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Lieutenant Governor
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**OFFICE OF THE LIEUTENANT GOVERNOR
ALASKA**

M E M O R A N D U M

TO: Molly Benson, Natural Resource Specialist
Department of Natural Resources

FROM: April Simpson, Alaska Administrative Code Coordinator *AS*
Office of the Lieutenant Governor

DATE: February 10, 2025

RE: Filed Permanent Regulations: Department of Natural Resources
Department of Natural Resources regulations re: Derelict Vessels (11 AAC 200)

Attorney General File:	2023200268
Regulation Filed:	2/10/2025
Effective Date:	3/12/2025
Print:	253, April 2025

cc with enclosures: Beth Parsons, Paralegal 2
Department of Law

Bob Dame, Alaska Legal Analyst
LexisNexis



THE STATE
of **ALASKA**
GOVERNOR MIKE DUNLEAVY

Department of Law

CIVIL DIVISION

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February 7, 2025

The Honorable Nancy Dahlstrom
Lieutenant Governor
State of Alaska
P.O. Box 110015
Juneau, AK 99811-0015

Re: *11 AAC 200: DNR - Derelict Vessels*
Our file: 2023200268

Dear Lieutenant Governor Dahlstrom:

The Department of Law has reviewed the attached regulations of the Department of Natural Resources against the statutory standards of the Administrative Procedure Act. Based upon our review, we find no legal problems. This letter constitutes the written statement of approval under AS 44.62.060(b) and (c) that authorizes your office to file the attached regulations. The regulations were adopted by the Department of Natural Resources after the close of the public comment period.

The regulations concern removal of derelict vessels and procedures for state agencies and municipalities to request reimbursement from the derelict vessel prevention program fund (AS 30.30.096).

The February 28, 2024 public notice and the February 6, 2025 adoption order both state that this action is not expected to require an increased appropriation. Therefore, a fiscal note under AS 44.62.060 is not required.

No technical corrections were necessary to conform the regulations in accordance with AS 44.62.060.

Sincerely,

TREG TAYLOR
ATTORNEY GENERAL

By: **Rebecca C. Polizzotto**
Rebecca C. Polizzotto
Chief Assistant Attorney General
Legislation, Regulations, and
Legislative Research Section

Digitally signed by
Rebecca C. Polizzotto
Date: 2025.02.07
14:50:32 -09'00'

RCP/SCW

CC w/enclosure: Molly Benson, Natural Resource Specialist
Department of Natural Resources

Emily Rooks, Assistant Attorney General
Department of Law

Steven C. Weaver, Assistant Attorney General
Department of Law

ORDER ADOPTING CHANGES TO REGULATIONS
OF THE DEPARTMENT OF NATURAL RESOURCES

The attached eight pages of regulations, dealing with Alaska derelict vessels, are adopted and certified to be a correct copy of the regulation changes that the Department of Natural Resources adopts under the authority of AS 38.05.020 and after compliance with the Administrative Procedure Act (AS 44.62), specifically including notice under AS 44.62.190 and 44.62.200 and opportunity for public comment under AS 44.62.210.

This action is not expected to require an increased appropriation.

In considering public comments, the Department of Natural Resources paid special attention to the cost to private persons of the regulatory action being taken.

The regulation changes adopted under this order take effect on the 30th day after they have been filed by the lieutenant governor, as provided in AS 44.62.180.


Date: 6 Feb 25



John Boyle
Commissioner, Department of Natural Resources

FILING CERTIFICATION

April Simpson for
I, Nancy Dahlstrom, Lieutenant Governor for the State of Alaska, certify that on February 10, 2025, at 9:45 a.m., I filed the attached regulations according to the provisions of AS 44.62.040 - 44.62.120.

for 

Nancy Dahlstrom
Lieutenant Governor

Effective: March 12, 2025

Register: 253, April 2025.

FOR DELEGATION OF THE LIEUTENANT GOVERNOR'S AUTHORITY

I, NANCY DAHLSTROM, LIEUTENANT GOVERNOR OF THE STATE OF ALASKA, designate the following state employees to perform the Administrative Procedures Act filing functions of the Office of the Lieutenant Governor:

April Simpson, Regulations and Initiatives Specialist

IN TESTIMONY WHEREOF, I have signed and affixed the Seal of the State of Alaska, in Juneau, on May 15th, 2023.



A handwritten signature in blue ink, reading "Nancy Dahlstrom", is written over a horizontal dotted line.

**NANCY DAHLSTROM
LIEUTENANT GOVERNOR**

11 AAC is changed by adding a new part to read:

Part 10. Miscellaneous.

Chapter

200. Derelict and Abandoned Vessels.

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

Chapter 200. Derelict and Abandoned Vessels.

Article

1. Derelict Vessel Prevention Program Fund (11 AAC 200.010 - 11 AAC 200.016)
2. Miscellaneous (11 AAC 200.110 - 11 AAC 200.900)

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 200.010. 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. 3 / 12 / 2025, Register 253)

Authority: AS 30.30.090 AS 30.30.096 AS 30.30.165
AS 30.30.095

11 AAC 200.015. Reimbursements to municipalities. (a) For reimbursements under 11 AAC 200.010(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 200.010(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.

3 / 12 / 2025, Register 253)

Authority: AS 30.30.090 AS 30.30.096 AS 30.30.165
AS 30.30.095

11 AAC 200.016. Reimbursements to state agencies. (a) For reimbursements under 11 AAC 200.010(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. 3 / 12 / 2025, Register 253)

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 200.110. 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. 3 / 12 / 2025, Register 253)

Authority: AS 30.30.010 AS 30.30.165

11 AAC 200.900. 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);

Register 253, April, 2025 NATURAL RESOURCES

(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. 3 / 12 / 2025,

Register 253)

Authority: AS 30.30.090 AS 30.30.095 AS 30.30.096