

State of Rhode Island



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

NOAA Marine Debris Region:
Northeast



Definition of a Vessel

The State of Rhode Island provides a definition for “vessel” under Obstructions to Navigation (R.I. Gen. Laws § 46-6-8.1) in Title 46, Waters and Navigation, in the following manner:

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

The Derelict and Abandoned Vessel and Obstruction Removal Commission of Rhode Island uses the same definition for “vessel” under their rules and regulations.

Definition of an Abandoned and/or Derelict Vessel

Rhode Island statutes provide a legal definition for both “abandoned” and “derelict” vessels under provisions in Chapter 46-6, Obstructions to Navigation. Abandoned vessels are defined by R.I. Gen. Laws § 46-6-8.1(1) as:

Abandoned Vessel: means a vessel that has been left, moored, or anchored in the same area without the express consent, or contrary to the rules of, the owner, manager, or lessee of the submerged lands or waters below or on which the vessel is located for more than forty-five (45) consecutive days or for more than a total of ninety (90) days in any three hundred sixty-five (365) day period, and the vessel's owner is:

- (i) Not known or cannot be located; or
- (ii) Known and located but is unwilling to take control of the vessel. Examples of abandoned vessels shall, include, but not be limited to, the following:
 - A) Any vessel that is left unattended or has remained illegally on public property, including docks, boat launching ramps, or moorings for more than forty-five (45) days.
 - B) Any vessel that has been found adrift or unattended in or upon the waters or submerged lands of the state of Rhode Island, and is found in a condition of disrepair as to constitute a hazard or obstruction to the use of the waters and submerged lands of the state or presents a potential health or environmental hazard.

“Derelict” vessels are defined under R.I. Gen. Laws § 46-6-8.1(4) in the following manner:

Derelict Vessel: means a vessel whose owner is known and can be located, and who is able to exert control of a vessel that:

- (i) Has been moored, anchored, or otherwise left in the waters or submerged lands of the state or on public property contrary to the rules adopted by an authorized public entity;
- (ii) Is sunk or in danger of sinking;
- (iii) Is obstructing a waterway; and/or
- (iv) Is endangering life or property.



Formal State Program for Abandoned Vessels

The State of Rhode Island has had a formal program in place to deal with abandoned and derelict vessels since 2012, when new legislation was passed by the General Assembly. The legislation passed in 2012 contained provisions which amended existing laws on abandoned and derelict vessels and created the Derelict and Abandoned Vessel and Obstruction Removal Commission (R.I. Gen. Laws § 46-6-10.2) and the Derelict and Abandoned Vessel and Obstruction Removal Account (R.I. Gen. Laws § 46-6-10.3). The program is administered by the Department of Environmental Management and enforced by their Office of Law Enforcement under provisions contained in Title 46, Waters and Navigation, of Rhode Island's General Laws.

Rhode Island laws addressing Obstructions to Navigation (R.I. Gen. Laws § 46-6-8 through § 46-6-17) provide a legal definition for both abandoned and derelict vessels and contain provisions to address the notification process, removal and disposal of vessels that meet the definitions under R.I. Gen. Laws § 46-6-8.1. Statutes under Chapter § 46-6 also address the assignment of liability and establish a commission and permanent funding source for derelict and abandoned vessel and obstruction removal. The Derelict and Abandoned Vessel and Obstruction Removal Commission was created to prioritize the disbursement of funds from the derelict and abandoned vessel and obstruction removal account and has developed a set of comprehensive rules and regulations addressing these vessels (see <http://www.dem.ri.gov/pubs/regs/regs/enforce/abnvs14a.pdf>).

In addition, Rhode Island also has statutes that address "shipwrecks" under R.I. Gen. Laws § 46-10, that allow appointed commissioners to take charge of vessels and property that have become shipwrecked within their jurisdictions.

Rhode Island laws do not explicitly address the legality of abandoning vessels; however, if the owner fails to comply with the 30 day notice of removal sent by the Department pursuant to the provisions in R.I. Gen. Laws § 46-6-8 they can be fined \$100 per day until the vessel or obstruction is removed.

Designation of Abandoned and/or Derelict Vessels

Rhode Island statutes do not outline specific procedures for designating vessels as abandoned or derelict. Vessels that meet the definitions as provided under R.I. Gen. Laws § 46-6-8.1 for either abandoned or derelict can be removed from the tidewaters of the state by the Director of the Rhode Island Department of Environmental Management (Department) upon his determination that the vessel "is liable to cause or become, an obstruction to the safe and convenient use of the waters for navigation and other lawful purposes." (R.I. Gen. Laws § 46-6-8).

Vessels that have been designated as wrecks by harbor masters or Commissioners of Wrecks and Shipwrecked Goods, under the provisions of R.I. Gen. Laws § 46-10, can be taken into custody by the commissioners and secured for the property owner. Vessels that have been designated as wrecks that are obstructing or may obstruct navigation or other lawful purposes in the tidewaters of the state can also be removed by the Department of Environmental Management pursuant to R.I. Gen. Laws § 46-6-8.

The state does not specifically address abandoned and derelict vessels located on private property under the laws for abandoned and derelict vessels.



Responsibility for Removal of Abandoned or Derelict Vessels

Under the determination of the Director of the Department of Environmental Management that a wrecked, sunken, unauthorized, or abandoned vessel in the tidewaters of the state is, or is liable to cause or become, an obstruction to the safe and convenient use of the waters for navigation and other lawful purposes, the Department may take authority over the vessel and remove it, or cause it to be removed (R.I. Gen. Laws § 46-6-8).

If a vessel becomes wrecked in the tidewaters of the state it is the duty of the Commissioners of Wrecks and Shipwrecked Goods and harbormasters who have jurisdiction to give immediate notice to the Department of Environmental Management of the wreck and any obstructions existing therein (R.I. Gen. Laws § 46-6-15). Vessels that have been declared wrecks can be removed and taken into custody for safe keeping by the commissioners with jurisdiction over the vessel.

The owner of any vessel or of an interest in any vessel or the responsible party that willfully or maliciously wrecked, sunken, or abandoned and removed as provided in R.I. Gen. Laws § 46-6-10 is liable for the costs and expense of the removal, or to repay the cost when paid by the State (R.I. Gen. Laws § 46-6-11). This provision applies whether the person owned the vessel or an interest in the vessel at the time the vessel first became an obstruction or at any time before the removal is complete. Costs associated with the removal and disposal may be recovered in a civil action brought by the Department, in the name of the state, against the owner and all other liable parties.

Removal and Disposal Requirements/Guidelines

Under Rhode Island general law a wrecked, sunken, unauthorized, or abandoned vessel which has been designated by the Department of Environmental Management as an obstruction or potential obstruction to navigation and other lawful uses of tidewaters, pursuant to R.I. Gen. Laws § 46-6-8, can be removed under the power of the Department.

Prior to removing a vessel the Department is required to give notice in writing to the owner, or anyone having an interest in or exercising control over the vessel, to remove the vessel within 30 days (R.I. Gen. Laws § 46-6-9(a)). The notice must be delivered by hand, or by leaving it at the usual place of business, residence, or abode, or by mailing it to the address of the owner and/or other person on whom the notice is to be served (R.I. Gen. Laws § 46-6-9(b)). If the notified person(s) fail to comply with the notice they can be assessed a fine of \$100 per day until the obstruction is removed (R.I. Gen. Laws § 46-6-9(c)).

Pursuant to R.I. Gen. Laws § 46-6-10, if the vessel or obstruction is not 1) removed within the time specified in the notice; or 2) has sunk or is in immediate danger of sinking, is breaking up or has broken up, or is a hazard to navigation; or 3) poses an imminent threat to human health or safety, including a threat of environmental contamination, it can be removed by the Department. If the owner or other person(s) with interest in the vessel cannot be identified and served notice the director, or other authorized public entity, has the authority to remove the vessel or to cause its removal.

Before taking temporary possession of any vessel under R.I. Gen. Laws § 46-6-10, the authorized public entity must make reasonable attempts to consult with the United States Coast Guard to ensure that other remedies are not available. A written notice that states the basis for taking temporary possession of the vessel must be submitted to the owner, if known,



within seven days of taking action, or as soon thereafter as reasonable (R.I. Gen. Laws § 46-6-10). If the authorized public entity does not provide the required notice prior to taking the vessel they are required to initiate the notice provisions outlined under R.I. Gen. Laws § 46-6-9(a) before using or disposing of the vessel.

Vessels must be removed in a manner and to a place that is deemed best by the authorized public entity (R.I. Gen. Laws § 46-6-10(4)). The costs and expense of the removal, if not paid by the owner or other liable person(s), can be paid out of the Derelict and Abandoned Vessel and Obstruction Removal Account or from appropriated funds, at the discretion of the Department. If the costs of the removal are not paid by the owner or other liable person within 10 days of the removal the Department can sell the vessel at a public or private sale and deposit the proceeds into the Derelict and Abandoned Vessel and Obstruction Removal Account after deducting the costs to be repaid for the removal (R.I. Gen. Laws § 46-6-12).

After taking possession of a vessel, pursuant to the terms and conditions of R.I. Gen. Laws § 46-6-9 and § 46-9-10, the authorized public entity may use or dispose of the vessel in any appropriate and environmentally sound manner without giving further notice (R.I. Gen. Laws § 46-6-10.1(a)). When disposing of a vessel preference must be given to uses that derive some monetary benefit, either in whole or in scrap; however, if the vessel has no value the authorized public entity must give preference to the least costly, environmentally sound and reasonable methods of disposal. If the vessel is offered for sale at public auction a minimum bid may be set and/or a letter of credit may be required to discourage future re-abandonment of the vessel (R.I. Gen. Laws § 46-6-10.1(b)).

Pursuant to R.I. Gen. Laws § 46-6-10.1(c), proceeds derived from the sale of the vessel must first be applied the costs incurred by the authorized public entity during the notification procedures, removal and disposal process, and any costs associated with environmental damages directly or indirectly caused by the vessel. Any proceeds remaining after covering the costs must be used to satisfy any registered liens. All remaining proceeds from the sale shall revert to the derelict and abandoned vessel and obstruction removal account (R.I. Gen. Laws § 46-6-10.1(d)).

Shipwrecks

Pursuant to R.I. Gen. Laws § 46-10-1, the town council of every town in Rhode Island whose territorial limits extend to the seashore, except the town of New Shoreham, must appoint a Commissioner of Wrecks and Shipwrecked Goods. Upon receiving information of any shipwreck within his or her jurisdiction or finding shipwrecked goods or property worth more than \$20.00, not in the custody of the owner or the owner's agent, the commissioner has the authority to take charge of the property and secure it for the owner (R.I. Gen. Laws § Id. § 46-10-2).

Upon finding a wreck, the commissioner with jurisdiction is required to take an inventory of the property and deliver it to the owner, agent, or other person lawfully authorized to receive it, provided the commissioner receives reasonable compensation for their services and expenses related to the vessel (R.I. Gen. Laws § 46-10-4). The commissioner is also required to publish a notice describing the particulars of the wreck and property as soon as possible in a daily newspaper in the city of Providence (R.I. Gen. Laws § 46-10-8). If the commissioner fails to provide notice, the owner, agent, or person interested is entitled to recover \$100 from the commissioner.



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If the parties cannot agree on the amount due for the costs associated with the wrecks removal, the matter may be submitted to arbitration proceedings for settlement pursuant to R.I. Gen. Laws § 46-10-5. If an agreement cannot be reached between the parties during arbitration or they are dissatisfied with the arbitrators' decision, a civil action may be filed in state court.

Within 30 days of taking shipwrecked property into custody, the commissioner may sell it at public auction to cover the costs associated with the taking and any duties that exist on the vessel (R.I. Gen. Laws § 46-10-9). If no owner, agent, or other person interested in shipwrecked property claims the property or proceeds within one year, the commissioner must provide the town treasurer with an inventory of the property and, if sold, an account of all proceeds and expenses and deliver the balance remaining to the treasurer for the use of the town (R.I. Gen. Laws § 46-10-11). The Department may request that a commissioner of wrecks and shipwreck goods apply property or proceeds in their custody appertaining to a wrecked vessel to pay for the removal of the vessel (R.I. Gen. Laws § 46-6-14).

Rhode Island's shipwreck laws also prohibit anyone from taking, detaining, or intermeddling with shipwrecked property after the arrival of the commissioner, except under the direction of the commissioner or the owner, agent, or interested person, providing they have possession of the property (R.I. Gen. Laws § 46-10-7). Violators are subject to a \$1,000 fine; half of which goes each to the commissioner and to the person lawfully authorized to receive the property.

Differences between Commercial and Recreational Vessel Treatment

Rhode Island statutes covering abandoned and derelict vessels or shipwrecks do not distinguish between commercial and recreational vessels.

Vessel Size Requirements or Limits

Vessel size requirements or limits for abandoned or derelict vessels are not addressed under the general laws of Rhode Island.

Funding Sources

In 2012, Rhode Island passed legislation that established the Derelict and Abandoned Vessel and Obstruction Removal Account under R.I. Gen. Laws § 46-6-10.3, to fund the removal and disposal of vessels taken into custody pursuant to R.I. Gen. Laws § 46-6 and § 46-10. The account is funded through a derelict and abandoned vessel and obstruction removal fee that is assessed biennially through the state's vessel registration process (R.I. Gen. Laws § 46-6-10.4). The fees are assessed based on the length of the vessel and range from \$2 for vessels less than 16 feet up to \$20 for vessels over 50 feet in length.

In addition to these fees, the derelict and abandoned vessel and obstruction removal account is also authorized to receive fund transfers and appropriations from the general fund, and from any moneys collected from the disposal/sale of vessels pursuant to R.I. Gen. Laws § 46-6-12. Funds from the account may only be used to cover the costs of removing, disposing, and/or selling derelict and abandoned vessels and other obstructions found in the tidewaters of the state, including any associated administrative or environmental remediation costs. Priority for use of funds from the account goes towards 1) the removal of derelict and abandoned vessels that are in danger of sinking or have sunk, are breaking up or have broken up, pose a hazard to navigation, and/or pose threats to the environment; and 2) for the removal of obstructions that pose a hazard to navigation and/or to the environment (R.I. Gen. Laws § 46-6-10.3(b)).



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Applications can be submitted by authorized public entities to the Department of Environmental Management for access to these funds for the removal and disposal of abandoned, derelict and wrecked vessels. The Abandoned Vessel Removal Application Form can be found at <http://www.dem.ri.gov/programs/bnatres/enforce/pdfs/abvessapp.pdf>.

Lead State Agency

Rhode Island's Department of Environmental Management is the lead agency that administers the derelict and abandoned vessel program for the state.

Email: through website

Telephone: 401-222-6800

Website: <http://www.dem.ri.gov/index.htm>

The Rhode Island Derelict and Abandoned Vessel and Obstruction Removal Commission is responsible for reviewing abandoned vessel removal applications, providing funding and prioritizing vessel removals.

Website: <http://www.dem.ri.gov/abvessel.htm>

Commissioner of Wrecks and Shipwrecked Goods that are appointed by their town councils may also take the lead in removing wrecked vessels.

Insurance Requirements for Vessels

Vessel insurance is not required in the State of Rhode Island.

Specific Location Factors, Limitations and Additional Information

The Department of Environmental Management has authority over abandoned, derelict and wrecked vessels located in the tidewaters of the state. Individual towns have removal authority through their Commissioner of Wrecks and Shipwrecked Goods for wrecks located within their jurisdictional boundaries. The state does not specifically address abandoned and derelict vessels located on private property.

According to the Rhode Island Coastal Resources Management Council's Guidelines for Development of Municipal Harbor Management Plans, harbor masters of municipal harbors may take custody and control of abandoned vessels located in the coastal waters and harbor areas of their towns and remove, store, or otherwise dispose of them (04-000-011 R.I. Code R. § 13(a)). Reasonable notice of such removal, storage, or disposal should be publicly advertised.

Prioritization Scheme

Rhode Island does give priority to the removal of derelict and abandoned vessels that are in danger of sinking or have sunk, are breaking up or have broken up, pose a hazard to navigation, and/or pose threats to the environment (R.I. Gen. Laws § 46-6-10.3(b)).

In addition, the Derelict and Abandoned Vessel and Obstruction Removal Commission has developed a ranking system to prioritize the funding and removal of abandoned and derelict vessels which is available in their rules and regulation document (guidelines) they developed. It uses the following six categories, each with a possible score of 0 (low) to 4 (high), to rank the vessels:

- 1) Human and Health Safety
- 2) Environmental Hazard
- 3) Navigational Hazard



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- 4) Threat to Economic or Public Benefit
- 5) Threat of Vessel Status Change
- 6) Cost Benefit

Legislation and Administrative Codes

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

Rhode Island Statutes (2014):

<http://webserver.rilin.state.ri.us/Statutes/>

Rhode Island Rules and Regulations (2015):

<http://sos.ri.gov/rules/>

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.