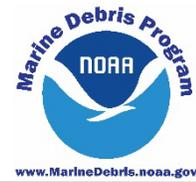


State of Virginia



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

NOAA Marine Debris Region:
Mid-Atlantic



Definition of a Vessel

The Code of Virginia defines a “vessel” under Title 29.1, Chapter 7 Boating laws (Va. Code Ann. § 29.1-700) 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.

Virginia statutes also provide a definition for a “watercraft” under Va. Code Ann. § 29.1-733.2:

Watercraft: means any vessel that is used or capable of being used as a means of transportation on water and is propelled by machinery, whether or not the machinery is the principal source of propulsion.

This definition contains eight exceptions, some of which are seaplanes, stationary floating structures, sailboats less than 18 feet in length, federally-owned vessels, and dedicated lifeboats. It also doesn’t include watercraft that do not have and were not designed to have their own propulsion system.

Definition of an Abandoned and/or Derelict Vessel

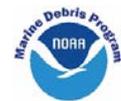
Virginia Code also provides a legal definition for “abandoned watercraft” under Va. Code Ann. § 29.1-733.2:

Abandoned Watercraft: means a watercraft that is left unattended on private property for more than 10 days without the consent of the property's owner, regardless of whether it was brought onto the private property with the consent of the owner or person in control of the private property.

Formal State Program for Abandoned Vessels

Virginia does have laws and a formal program in place for registering and titling abandoned watercraft, which is administered by the Department of Game and Inland Fisheries. The provisions under Va. Code Ann. § 28.2 and Va. Code Ann. § 29.1 also allow for the removal and disposal of abandoned and derelict vessels found on both private and public property by the Marine Resources Commission or the Department of Game and Inland Fisheries, respectively. In addition, state law allows local governments to enact ordinances authorizing the removal of abandoned vessels (Va. Code Ann. § 15.2-909). Removal efforts are funded out of the Marine Habitat and Waterways Improvement Fund, established under Va. Code Ann. § 28.2-1204.2.

In Virginia, it is unlawful for an owner to allow a vessel to be in a state of abandonment and in danger of sinking, or in such disrepair as to constitute a hazard or obstruction to the use of a waterway, if they let it remain for more than a week after receiving notification through certified mail from the Commission (Va. Code Ann. § 28.2-1210(B)). If the vessel’s state of abandonment or disrepair was the result of a natural disaster or other “act of God”, the Commission and law enforcement officials are required to wait 60 days before issuing a notice to the owner. Any person in violation of this subsection is guilty of a Class 3 misdemeanor.



Designation of Abandoned and/or Derelict Vessels

Virginia statutes do not outline a process for designating vessels as abandoned or derelict. If a vessel meets the definitions under Va. Code Ann. § 29.1-733.2, it can be considered as abandoned by the state.

If a registered watercraft is sold, destroyed, abandoned, or stolen, the owner is required by law to report this information within 15 days in writing to the Boat Registration & Titling Section, Department of Game and Inland Fisheries.

Responsibility for Removal of Abandoned or Derelict Vessels

Under Virginia law, the Marine Resources Commission has the authority to remove or require the removal of a vessel if it is found in or upon the bays, oceans, rivers, streams, or creeks of Virginia abandoned, in danger of sinking, or in such disrepair that it constitutes a hazard or obstruction to the use of such waterway (Va. Code Ann. § 28.2-1210(A)). If the identity of the owner can be ascertained, the Commission may require the owner to repair or remove the property from state waters.

Virginia law also permits local governments (referred to as “localities” in the statutes) to enact ordinances authorizing the removal of abandoned vessels (Va. Code Ann. § 15.2-909). If proscribed by local ordinance, property owners within the locality are required to remove, repair, or secure any abandoned vessel that might be a public health or safety hazard, or become an obstruction or hazard to the lawful use of local waters. If a vessel is deemed to be abandoned and the governing body can ascertain the lawful owner, they can have them repair, remove, or secure the vessel.

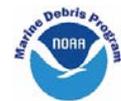
Removal and Disposal Requirements/Guidelines

If the Marine Resources Commission finds an abandoned or derelict vessel and the owner’s identify cannot be determined after a diligent search and posting a proper notice at the owner’s last known address, if known, the Commission can remove the vessel after publishing a notice once in a newspaper of general circulation in the area where the vessel is located (Va. Code Ann. § 28.2-1210(A)).

Pursuant to Va. Code Ann. § 15.2-909(2), local governments can also remove, repair or secure any abandoned vessel or vessels that might endanger the public health or safety or constitutes a hazard or obstruction on local state waters, if the owner fails to remove, repair or secure the vessel within a reasonable amount of time after being notified. If the vessel is removed by a locality pursuant to the provision under Va. Code Ann. § 15.2-909, the costs/expenses associated with the removal will be charged to the owner. Any charges not paid by the owner may be collected by the locality as taxes are collected (Va. Code Ann. § 15.2-909(3)).

If the identity of the owner cannot be found after a reasonable search and after lawful notice has been made to the last known address of any known owner, the locality may remove the vessel after giving notice by publication once week for two weeks in a local newspaper of general circulation (Va. Code Ann. § 15.2-909(4)). Every charge authorized under Va. Code Ann. § 15.2-909 which remains unpaid shall constitute a lien against the owner’s real property (Va. Code Ann. § 15.2-909(5)). Only localities that have enacted ordinances have the authority to remove vessels.

Under Virginia Code, a landowner, his lessee, or his agent may acquire title to any watercraft that has been abandoned on his land or the water immediately adjacent to his land for a period



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exceeding 60 days (Va. Code Ann. § 29.1-733.25(B)). If the abandoned watercraft has a registration number, or if there are other means of identifying the owner, the person seeking title must make a good faith effort to find the last-known address of the owner(s) and any lienholders, and notify them by registered letter that if the vessel is not claimed and removed within 30 days, he or she will apply for title to the watercraft (Va. Code Ann. § 29.1-733.25(C)).

The person seeking the title must also put a notice in a newspaper of general circulation for three consecutive issues that describes the watercraft, its marking and location (Va. Code Ann. § 29.1-733.25(D)). The notice must also state that if the watercraft is not claimed and removed within 30 days of the notice an application will be filed with the Department of Game and Inland Fisheries for title of the watercraft. Pursuant to Va. Code Ann. § 29.1-733.25(E), if the vessel is not claimed within the 30 day period, the person seeking title can submit an application to the Department accompanied by:

- i. affidavit stating that to the best of the applicant's knowledge the watercraft has been abandoned for a period of at least 60 days;
- ii. proof that the registered letter required by the Department was mailed at least 30 days prior to application or a detailed explanation of the steps taken to identify the owner and lien holder; and
- iii. proof that a notice was printed in a newspaper.

After receiving the complete application and all related fees and taxes, the Department will issue title of the watercraft to the applicant (Va. Code Ann. § 29.1-733.25(F)).

Differences between Commercial and Recreational Vessel Treatment

Virginia Code addressing abandoned or derelict vessel does not distinguish between recreational or commercial vessels.

Vessel Size Requirements or Limits

Virginia does not set size limits or have any size requirements for designating a vessel as abandoned.

Funding Sources

Removal efforts are funded out of the Marine Habitat and Waterways Improvement Fund, which was established under Va. Code Ann. § 28.2-1204.2. This Fund receives moneys from legislative appropriations and the proceeds of the sale of state-owned marine lands. In addition, the Commissioner is authorized to accept gifts and grants for the Fund. The Marine Habitat and Waterways Improvement Fund can only be used to improve marine habitat and waterways, which includes the removal of obstructions or hazardous property from state waters as authorized under Va. Code Ann. § 28.2-1210 and Va. Code Ann. § 15.2-909.

Lead State Agency

In Virginia the Department of Game and Inland Fisheries administers the abandoned watercraft program.

Email: boat-reg@dgif.virginia.gov

Phone: 804-367-1000

Website: <http://www.dgif.virginia.gov/>



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Virginia's Marine Resources Commission (Commission) has authority to remove obstructions from state waters.

Email: boat-reg@dgif.virginia.gov

Phone: 804-367-1000

Website: <http://www.dgif.virginia.gov/>

The Virginia Marine Police has the authority to enforce or assist other agencies in enforcing the states laws pertaining to the removal of obstructions and abandoned vessels (Va. Code Ann. § 28.2-106(A)(4)).

Insurance Requirements for Vessels

Vessel insurance is not required by law in Virginia.

Specific Location Factors, Limitations and Additional Information

Virginia law authorizes any person to take up a boat or vessel found adrift pursuant to Va. Code Ann. § 55-202. The person taking up the adrift vessel must immediately inform the court of the county, who will order an appraisal of the vessel, and certify the result, with a description of the kind, burden and build of the boat or vessel. The certificate of appraisal must be posted "at the front door of his courthouse on the first day of two terms of court next after receiving the certificate (Va. Code Ann. § 55-203)."

If the vessel or property is appraised for less than \$5.00, and the owner has not appeared to claim the property after the certificate was posted, the person who removed it is entitled to the property (Va. Code Ann. § 55-204). If the vessel is worth more than \$5.00, notice must also be published three times in a newspaper published nearest to the place where the vessel was taken up, and if the owner does not appear after these notices, the vessel will become the property of the person who removed it. The former owner may, at any time after, recover the value of the property from the court, minus any fees assessed by the court (Va. Code Ann. § 55-205).

The owner of such property, after paying the owner of the land a just compensation for any expenses incurred by him relating to the property, may remove his property. The owner of the vessel must pay the owner of the land for any damage caused to him during the removal process (Va. Code Ann. § 55-208).

Prioritization Scheme

The State of Virginia does not utilize a prioritization scheme when removing abandoned or derelict vessels.

Legislation and Administrative Codes

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

Virginia Statues (2015):

<http://www.lexisnexis.com/hottopics/gacode/Default.asp>

Virginia Administrative Code (2015):

<https://www.flrules.org/>