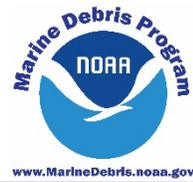


State of Oregon



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

NOAA Marine Debris Region:
Pacific Northwest



Definition of a Vessel

Oregon state statutes define a “vessel” in the following manner, which is dependent upon the definition of boats, boathouse and floating homes (Or. Rev. Stat. § 830).

Vessel: means a boat, a boathouse as defined in Or. Rev. Stat. § 830.700, a floating home as defined in Or. Rev. Stat. § 830.700, or any other floating structure that is normally secured to a pier or pilings. “Vessel” does not include a dock as defined in Or. Rev. Stat. § 307.120. (Or. Rev. Stat. § 830.908(6)(a and b))

Boat: every description of watercraft, including a seaplane on the water and not in flight, used or capable of being used as a means of transportation on the water, but does not include boathouses, floating homes, air mattresses, beach and water toys or single inner tubes. (Or. Rev. Stat. § 830.005(2))

Boathouse: means a covered structure on floats or piles used for the protected moorage of boats. (Or. Rev. Stat. § 830.700(2))

Floating Home: Refers to a moored structure that is secured to a pier or pilings and is used primarily as a domicile and not as a boat. (Or. Rev. Stat. § 830.700(4))

Definition of an Abandoned and/or Derelict Vessel

Oregon law also includes a legal definition for both abandoned and derelict vessels under Or. Rev. Stat. § 830.908.

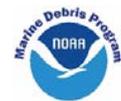
Abandoned Vessel: A vessel that has been left without authorization on public or private land, the waters of this state, or any other water (Or. Rev. Stat. § 830.908(1)).

Derelict Vessel: Is defined under Or. Rev. Stat. § 830.908(2) and refers to a vessel that is on the waters of this state and that is:

- a) Sunk or in imminent danger of sinking;
- b) Obstructing a waterway;
- c) Endangering life or property; or
- d) In such dilapidated condition that it is in danger of becoming a significant environmental hazard as evidenced by repeated and documented instances of leaking fuel, sewage or other pollutants.

Formal State Program for Abandoned Vessels

The State of Oregon does have an Abandoned and Derelict Vessel Program, established under Or. Rev. Stat. § 830.908, which is managed by the Oregon State Marine Board. It includes legislation and procedures for delegating authority to seize abandoned and derelict vessels, notification, and liability for costs and creates a Salvaged Vessel subaccount, which provides limited funding to implement Or. Rev. Stat. § 830.908. Enforcement to seize and remove abandoned and derelict vessels under this legislation is provided to any enforcement agency that has jurisdiction under the following definition:



Enforcement Agency: which means a law enforcement agency, a federal agency, the State Marine Board or any other public body, as defined in Or. Rev. Stat. § 174.109, that has responsibility for land or water on which an abandoned vessel or a derelict vessel is located (Or. Rev. Stat. § 830.908(4)).

Under Or. Rev. Stat. § 830.944(1-3) it is illegal and considered an “offense of failure to remove an abandoned vessel”, if the person is the owner of an abandoned vessel and, after notice is given under Or. Rev. Stat. § 830.918, the person fails to move the vessel within the time specified in the notice to a place where the vessel can be lawfully kept, or within the time allowed under an order pursuant to Or. Rev. Stat. § 830.936 (6). A person commits the “offense of possession of a derelict vessel” if the person is the owner of a derelict vessel and, after notice is given, the person fails to remedy the problems identified in the notice within the time specified. An owner of a vessel does not violate this section if the owner’s only interest in the vessel is a security interest.

Designation of Abandoned and/or Derelict Vessels

Under Or. Rev. Stat. § § 830.911 the State gives authority to seize abandoned and derelict vessels to any enforcement agency, as defined under Or. Rev. Stat. § § 830.908(4), that has jurisdiction over the waters on which the vessel is found. This legislation does not address the taking of ADV’s by private citizens or other non-enforcement entities.

Under Or. Rev. Stat. § § 830.911(1), an enforcement agency may seize a vessel as abandoned if:

- a) The enforcement agency has probable cause to believe the vessel is an abandoned vessel; and
- b) An owner does not move the vessel to a place where the vessel can be lawfully kept within the time specified in the notice given under Or. Rev. Stat. § 830.918, or within such additional time as may be specified in an order issued under Or. Rev. Stat. § 830.936 (6).

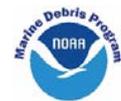
An enforcement agency may seize a derelict vessel under Or. Rev. Stat. § 830.911(2) if:

- a) The enforcement agency has probable cause to believe the vessel is a derelict vessel and the enforcement agency documented the facts supporting that belief; and
- b) The owner does not correct the problems identified in the notice given under Or. Rev. Stat. § 830.918 within the time specified in the notice, or within such additional time as may be specified in an order issued under Or. Rev. Stat. § 830.936 (6).

A vessel may also be seized as a derelict vessel if it is believed to be in imminent danger of sinking, as long as the enforcement agency has documented the facts supporting the belief that the vessel is in imminent danger of sinking. (Or. Rev. Stat. § 830.911(3))

If the enforcement agency has probable cause to believe a vessel has been abandoned or is a derelict vessel, the enforcement agency may, under Or. Rev. Stat. § 830.911(4):

- a) Secure the vessel in such a manner as to prevent harm to life or damage to property or to prevent the vessel from becoming a hazard to navigation.
- b) Take action to mitigate any imminent environmental threat the vessel poses.
- c) Salvage, tow and store the vessel.



When the enforcement agency has probable cause to believe a vessel is an abandoned vessel, the enforcement agency may enter and inspect the interior of the vessel, and objects in plain view within the interior of the vessel, only to the extent necessary to identify the owners of the vessel (Or. Rev. Stat. § 830.918(5)). If the vessel is found to be endangering life or property or in danger of becoming an environmental hazard, the enforcement agency may enter and inspect the interior of the vessel (as noted above) and any closed compartments within the interior of the vessel in order to determine whether the vessel endangers life or property, or is in danger of becoming an environmental hazard (Or. Rev. Stat. § 830.918(6)). If the vessel is located on privately owned land an Oregon State Police officer, a sheriff, a deputy sheriff or a municipal police officer may enter privately owned land only with the consent of the landowner for the purpose of determining whether a vessel is abandoned (Or. Rev. Stat. § 830.918(7)).

Once a vessel is believed to be abandoned or designated as a derelict vessel, a pre-seizure notice must be provided under Or. Rev. Stat. § 830.918 at least 10 business days before seizure of the vessel. This notice must be attached to the vessel and mailed to the last owner of record; or any other person whom the enforcement agency has a reason to believe is the owner of the vessel. As defined under Or. Rev. Stat. § 830.918 (2) this notice must include:

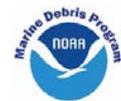
- a) The name, address and telephone number of the enforcement agency.
- b) A statement indicating whether the enforcement agency proposes to seize the vessel by reason of being an abandoned vessel, a derelict vessel, or both.
- c) The time by which the owner must act to avoid having the vessel seized.
- d) A statement indicating that if the vessel is seized, the owner will be liable for the costs of salvage, towing and storage of the vessel.
- e) A statement indicating that if the vessel is seized the vessel may be destroyed or sold if the costs of salvage, towing, storage and disposal are not paid.
- f) A statement indicating the owner may request a hearing before the enforcement agency seizes the vessel, and the time and manner in which a request may be made.

In addition, if the enforcement agency proposes to declare and seize the vessel as abandoned they must indicate under Or. Rev. Stat. § 830.918(3):

- a) The vessel will be seized unless the owner moves the vessel to a place where the vessel can be lawfully kept within the time specified in the notice; and
- b) The owner may be cited for failure to remove an abandoned vessel if the owner fails to move the vessel to a place where the vessel can be lawfully kept within the time specified in the notice.

If the enforcement agency proposes to declare and seize the vessel as derelict they must also indicate under Or. Rev. Stat. § 830.918(4):

- a) The reason or reasons that the enforcement agency believes that the vessel is a derelict vessel;
- b) That the vessel will be seized unless either the problems identified in the notice are remedied within the time specified in the notice; and
- c) That the owner may be cited for possession of a derelict vessel if the owner fails to remedy the problems identified in the notice within the time specified in the notice.



If the enforcement agency determines that a vessel presents a hazard to navigation or an imminent threat to public health or safety, it can be seized without a pre-seizure notice under Or. Rev. Stat. § 830.923. However, if a vessel is seized in this manner the enforcement agency is required to issue a post-seizure notice under Or. Rev. Stat. § 830.931. Under Or. Rev. Stat. § 830.928 seizure of the vessel by the enforcement agency is constituted by:

- a) Taking physical control of the vessel by towing or other means;
- b) Posting a notice on the vessel that indicates that the vessel has been seized, and giving the name, address and telephone number of the enforcement agency; or
- c) Marking a sunken vessel with a buoy that has the name and telephone number of the enforcement agency.

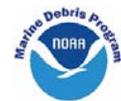
Responsibility for Removal of Abandoned or Derelict Vessels

The owner of an abandoned or derelict vessel is liable, under Or. Rev. Stat. § 830.938, to the enforcement agency for all costs arising out of the seizure of the vessel including salvage, towing, storage and disposal costs. If the vessel is sold by the agency the owner's liability shall be reduced by the net proceeds of the sale. Documented owners which only hold a security interest in the vessel cannot be held liable for the costs associated with its seizure and disposal under Or. Rev. Stat. § 830.911 to 830.948.

Removal and Disposal Requirements/Guidelines

Under Or. Rev. Stat. § 830.931, once a vessel has been declared abandoned or derelict the enforcement agency must provide a post-seizure notice on their website and a copy must be mailed to the owner within seven days from the date the vessel was seized. This notice must include:

- 2) The date by which the costs of salvage, towing and storage must be paid to avoid title to the vessel vesting in the enforcement agency. The date may not be less than 30 days after the date on which the vessel was seized.
- 3) The notice required under this section must include a description of the vessel and of any personal property located on the vessel, and state all of the following:
 - a) That the vessel has been seized.
 - b) The time of the seizure.
 - c) The name, address and telephone number of the enforcement agency.
 - d) The reason the vessel was seized.
 - e) That the owners of the vessel are liable for salvage, towing, storage and disposal costs incurred by the enforcement agency by reason of the seizure, and the amount of those costs that have accrued as of the date of the notice.
 - f) That title to the vessel will vest in the enforcement agency if the costs of salvage, towing and storage are not paid, and the date the costs must be paid.
 - g) That the owner may request a hearing, and the time and manner for requesting a hearing.
 - h) That the owner may challenge the reasonableness of any salvage, towing or storage costs at the hearing.
 - i) That the vessel and its contents may be immediately reclaimed by presenting proof of ownership or right to possession and payment of the costs that have accrued.



Oregon ADV Legislative and Administrative Review 2015

The owner of any vessel which receives a pre-seizure notice (Or. Rev. Stat. § 830.918) or a post-seizure notice (Or. Rev. Stat. § 830.931) can request an informal hearing under Or. Rev. Stat. § 830.936 from the enforcement agency if the owner(s) contend that the vessel is not abandoned or derelict, providing they do so within 10 business days after the notice was issued.

An owner may reclaim the vessel at any time before the date specified on the post-seizure notice if they pay for all costs incurred by the enforcement agency during the seizure including salvaging, storing and towing expenses. In addition, the owners must be able to demonstrate to the enforcement agency their ability to move the vessel where it can be lawfully kept. (Or. Rev. Stat. § 830.933).

Differences between Commercial and Recreational Vessel Treatment

Oregon 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

Although Oregon statutes do not distinguish between recreational and commercial vessels with regards to their abandoned and derelict vessel program, funding from the Salvaged Vessel Subaccount may reimburse the costs to the enforcement agency involved for the salvage, towing, storage and cleanup of vessels only less than 200 gross tons. (Or. Rev. Stat. § 830.948(4 and 5)).

Funding Sources

The Oregon State Marine Board (Board) will establish and maintain a Salvaged Vessel Subaccount (OAR 830.948) from certificate and registration fees collected under Or. Rev. Stat. § 830.790 and 830.850. Funds from this account will reimburse enforcement agencies for expenses related to the removal of abandoned and derelict vessels. The Board will provide vessel turn-in program grants to assist in the disposal of vessels at risk of abandonment on the waters of this state.

The Oregon State Marine Board Abandoned Vessel Removal fund was established in 2004. The Board sets aside \$150,000 per biennium to reimburse public agencies up to 90% of the cost of investigating, salvaging, towing, removing, storing, and disposing of derelict and abandoned boats, floating homes, and boathouses. Use of the fund is limited to removing boats, floating homes, and boathouses that meet the definition of "derelict" or that are abandoned in the water.

The Program refers to the administrative and fiscal activities of the Board pursuant to Or. Rev. Stat. § 830.908 – 830.948. The Program is funded through registration and title fees on boats, floating homes, and boathouses.

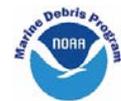
Lead State Agency

The Oregon State Marine Board manages the Abandoned Boat Removal and Cleanup Subaccount for the State of Oregon.

Email: marine.board@state.or.us

Telephone: 503-378-8587

Website: <http://www.oregon.gov/OSMB/BoatLaws/Pages/VesselRemovalFund.aspx>



Oregon ADV Legislative and Administrative Review 2015

Oregon county sheriffs are responsible for locating the owners and security holders of lost and abandoned boats in their individual counties.

Email: info@oregonsheriffs.org

Phone: 503-364-4204

Website: <http://www.oregoncountysheriff.org/>

Insurance Requirements for Vessels

Vessel/Boat insurance is not required by law in Oregon.

Specific Location Factors, Limitations and Additional Information

None have been identified.

Prioritization Scheme

None in the statutes, although according to State Marine Board Policy No. 4.01 only vessels posing an environmental threat or hazard to navigation are eligible for funding from the Abandoned Vessel Fund. This may create a de facto prioritization scheme.

Legislation and Administrative Codes

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

Oregon Revised Statutes (2013):

https://www.oregonlegislature.gov/bills_laws/Pages/ORS.aspx

Oregon Administrative Code (2014):

<http://arcweb.sos.state.or.us/pages/rules/access/numerically.html>

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.