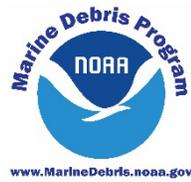


State of South Carolina



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

NOAA Marine Debris Region:
Southeast



Definition of a Vessel

The State of South Carolina provides a definition for “vessel” under Title 50, Fish, Game and Watercraft (S.C. Code Ann. § 50-21-10(25)):

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

The provisions under Title 50 also define both a “boat” (S.C. Code Ann. § 50-21-10(2)) and “watercraft” (S.C. Code Ann. § 50-21-10(28)) as follows:

Boat: means a vessel.

Watercraft: means any thing used or capable of being used as a means of transportation on the water but does not include: a seaplane regulated by the federal government, water skis, aquaplanes, surfboards, windsurfers, tubes, rafts, and similar devices or any thing that does not meet construction or operational requirements of the state or federal government for watercraft.

Definition of an Abandoned and/or Derelict Vessel

South Carolina laws do not include a definition of a “derelict” vessel, but they do define “abandon” and “abandoned” as they relate to vessels under S.C. Code Ann. § 50-21-10(1):

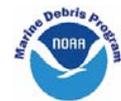
Abandoned Vessel: means any watercraft that has been moored, stranded, wrecked, sinking, or sunk, and has been left unattended for longer than forty-five days. A watercraft is not abandoned if it is legally moored or is on private property.

The South Carolina Code of Regulations also defines “abandoned vessels” in Chapter 30, Department of Health and Environmental Control – Coastal Division, in relation to critical areas of the state (tidelands, coastal waters, and the beach/sand dunes system) in the following manner under S.C. Code Regs. 30-1(D)(1):

Abandoned Vessels/Structures: any boat, barge, dock, pier or other structure/vessel in the critical areas that is no longer functional for its primary, intended purpose and for which repair or salvage activity is not actively being pursued.

Formal State Program for Abandoned Vessels

South Carolina does have a formal abandoned vessel removal program that is administered by the Department of Health and Environmental Control, through the Office of Ocean and Coastal Resource Management. The South Carolina Department of Natural Resources administers the state’s watercraft laws and is also responsible for addressing abandoned vessels under Title 50. State statutes under Fish, Game and Watercraft (Title 50), provide a definition for abandoned vessels and provisions that address the seizing, removal and disposal of abandoned and unattended vessels. In addition, provisions under Chapter 30 of South Carolina’s Code of Regulations, which is administered by the Office of Ocean and Coastal Resource Management,



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address the removal of abandoned vessels found on critical areas of the state (S.C. Code Regs. 30-11(E)).

South Carolina's abandoned vessel program is a multi-pronged effort involving a variety of state agencies and local governments. In 2004, South Carolina established an Abandoned Vessel Removal Task Force that includes the following four agencies: S.C. Department of Health and Environmental Control, S.C. Department of Natural Resources, the U.S. Coast Guard, and the U.S. Army Corps of Engineers. However, the state does not have a dedicated funding source to address abandoned or derelict vessels. State funding for vessel removals comes from the Department of Natural Resources and the Boating Operating Fund, or from state appropriations.

Designation of Abandoned and/or Derelict Vessels

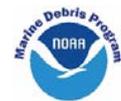
South Carolina has not established a formal process for designating vessels as "abandoned" or "derelict". If a vessel meets the definitions for "abandoned", as provided under S.C. Code Ann. § 50-21-10(1) and/or S.C. Code Regs. 30-1(D)(1)), the vessel can be designated by the state as an abandoned vessel and either removed or seized by the Department of Natural Resources (Department) or the Office of Ocean and Coastal Resource Management (OCRM), depending on which statutes or codes apply.

The department must send written notice and make additional reasonable efforts to notify the last known owner, if any, of the status of the watercraft. If efforts to notify fail, then the department must post a notice on the watercraft advising that the watercraft is abandoned. If the owner claims the watercraft within forty-five days of the date the notice is posted, the watercraft is not considered abandoned. §50-21-190(D)

Responsibility for Removal of Abandoned or Derelict Vessels

In South Carolina, it is unlawful to abandon a watercraft, except in emergencies, on the public lands or waters of the State or on private property without permission of the property owner (S.C. Code Ann. § 50-21-190(A)). A person who abandons a vessel can be charged with a misdemeanor, which can result in a fine between \$1000 and \$5000 and/or imprisonment for up to 30 days (S.C. Code Ann. § 50-21-190(B)). In addition, the owner must remove the abandoned watercraft within fourteen days if they are convicted of the misdemeanor. An abandoned vessel also can be removed at the risk and expense of the owner by any governmental agency that has jurisdiction over the area where the abandoned watercraft is located (S.C. Code Ann. § 50-21-190(C)).

The State also has the authority to seize and dispose of any abandoned, junked, adrift, destroyed, salvaged or stolen watercraft pursuant to S.C. Code Ann. § 50-23-205. Watercraft for which an owner cannot be determined and those on which the manufacturer's or assigned serial number has been destroyed, removed, covered, altered, or defaced may be also be seized. In addition, pursuant to S.C. Code Ann. § 50-21-105, the Department may tow away and store any unattended watercraft, or other object, which constitutes a hazard to navigation if it is not within a U.S. Coast Guard approved anchorage area. Any vessel that has been identified by the department as abandoned for at least 90 days may be claimed by any person or entity as abandoned property (S.C. Code Ann. § 50-21-190(E)).



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Any abandoned boat, barge, or other watercraft, that is found on any of the State's critical areas, as defined under S.C. Code Regs. 30-1(D), must be removed at the owner's expense within 30 days after receiving a removal notification from the Office of Ocean and Coastal Resource Management. If the ownership of a vessel found on critical areas cannot be established it can be removed by any person, at their expense (S.C. Code Regs. 30-11(E)(3)).

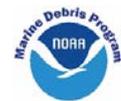
Removal and Disposal Requirements/Guidelines

In South Carolina abandoned or derelict vessels may be seized by the Department of Natural Resources pursuant to S.C. Code Ann. § 50-21-190 or S.C. Code Ann. § 50-23-205. Under S.C. Code Ann. § 50-21-190(D), if a vessel has been investigated by the Department and has been designated as an abandoned vessel, the Department must send a written notice to the last known owner informing them of the status of the vessel. When the owner cannot be identified a notice advising that the watercraft is abandoned must be posted on the vessel. If the vessel is not claimed by the owner within 45 days from the date the notice was posted it will be considered abandoned by the State. Any vessels that are considered abandoned can be removed, at the risk and expense of the owners, and disposed of by the state (S.C. Code Ann. § 50-21-190(C)).

If the Department of Natural Resources seizes a stolen or abandoned, junked, adrift, destroyed, or salvaged watercraft pursuant to S.C. Code Ann. § 50-23-205, they are required to notify the owner, or other parties claiming an interest in the vessel, by certified mail, that they have a right to prove their interest in court and claim the vessel (S.C. Code Ann. § 50-23-205(B)). If no court action is filed within 60 days of the notification, the vessel can be retained by the Department for official use, transferred to another public entity, sold at public auction or destroyed, if it's found to be unsafe. If the vessel is sold the proceeds must be deposited into the Department of Natural Resources Boating Operating Fund for program administration (see S.C. Code Ann. § 50-23-220).

After seizing a vessel pursuant to S.C. Code Ann. § 50-23-205, the Department must notify the owner by certified mail of the procedure, the location, and that they have 30 days from the date the notice was mailed to remove the equipment from the department's storage facility (S.C. Code Ann. § 50-23-205(C)). The department must also notify any lienholders that they have 30 days to respond. If the Department does not receive a response within the 30 day period the vessel can be used or disposed of by the state, according to law.

Any person coming into possession of a watercraft or outboard motor without proper proof of ownership must apply to the Department of Natural Resources for a title (S.C. Code Ann. § 50-23-290). The application must be supported by an affidavit setting forth the circumstances under which the watercraft was acquired and the applicant must attempt to notify the last known titled or registered owner and any lienholders by certified mail of the application. The applicant must also publish an advertisement for three successive issues, as prescribed by the Department, in a newspaper of general circulation in the county of residence of the last known owner of record. If the owner is not known the advertisement must be published in the county where the vessel was acquired. If the vessel, ship or goods are not claimed in 30 days from the date of the last advertisement and are not stolen the Department can issue the applicant a clear title.



Differences between Commercial and Recreational Vessel Treatment

In South Carolina, the statutes and code of regulations that address abandoned and derelict vessels do not make a distinction between commercial and recreational vessels.

Vessel Size Requirements or Limits

South Carolina law or code does not set forth any size requirements or limits for designating a vessel as abandoned or derelict.

Funding Sources

South Carolina's does not have dedicated funding for abandoned and derelict vessel removal efforts, which are largely dependent on state appropriations or grant funding. Both the Office of Ocean and Coastal Resource Management and the Department of Natural Resources have the authority to use their dedicated funds to administer the laws under Chapter 30 of the Code of Regulations and Title 50 of the Code of Laws, respectively.

In addition, when a seized abandoned vessel is sold at public auction, proceeds derived from the sale must be deposited in the Boating Operating Fund of the Department of Natural Resources to cover administration of the program (S.C. Code Ann. § 50-23-205(B)).

Lead State Agency

The Office of Ocean and Coastal Resource Management, under the Department of Health and Environmental Control, administers the provisions for abandoned vessels found on the state's critical areas under Chapter 30 of South Carolina's Code of Regulations. They are also the lead agency for the state's abandoned vessel reporting program.

Email: info@dhec.sc.gov

Phone: 803-898-3432

Website:

<http://www.scdhec.gov/HomeAndEnvironment/Water/CoastalManagement/MarineDebrisAbandonedVessel/>

South Carolina's Department of Natural Resources is the state agency that administers the state's watercraft laws under Title 50 of the Code of laws, including registration and titling.

Email: N/A

Phone: 803-734-3857

Website: <http://www.dnr.sc.gov/>

Coastal Abandoned Vessel and Marine Debris Reporting Form:

<http://www.scdhec.gov/HomeAndEnvironment/Water/CoastalManagement/ReportAbandonedVessels/>

Insurance Requirements for Vessels

South Carolina does not require vessel owners to carry vessel insurance.

Specific Location Factors, Limitations and Additional Information

Abandoned vessels found in "critical areas" of the State, which are defined as tidelands, coastal waters and the beach/sand dunes system, are subject to additional regulations as set forth in (S.C. Code Regs. 30-11(E)). If a vessel or structure is determined to be abandoned on critical areas by the Office of Ocean and Coastal Resource Management it can be removed. Upon notification from the OCRM, the owner will have 30 days from the date of notification to remove the vessel from the critical area at their expense. If the ownership of an abandoned



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boat, barge, or other watercraft cannot be established it can be removed from the critical area by any person, at their expense. The Office of Ocean and Coastal Resource Management may require a permit from the Department of Health and Environmental Control for removal of any vessel (or structure) if the removal process could significantly impact the surrounding marsh environment.

In South Carolina, unattended vessels can also be removed and towed to a storage facility if they constitute a hazard to navigation (S.C. Code Ann. § 50-21-105), or if they obstruct any pier, dock, wharf, boat ramp, or the access area to the facilities (S.C. Code Ann. § 50-21-148). Any unattended vessel, vehicle, or other object which obstructs any of these facilities or the access to them may be removed entirely at the risk and expense of the owner. Any person violating the provisions of this section is guilty of a misdemeanor.

In addition, if a ship or vessel (and goods) becomes stranded or cast on shore and no person appears to claim them the local magistrate shall take them into his custody and deliver them safely to the county treasurer. The county treasurer must then give public notice of the property found in a local newspaper of general circulation for at least sixty days, if no claim is made (S.C. Code Ann. § 54-7-10). If the vessel, ship or goods are not claimed within 60 days they can be publically sold (S.C. Code Ann. § 54-7-20).

Prioritization Scheme

Abandoned Vessel Site Evaluation Criteria:

- Proximity to shellfish beds and other sensitive areas
- Presence or potential for oil/fuel pollution
- Navigational hazard
- Impaired recreational use of waterway
- Economic impact to recreation and tourism
- Legal and/or regulatory authority to remove
- Public interest
- Lack of success through routine enforcement means

Legislation and Administrative Codes

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

South Carolina Code of Laws (2014):

<http://www.scstatehouse.gov/code/statmast.php>

South Carolina Code of Regulations (2014):

<http://www.scstatehouse.gov/coderegs/statmast.php>

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.