) that the proposed activity:
 - (i) does not otherwise violate Ind. Code § 14-29-1-8 (which addresses permitting requirements for removing material from a navigable waterway)
 - (ii) is subject to the exclusive jurisdiction of a federal court or federal agency.

These two codes, one of which is an Indiana Code and the other an Administrative Code, do not contain references to each other and how they interact is not addressed in any of the legal statutes of the state. They also do not provide procedures for abandoned watercraft found on private property. Watercraft that are abandoned on private property must, presumably, be dealt with through the laws pertaining to property, which can be found in Ind. Code § 32. Liens on boats and other watercraft are addressed in Ind. Code § 32-33-2, although they do not include any references to abandoned watercraft.

Responsibility for Removal of Abandoned or Derelict Vessels

Pursuant to Ind. Code § 14-15-3-30, any watercraft that is considered to be abandoned and found unattended in a sunken, beached, or drifting condition on Indiana waters can be removed and impounded for safekeeping and disposal in the interest of public safety. In



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accordance with this state code an abandoned watercraft may be impounded by any law enforcement officer of the Department (of Natural Resources) when it is located on public property (Ind. Code § 14-15-3-30a-1). If the owner of the impounded watercraft is known, or can be determined, they shall be notified and can redeem the boat by paying any expenses incurred during the storage and removal of the watercraft (Ind. Code § 14-15-3-30a-2).

The Department of Natural Resources, or its employees, cannot not be held liable for any damages to the watercraft during or after its removal from public waters or for any damage resulting from its abandonment (Ind. Code § 14-15-3-30b).

Under current law only watercraft which are abandoned on public waters are addressed and enforceable by the Department of Natural Resources under Ind. Code § 14-15-3-30. Watercraft abandoned on private property are not included in the scope of this code.

Removal and Disposal Requirements/Guidelines

According to Ind. Code § 14-15-3-30a-1, if a vessel is considered abandoned it can be removed and impounded by any law enforcement officer of the department; however the law does not specify by which means this may be accomplished or any other official procedures that must be followed other than the requirement of notifying the owner (if known).

If the owner is not able to be determined the state is required, under Ind. Code § 14-15-3-30a-3, to hold the watercraft in a place of safekeeping for a period of at least 90 days. If the watercraft remains unclaimed by its owner after this waiting period it can be destroyed or sold at public auction (Ind. Code § 14-15-3-30a-4). All proceeds from the sale of such watercraft shall be deposited into Indiana's fish and wildlife fund (Ind. Code § 14-15-3-30a-5).

Differences between Commercial and Recreational Vessel Treatment

Under Indiana abandoned watercraft laws there are no differences between the treatment of recreational and commercial watercraft.

Vessel Size Requirements or Limits

Indiana does not set any size requirements or limits within their abandoned watercraft state codes or administrative codes.

Funding Sources

The State of Indiana does not have dedicated funding in support of their abandoned watercraft legislation and enforcement activities. Under Ind. Code § 14-15-3-30(a)(2), the responsibility of paying for the removal and storage belongs to the owner of the watercraft, if they can be determined. In addition, any proceeds from the sale at public auction of abandoned watercraft are deposited, pursuant to Ind. Code § 14-15-3-30(a)(5), into the states' fish and wildlife fund.

Lead State Agency

The Department of Natural Resources is the lead agency in the State of Indiana with regards to abandoned watercraft.

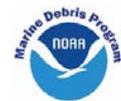
Email: through website

Telephone: 317-232-4200 or 877-463-6367

Website: <http://www.in.gov/dnr/3246.htm>

Insurance Requirements for Vessels

Watercraft insurance is not required in the State of Indiana.



Specific Location Factors, Limitations and Additional Information

Under the Abandoned watercraft legislation the Department of Natural Resources (Ind. Code § 14-15-3-30) has the authority to remove abandoned watercraft on public land but it does not contain any provisions for removing watercraft on private property. Indiana law does provide for the sale of abandoned watercraft that are located in marina's however, under Ind. Code § 32-34-10.

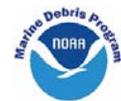
Pursuant to Ind. Code § 32-34-10-2, a marina operator may sell watercraft that have been left in a marina for more than six months without permission and are entitled to recover the reasonable costs associated with any maintenance, repair, dockage, storage or other charges that may apply as long as they meet the conditions as set forth in Ind. Code § 32-34-10-3. These conditions require that the marina operator provide either a written notice personally to the owner or send one via certified mail, with return receipt requested, to the last known address of the owner, at which point the six month waiting period is initiated. The notice must include a description of the watercraft and a conspicuous statement indicating that the vessel is at the marina without permission.

If the watercraft is not claimed and the reasonable fees paid the marina operator is entitled to sell the watercraft. In order to sell the watercraft and recover the charges the marina operator must, pursuant to Ind. Code § 32-34-10-4:

- (1) Perform a search of watercraft titles for the name and address of the owner of the watercraft and the name and address of any person holding a lien or security interest on the watercraft. The search required by this subdivision must be conducted in the following order:
 - (A) First, in the records of the state of registration as indicated on the exterior of the watercraft.
 - (B) Second, in the United States Coast Guard registration records maintained by the National Vessel Documentation Center.
 - (C) Third, in the records of the bureau of motor vehicles.
- (2) After the search results have been received, give notice by certified mail (return receipt requested), or in person, to the last known address of the owner, any lien holder with a perfected security interest, and to all persons known to claim an interest in the watercraft. The notice must include a description of the watercraft, an itemized statement of the charges, a demand for payment that specifies a time not less than 10 days after receipt of the notice, and a conspicuous statement informing the owner that the watercraft will be advertised for sale and sold at auction at a specified place and time if the charges are not paid.

In addition to the written notice, the marine owner is also required to advertise the sale of the watercraft at public auction, in conformity with Ind. Code § 26-1-7-210 and § 26-1-2-328, in a newspaper of general circulation, once a week for two consecutive weeks, within the county where the watercraft was abandoned (Ind. Code § 32-34-10-4-3). The sale must take place at least 15 days after the first publication. If there is not a general circulation newspaper where the sale is to be held then the marina operator must post the advertisement at least 10 days before the sale in six or more conspicuous places in the neighborhood of the proposed sale. The advertisement must include the following:

- a description of the watercraft;



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- the name of the person on whose account the watercraft is being held;
- time and place of the sale.

Once these requirements have been met the marina operator can conduct an auction sale, not less than 30 days after the return receipt is received, on the marina property where the watercraft was left without permission (Ind. Code § 32-34-10-4-4). The marina operator must provide a reasonable time before the sale for prospective buyers to examine the watercraft (Ind. Code § 32-34-10-4-5) and sell it to the highest bidder (Ind. Code § 32-34-10-4-6).

Immediately after the sale the marina operator is required, pursuant to (Ind. Code § 32-34-10-4-7) to execute an affidavit of sale in triplicate, on a form prescribed by the Indiana Bureau of Motor Vehicles, which states:

- (A) that the requirements of this section have been met;
- (B) the length of time that the watercraft was left on the marina property without permission;
- (C) the expenses incurred by the marina operator, including the expenses of the sale;
- (D) the name and address of the purchaser of the watercraft at the auction sale; and
- (E) the amount of the winning bid.

A copy of the affidavit of sale must be provided to the purchaser of the watercraft (Ind. Code § 32-34-10-5) which can then be used as proof of ownership (Ind. Code § 32-34-10-6) in order to acquire a certificate of title, under Ind. Code § 32-34-10-7. If the watercraft is sold for an amount that exceeds the reasonable charges incurred during the abandonment and sale the excess monies shall be paid (first) to satisfy the obligations held by any secured parties with respect to the watercraft and (second) to the owner of the watercraft (Ind. Code § 32-34-10-8).

Prioritization Scheme

Indiana does not currently have a prioritization scheme in place for the removal and disposal of abandoned or derelict vessels.

Legislation and Administrative Codes

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

Indiana Code (2015):

<http://iga.in.gov/legislative/laws/2015/ic/>

Indiana Administrative Code (2015):

<http://www.in.gov/legislative/iac/>

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.