

11 AAC is amended by adding a new chapter to read:

**Chapter 61. Derelict and Abandoned Vessels.**

**Article**

1. Derelict Vessel Prevention Program Fund (11 AAC 61.010 - 11 AAC 61.016)
2. Enforcement Authority (11 AAC 61.110 - 11 AAC 61.900)

**Article 1. Derelict Vessel Prevention Program Fund.**

**Section**

10. Derelict vessel prevention program fund
15. Reimbursements to municipalities
16. Reimbursements to state agencies

**11 AAC 61.010. Derelict vessel prevention program fund.** (a) The department may use the derelict vessel prevention program fund established under AS 30.30.096 to

(1) reimburse

(A) a municipality for a derelict vessel removal from waters of the state and from state or municipal property; or

(B) a state agency, including the department, for a derelict vessel removal from waters of the state and from state or municipal property;

(2) pay for the development and implementation of other derelict vessel prevention program goals;

(3) subsidize a project directly related to the derelict vessel prevention program;

and

(4) pay the costs of administering the fund.

(b) The department will allocate an annual percentage of money available from the derelict vessel prevention program fund to uses set out in (a) of this section, as follows:

(1) the use set out under (a)(1)(A) of this section will be allocated up to 42.5 percent;

(2) the use set out under (a)(1)(B) of this section will be allocated up to 42.5 percent;

(3) for program development, program implementation, or a project subsidy as set out under (a)(2) and (3) of this section, up to 13 percent collectively; and

(4) for fund administration as set out under (a)(4) of this section, up to two percent.

(c) If money from the derelict vessel prevention program fund remains available to the department, the allocation percentages set out under (b) of the section may be exceeded if

(1) the removal of a derelict vessel would prevent substantial environmental or economic harm;

(2) the removal of a derelict vessel would substantially improve ecological or economic function; or

(3) any portion of the annual fiscal year funding available to the department remains unspent after December 31 of each year. (Eff. \_\_\_\_/\_\_\_\_/\_\_\_\_, Register \_\_\_\_)

**Authority:** AS 30.30.090 AS 30.30.096 AS 30.30.165

AS 30.30.095

**11 AAC 61.015. Reimbursements to municipalities.** (a) For reimbursements under 11 AAC 61.010(a)(1)(A),

(1) the department will run a 60-day solicitation on April 1 of each year to collect applications for reimbursement; the department will post information about the solicitation on the department's abandoned and derelict vessel program website, including the annual amount of funding available, the application packet for reimbursement, and the list of projects chosen for reimbursement; if funding remains after completion of the first solicitation period, the department will accept applications on a continuous basis until the allocated percentage listed in 11 AAC 61.010(b)(1) is reached;

(2) the department will accept an application seeking

(A) reimbursement for a derelict vessel removal that has been conducted;

or

(B) a guarantee of reimbursement for a derelict vessel removal that a municipality seeks to conduct;

(3) a municipality seeking reimbursement for a derelict vessel removal that has been completed must submit an application on a form provided by the department; the application must include

(A) any information known to the municipality that is responsive to the criteria listed in (b) of this section;

(B) all receipts directly tied to the removal of the vessel;

(C) the total amount the municipality is requesting for reimbursement;

(D) the date the vessel removal occurred; and

(E) other additional information the department determines is necessary to make a determination under (b) of this section;

(4) a municipality seeking a guarantee of reimbursement for a derelict vessel removal it seeks to conduct must submit an application on a form provided by the department; the application must include

(A) any information known to the municipality that is responsive to the criteria listed in (b) of this section;

(B) a formal estimate of the removal cost;

(C) the current ownership status of the vessel;

(D) the total amount the municipality is requesting for the reimbursement guarantee; and

(E) other additional information the department determines is necessary to make a determination under (b) of this section.

(b) In reaching a decision on an application, the department will consider

(1) whether the vessel is a derelict vessel within the meaning given in AS 30.30.090;

(2) whether the vessel is an important cultural resource;

(3) whether the vessel's removal may adversely affect cultural resources;

(4) whether reasonable efforts have been made to identify, locate, and hold accountable the party responsible for the vessel;

(5) the condition of the vessel and whether the vessel poses a risk of sinking or breaking up;

(6) whether the vessel poses an environmental hazard;

(7) whether the vessel poses a public safety threat; and

(8) whether the vessel may obstruct other productive uses of the area.

(c) Upon approving an application for reimbursement, the department may specify

(1) the total amount to be reimbursed; and

(2) the date by which the vessel removal must be completed.

(d) If the vessel removal is not complete on or before the date set by the department, the department may withhold the entire sum previously approved for reimbursement. (Eff.

\_\_\_\_/\_\_\_\_/\_\_\_\_, Register \_\_\_\_\_)

**Authority:** AS 30.30.090 AS 30.30.096 AS 30.30.165  
AS 30.30.095

**11 AAC 61.016. Reimbursements to state agencies.** (a) For reimbursements under 11 AAC 61.010(a)(1)(B), the department will accept on a continuous basis applications for reimbursement. The department will post information about the reimbursement process on the department's abandoned and derelict vessel program website, including the annual amount of funding available, the application packet for reimbursement, and the list of projects chosen for reimbursement.

(b) A state agency seeking reimbursement for a derelict vessel removal that has been completed must submit an application on a form provided by the department. The application must include

(1) all receipts directly tied to the removal of the vessel;

(2) the total amount the state agency is requesting for reimbursement;

(3) the date the vessel removal occurred; and

(4) other additional information the department determines is necessary to make a determination under (c) of this section.

(c) In reaching a decision on an application, the department will consider

(1) whether the vessel was a derelict vessel within the meaning given in AS 30.30.090;

(2) whether the vessel was an important cultural resource;

(3) whether the vessel's removal adversely affected cultural resources;

(4) whether the vessel removal was associated with a state or federally funded spill response;

(5) whether reasonable efforts were made to identify, locate, and hold accountable the party responsible for the vessel;

(6) whether the vessel posed an environmental hazard;

(7) whether the vessel posed a public safety threat; and

(8) whether the vessel obstructed other productive uses of the area.

(d) Upon approving an application for reimbursement, the department may specify the total amount to be reimbursed. (Eff. \_\_\_\_ / \_\_\_\_ / \_\_\_\_\_, Register \_\_\_\_\_)

**Authority:** AS 30.30.090 AS 30.30.096 AS 30.30.165

AS 30.30.095

## **Article 2. Miscellaneous.**

### **Section**

110. Enforcement authority

900. Definitions

**11 AAC 61.110. Enforcement authority.** (a) For the purpose of enforcing AS 30.30 and this chapter, a peace officer of the state, within the meaning given in AS 30.30.165, may

- (1) inspect a vessel believed to be abandoned or derelict;
- (2) post a written notice on the vessel as set out in AS 30.30.040(a) and (b);
- (3) post a notice of disposition on the vessel as set out in AS 30.30.045(a);
- (4) execute a warrant or other process issued by an officer or court of competent

jurisdiction as set out in AS 30.30.165(b)(1); or

(5) administer or take an oath, affirmation, or affidavit as set out in AS 30.30.165(b)(2).

(b) The authority granted by AS 30.30.010, 30.30.015, 30.30.055, 30.30.065(a), 30.30.165, and this section is permissive. Nothing in this section

- (1) requires an authorized public entity to exercise the authority; or
- (2) attaches liability to an authorized public entity that chooses not to exercise the

authority. (Eff. \_\_\_\_/\_\_\_\_/\_\_\_\_, Register \_\_\_\_\_)

**Authority:** AS 30.30.010 AS 30.30.165

**11 AAC 61.900. Definitions.** In this chapter,

- (1) "abandoned" has the meaning given in AS 30.30.170;
- (2) "derelict vessel" means a vessel within the meaning given in AS 30.30.090;
- (3) "peace officer" has the meaning given in AS 30.30.165(a);
- (4) "removal" means the process of taking possession and disposing of a vessel;
- (5) "vessel" has the meaning given in AS 30.30.170. (Eff. \_\_\_\_/\_\_\_\_/\_\_\_\_,

Register \_\_\_\_\_)

**Authority:** AS 30.30.090 AS 30.30.095 AS 30.30.096