



## **Proceedings of the Workshop on State-level Responses to Abandoned and Derelict Vessels**

NOAA Marine Debris Program  
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# PROCEEDINGS OF THE WORKSHOP ON STATE-LEVEL RESPONSES TO ABANDONED AND DERELICT VESSELS

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*Proceedings of the*  
Workshop on  
State-level Responses to Abandoned and Derelict Vessels

Miami, FL

September 15-17, 2009

# State-level Responses to Abandoned and Derelict Vessel Workshop

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## Acronyms

ADV	Abandoned and Derelict Vessel
BMP	Best Management Practice
CERCLA	Comprehensive Environmental Response, Compensation, and Liability Act
CWA	Clean Water Act
DMV	Department of Motor Vehicles
DOI	Department of the Interior
EPA	Environmental Protection Agency
FEMA	Federal Emergency Management Agency
FOSC	Federal On-Scene Coordinator
GLO	Texas General Land Office
GPS	Global Positioning System
IRT	Innovative Readiness Training
MA	Mission Assignment
MDP	Marine Debris Program
MOA	Memorandum of Agreement
NASBLA	National Association of State Boating Law Administrators
NOAA	National Oceanic and Atmospheric Administration
NRDA	Natural Resource Damage Assessment
OPA	Oil Pollution Act
USACE	United States Army Corps of Engineers
USCG	United States Coast Guard

## Preface

The State-level Responses to Abandoned and Derelict Vessels workshop was held September 15 to 17, 2009. A representative from each coastal state (including the Great Lakes) was invited to attend. The term “state” should be interpreted throughout this document to include territories and commonwealths of the United States of America.

This document is organized to provide two levels of detail for any audience interested in abandoned and derelict vessels (ADV). Section I has been designed as a reference tool to provide introductory and high-level information on the components of a state-level ADV program.

In Section II, a significant amount of information is included for each of the identified components of a successful state ADV program. During the workshop, attendees shared numerous ideas during the discussion of each program component—first in small teams, and then with the entire workshop. Support and criticism for each idea was shared openly, and the detailed description found under each idea is taken directly from the expert attendees.

Information on ADV-relevant mandates and authorities from a select group of Federal agencies can be found in Section III, including case study examples. Section IV provides concluding remarks, as well as specific suggestions for future ADV efforts that were proposed by workshop attendees. Background information—including presentations and reference material—is included in the appendixes.

While this document grew out of a workshop, it will remain relevant only as it is updated to reflect the most current state of knowledge. As such, it is imperative that lessons learned—both positive and negative—are shared and disseminated with other interested parties to achieve local, regional, and national success.

## *Section I*



## Background

ADVs are consistently identified as problematic to state coastal managers, negatively impacting marine waterways and communities. While seaworthy vessels provide many services such as recreation and commerce, ADVs have numerous deleterious impacts—threat of oil or other pollutant spills, impediments to navigation, physical destruction of habitat, use as clandestine dump sites, nutrient enrichment, tourism reduction, and human health and safety hazards, to name a few. Storm events can move or break up vessels, spreading the damage over a greater area and often increasing the cost of addressing them. Responsible ownership, maintenance, and operation are the norm for the boating community, but once a vessel becomes abandoned or derelict actions to mitigate the aforementioned potential impacts are necessary.

Part of the challenge in appropriately responding to ADVs is the sheer number of variables (e.g., ownership, jurisdiction, liability, appropriate legislation or regulations) possible per individual case. Some scenarios, such as if a vessel is leaking oil or if a vessel is located in a federally maintained navigation channel, are relatively clear in terms of responsibility and action required. However, there are significantly more scenarios with an unknown path to resolution. Who is responsible for responding to a derelict vessel not leaking oil or in a federally maintained navigation channel? What if a vessel owner cannot be identified? Who pays for removal and disposal? What if the vessel breaks apart, with a portion on land and a portion still in the water? Are there response differences between commercial and recreational vessels? A robust state ADV program, working in coordination with marinas, boat owners, nongovernmental organizations, and Federal and other state agencies, can help overcome these challenges.

During 2008 and 2009, media coverage of ADVs was substantial. Many stories cited the economic downturn in the United States as a contributing factor to an increase in the number of ADVs. The Abandoned and Derelict Vessel Workshop was designed in response to both this observation and the many requests the National Oceanic and Atmospheric Administration (NOAA) Marine Debris Program (MDP) receives regarding ADVs in state waters. While awareness of the issue has been raised nationally, solutions and new ways of addressing ADVs have not been clearly articulated and adopted.

The workshop to address abandoned and derelict vessels was held September 14-17, 2009, in Miami, Florida, with the intention of bringing together Federal agency representatives and state coastal managers to facilitate discussion on ADVs and share challenges and successful practices. The workshop objectives were to:

- Share information on NOAA and other select Federal agencies' ADV interests and resources.
- Enhance communication between states that have ADV programs and those looking to build them.

Prior to the workshop, given the wide variety of expertise and experiences of participants, a questionnaire was distributed with each attendee's registration confirmation. Participants were asked to respond to two questions intended to guide the workshop discussion of ADV program

components and challenges and provide a baseline of state-level involvement in the topic. The questions were:

- What are the two largest issues you face in terms of abandoned and derelict vessels? Please explain.
- What do you want to learn and what do you hope to take away by participating in the workshop?

Responses to the first question included challenges in identifying funding sources (70%), determining vessel ownership (30%), knowing the number of ADVs impacting the state (20%), and understanding Federal authorities (20%). Responses to the second question included an interest in strategies from states with an ADV program (65%), identifying funding sources (40%), increasing knowledge of relevant ADV legislation (20%), and strengthening state and Federal agency partnerships (20%).

Building upon these responses to initiate discussion, the workshop was designed to allow Federal agencies to share information with state representatives on their mandates and authorities, and for states that have adopted ADV abatement programs to share information about their successes and challenges. The workshop was additionally designed to go beyond simply sharing information in order to establish a network of individuals committed to learning from one another and working together. Articulating the roles of the Federal agencies present and the lessons learned from existing state ADV programs provided tools and suggestions for other state managers without a formal ADV program to emulate and apply in their own region.

## Components of a Comprehensive ADV Program

Steps to build a comprehensive ADV program may include planning for program administration, enacting legislation, identifying funding sources, creating an ADV inventory, planning for the removal and disposal of ADVs, clarifying enforcement authority and abilities (directly or through other state agencies), developing prevention strategies, conducting outreach campaigns, and. It should be noted that successful ADV programs can exist without some, or even many, of these components. The following list is intended to serve as a guide for state managers developing an ADV program; it contains all of the components identified by the workshop participants.

- **Program Administration:** Identify the needed infrastructure for a successful program; develop a vision and strategy.  
*Outlining what the state's ADV program would look like from discovery to disposal is recommended, as is considering general program administration requirements.*
- **Legislation:** Know the relevant legislation; pursue appropriate state legislation to formalize an ADV program.  
*Know state statutes and key definitions (the Sea Grant Law Center State Abandoned Vessel Laws document is one tool) and investigate the state's political climate as it relates to addressing ADVs and developing a state program to conduct the work.*
- **Funding:** Understand applicable funding sources and the true cost of all components of a program; strive for self-sustaining funding.  
*Funding, along with removal and disposal, was identified as a critical component of any state ADV program and requires strategic consideration and incorporation.*
- **Inventory:** Create an ADV inventory to capture and track key information.  
*Knowing the magnitude of ADV challenges is critical to being able to propose appropriate solutions; an inventory need not be complicated or expensive. An inventory should include location, number, and accumulation rate of ADVs.*
- **Removal:** Weigh options for removal methods, which vary in cost, success, and ecological damage; understand those methods that will work best by vessel type and geographic location.  
*Removal, along with funding and disposal, was identified as a critical component of any state ADV program, and requires strategic consideration and incorporation.*
- **Disposal:** Proper disposal can be accomplished through several different means, each varying in cost and environmental impact.  
*Disposal, along with funding and removal, was identified as a critical component of any state ADV program, and requires strategic consideration and incorporation.*
- **Enforcement:** Active enforcement programs may deter irresponsible vessel ownership.

*Cooperation is needed with enforcement officers to reduce existing numbers of ADVs, potentially recover costs for removal and disposal, and reduce the number of ADVs intentionally created.*

- **Prevention:** Avoiding, to the greatest extent possible, vessels becoming abandoned and derelict can save money and prevent the natural resource and navigation threats and should be the goal of any ADV program.  
*Some ADVs are created intentionally and others are the result of storms or other indirect causes. Consider how laws, training, and outreach can be implemented to reach the most appropriate audiences and prevent ADV introduction.*
- **Outreach:** Engage necessary and interested constituents and partners to address ADVs  
*An effective outreach campaign need not be expensive or time-consuming, particularly with the explosion of social media outlets. Increasing awareness of the challenges may reveal unknown solutions. Develop, strengthen, or reinvigorate a working relationship with relevant Federal and state agencies. Determine what other state agencies have an interest, responsibility, or are impacted by ADVs. Explore partnerships with enforcement agencies targeted toward ADV issues.*

## *Section II*

## Program Administration

A comprehensive ADV program has many elements, ranging from staffing to response protocols to coordination with other states and Federal agencies. The following topics identify and describe those program elements that contribute to a successful, long-term program:

- *Definition of program*  
**Explanation:** Initial planning should identify specific details on what the program will do and the problems it will address. This may be spelled out somewhat in legislation, but clear lines between what the program will and won't address will help determine staff and funding priorities. Developing a single vision to pursue should be conducted early in order to facilitate a common understanding as to why the state is pursuing an ADV program. A distinction may be drawn between recreational and commercial ADVs.  
**Critical Considerations:** Defining the program will establish boundaries on what it can and cannot do, making it easier to explain the program and prioritize funding; a definition that is too strict may create challenges as the state ADV program expands.
- *Staff*  
**Explanation:** To design, implement, and maintain an ADV program, a variety of staff expertise is needed, including management, enforcement, legal matters, environmental issues, grants, and contracts. Though a program may rely on individual offices within its agency that are responsible for some of these areas, it is helpful to have specific expertise within the program to work on the issues on a daily basis.
- *Roles of Federal agencies*  
**Explanation:** New ADV programs should learn and understand the appropriate Federal agencies' mandates and authorities related to ADVs. A comprehensive understanding of these agencies' permitting requirements as they apply to ADVs is also helpful.
- *Understanding existing laws*  
**Explanation:** Though each state ADV program will have legislation particular to its activities, the program should also identify other state legislation that may have a bearing on addressing ADVs. This may include laws regarding insurance, property rights, and taking of property.
- *Prioritization scheme*  
**Explanation:** A major reason to assess ADVs, both their physical condition and the damage or threat to surrounding areas, is to determine their priority for removal. A prioritization scheme should be set based on the needs of the state, region, county, or other area; factors to consider may include threats to navigation, human safety, habitat, or tourism. When determining the criteria for prioritization, engaging a stakeholder group may ensure all factors are considered.
- *Ability to research vessel history*

**Explanation:** Establishing a particular vessel's history is necessary to legally determine ownership in many states, particularly if this may be used for prosecution or cost recovery. A program should have the expertise and ability to access all applicable state and Federal databases that may have information on the vessel or vessel owner.

- *Legacy issues*

**Explanation:** States with numerous ADVs in their waters before a sustainably funded program is created may find themselves with a significant backlog, and the initial assessment should implement a prioritization scheme for the vessels under consideration. Additionally, the funding stream should clearly articulate whether program funds can be applied toward legacy vessels or only vessels identified following establishment of the program.

- *Emergency response*

**Explanation:** In addition to addressing legacy vessels, an ADV program should have plans for addressing two types of emergency response. The first type is when a vessel is wrecked. Generally a cost savings is seen and habitat is preserved if the vessel can be removed as quickly as possible, before it has time to sink further, create a pollution incident, or break into smaller pieces. However, having funding and legal authorities to respond quickly can be challenging, as can mobilizing salvage crews. A plan may include protocols for the response, including notification, funding, and an open contract for salvage. The second type of response plan is for a large incident, such as a hurricane or other large catastrophic event. This may create tens to hundreds of derelict vessels at one time, and a means of assessing them and prioritizing removal should be established before the incident occurs. In the case of federally declared disasters, prior consultations with FEMA may help determine how derelict vessels will be handled.

- *Develop best practices*

**Explanation:** Setting best management practices (BMPs) can be used to standardize methods and get the best results for the program. The protocols and BMPs of other states can be reviewed and adopted or adapted. Learning from other states reduces time and necessary resources, and though each state will have its own specific challenges, many ADV issues are general, and successful practices implemented elsewhere can be adopted with little modification.

- *Pilot programs*

**Explanation:** Pilot programs can be an effective means of testing new methodologies, building upon protocols that may have been established in another state ADV program and concurrently pursuing new ways of achieving identified program goals to save the program time and funding.

- *Equipment*

**Explanation:** Equipment is an essential element of any program, ranging from the standard desks, computers, and phones to the more specialized such as GPS capabilities, laptops suitable for marine field work, boats, and related safety equipment. Proper equipment is needed to work in the field and to identify, assess, and track ADVs.

- *Record-keeping*  
**Explanation:** Maintaining up-to-date records is essential to a good program; ADVs removed and disposed of must be tracked, case histories and accomplishments should be documented, and other activities should be recorded. This can also assist with tracking performance measures and demonstrating the worth of the program.
- *Funding management*  
**Explanation:** Any program that receives funds should have a means of managing and accounting for the funds received and expended.
- *Contracts/grants*  
**Explanation:** Contracts and grants are two methods of financing removal and disposal of ADVs. These mechanisms may also be used for other program components such as prevention and outreach activities.
- *Clearinghouse of funding*  
**Explanation:** A clearinghouse of funding opportunities would make it easier for states and smaller entities to apply for funding for ADV projects.  
**Critical Considerations:** A clearinghouse may increase efficiency of limited staff time; oversight and management requirements of this clearinghouse are undetermined.
- *Cooperation among agencies within one state*  
**Explanation:** Program staff should seek out those agencies within their state that may have an interest in ADV issues to ensure connections are made, reduce agency jurisdictional miscommunication, reduce process timelines, share information on methods and techniques, and satisfy other logistical needs. A comprehensive understanding of these agencies' permitting requirements as they apply to ADV is also essential. Establishing BMPs and having memorandums of agreement or understanding established up front may lead to more efficient and timely vessel removal.  
**Critical Considerations:** Proactive coordination encourages increased communication, productive working relationships, and an overall increased awareness of the state's ADV issue, and may facilitate future actions by regulatory agencies due to an enhanced familiarity with process and need; proactive efforts require constant upkeep to reduce the loss of institutional knowledge in regulatory agencies with personnel turnover, and also require diligence and constant outreach.
- *Coordination with other land owners*  
**Explanation:** Federal agencies, non-governmental organizations (NGOs), state agencies, tribes, and others who own land upon which a vessel may be abandoned should coordinate any response activities.
- *Partners*  
**Explanation:** The most successful programs are built with involvement from key partners and stakeholders. Though partners may differ on how the problem should be addressed, external support to address ADVs can contribute to the success of the



program. The state agency can seek partners in the following communities: recreational boating, commercial boating (fishing and shipping), insurers, marina owners, law enforcement, counties, chambers of commerce (tourism), state Sea Grant offices, non-governmental organizations (e.g., Save the Bay, Sierra Club), and even older schoolchildren who may be able to provide field assistance while participating in a learning opportunity.

- *Cooperation among states*

**Explanation:** Neighboring states may have similar issues, may experience derelict vessels that “travel” from one state to the next as laws in one state change, or may have the same people abandoning vessels in their states. By cooperating across state borders, programs can identify and address these problems, and the states can learn from each other.

- *Reciprocal agreements among states*

**Explanation:** States have expressed an interest in reciprocal enforcement arrangements to address derelict vessel owners that move from one state to another. Reciprocal agreements exist between states on many issues (e.g., driver’s licenses, vehicle registration), and these agreements should be amended, as appropriate, to include vessel issues and the sharing of information regarding ADVs. This may include broad sanctions that would prohibit a derelict vessel owner from obtaining a fishing license or registering a vessel in another state.

**Critical Considerations:** Creates a stronger disincentive to remain negligent; requires multi-state action with associated costs to increase collaboration.

## Legislation

Many states are considering new laws and authorities to address the problem of ADVs, and those with active programs provide legislative models for emulation. Even existing state programs may benefit from additional authorities, and refined legislation may help improve the effectiveness of state ADV programs and potentially reduce future vessel abandonment.

- *Model legislation*

**Explanation:** Many states are developing or revising their statutes regarding ADVs, and there is interest in model legislation that would cover a complete range of issues, including definitions, program funding, inventory, prevention and reduction methods, removal, disposal, and amnesty programs.

**Critical Considerations:** A comprehensive model would provide a single source for states considering new or strengthened ADV legislation; however, a comprehensive model is difficult because of the unique legislative frameworks among states, and many elements may be legislatively or politically impossible for some states.

- *Definitions*

**Explanation:** Clear definitions are needed, with critical terms including abandoned, derelict, wrecked, and debris. Abandonment time scales need to be carefully considered to ensure that owners have sufficient time to repair or recover their property without creating a long delay in the state's ability to take action on vessels. Defining when a vessel is degraded to the point where it officially becomes "debris" is critical since debris removal is often easier than "vessel" removal for states.

**Critical Considerations:** Clear definitions provide more certainty, and model language may make starting a program more palatable for states; however, definitions may take a long time to develop and approve. Overly precise definitions may lead to inadvertent legislative gaps; additionally, new definitions, if not carefully researched, may conflict with existing state laws.

- *Geographic scope*

**Explanation:** In addition to states, some counties, port districts, and municipalities have enacted laws addressing abandoned vessels.

**Critical Considerations:** More localized responses may be more expedient than action by a state agency; however, relying too heavily solely on localized responses may result in marginal vessels moving to adjacent locales to avoid prosecution.

- *Commercial vs. recreational vessels*

**Explanation:** Most ADVs are recreational, but commercial vessels tend to be substantially more difficult and costly to address. Broad legislation would cover both, but treat violations differently. For instance, more severe penalties for commercial violations, including bonding to operate in state waters, could generate funding.

**Critical Considerations:** Uniform treatment of vessels is generally good; however, commercial vessels are licensed and regulated differently than recreational boats. A

single legislative approach may not be appropriate given the difference in numbers of incidence and the resources required to address commercial and recreational vessels.

- *Insurance, titling, registration, and licensing requirements*

**Explanation:** Insurance and licensing requirements are one way to reduce vessel abandonment and better track vessels that have become abandoned. Titling should be required; the last titled owner would then be liable. Bonding for license fees may be an additional mechanism to reduce ADV accumulation.

**Critical Considerations:** These avenues may help to reduce abandonment in the long run; however, these tools may be politically challenging and may also increase vessel abandonment in the near term for marginal vessels if participation costs are deemed too high.

- *Licensing and compliance scheme*

**Explanation:** A vessel licensing requirement could be modeled after automobile licensing requirements, which include licensing, registration, training, and insurance

**Critical Considerations:** The “Department of Motor Vehicles (DMV) approach” may provide a model framework for success, if properly enforced; however, there are many historic legal and regulatory differences between boats and cars that may make a DMV model difficult to implement.

- *Costs and cost recovery*

**Explanation:** There are considerable political challenges in developing a fee-based program. New legislation may be more successful if it focuses on critical program elements and does not raise fees outright. If fees are necessary, they should be directly linked to the benefited community (e.g., boaters). Cost recovery from derelict vessel owners may also be challenging as many may not have the appropriate level of insurance or assets.

**Critical Considerations:** Not raising fees may make legislation more likely to be enacted; however, lack of a revenue source may greatly reduce the effectiveness of the program.

## Funding

Funding was a known constraint for states developing their own ADV programs prior to the workshop but was reiterated through the pre-workshop questions posed to attendees. State ADV programs may find a myriad of ways to identify financial support for their activities when creating a program. During the workshop, Washington, California, and Maryland representatives presented how each of their states secured funding to respond to ADVs. There was a general sense that securing financial support through a general appropriation was unlikely and fees, while politically challenging, are a proven way to raise funds. Identified funds could then be supplemented from other sources, as necessary, depending on the scope of each state's need.

### Text Box - Case Studies

*Initiated in Washington in 2002, funding for ADV work was initially collected through recreational boater annual registration fees of \$2 per boat and a \$5 fee on "foreign vessel registration" (fee on non-Washington boaters staying than 60 days), which yielded approximately \$500,000 annually. Legislative amendments in 2006 allowed for the receipt of gifts such as grants, donations, and legal settlements, while amendments in 2007 created an ability to receive general fund transfers and special appropriations. A 2007 legislative change additionally increased the annual registration fee to \$3 for calendar years 2008 to 2014 (see Appendix D).*

*In 1997 California passed Senate Bill 172, creating the Abandoned Watercraft Abatement Fund, which provides funds "to public agencies to remove, store, and dispose of abandoned, wrecked, or dismantled vessels or any other partially submerged objects which pose a substantial hazard to navigation, from navigable waterways or adjacent public property, or private property with the landowner's consent." ADV funding currently stands at \$500,000 per year, and the fund may be allocated up to \$1 million. Funding comes from the Department of Boating and Waterways' Harbors and Watercraft Fund, which is funded by boater registration fees, gas taxes, and interest payments on loans. The fund is revolving; any unspent funds in a given year revert back into the fund toward the total \$500,000 allocation. Grants are awarded to agencies (e.g., counties, cities, marinas), which are responsible for a 10% match of funds and coordinate all aspects (e.g., hiring of salvors) of the actual removal; funds are reimbursed after the completion of work (see Appendix D).*

*The Maryland ADV program is funded through the Waterway Improvement Fund, which was created in 1966 to improve and promote the recreational and commercial capabilities, conditions, and safety of Maryland waterways for the benefit of the general boating public. Funds are obtained primarily through a 5% excise tax on new and used vessels, which is paid when boaters purchase and title vessels. Funds are available to all municipalities and counties through grant applications that are 100% reimbursable. The maximum allowed per municipality or county is \$50,000, and funds are valid for two*

*years. Total funding available for the program in 2008–2009 was \$250,000 (see Appendix D).*

## Non-Fee Funding

- *Directed Federal funding*

**Explanation:** Some Federal agencies have responsibilities toward ADVs that may allow for direct Federal funding to states.

**Critical Considerations:** New legislation could require Federal agencies to financially support state-level ADV activities from their own operating budgets without requiring a state contribution; however, the majority of ADVs are not covered by Federal mandates. The Federal responsibility may not be always be clear-cut or well understood by the states even in cases with Federal mandates to address vessels in specific situations (e.g., blocking a navigation channel, posing a threat of pollutant release).

- *Grants from Federal agencies*

**Explanation:** Examples include Coastal Zone Management funds, estuary programs, and Federal funding opportunities through [www.grants.gov](http://www.grants.gov).

**Critical Considerations:** Competitive Federal grants may be available to support ADV work; specific ADV work may not be competitive under some specific types of grants; grants may take a long time to process and are not a consistent source of funding.

- *State appropriation*

**Explanation:** Direct appropriation to a specific state agency to address ADVs.

**Critical Considerations:** Having the funds provided through the state appropriation process makes funding immediately available to conduct the work and could be relied upon for the funding of future projects, assuming a legislative mandate is in place; however, getting the support of the state legislature can prove difficult, particularly in challenging economic times. Additionally, there may be a “use-or-lose” clause associated with the funding amount, which can be frustrating given the episodic and variable incidence of ADVs. Finally, funding that is inconsistent from year to year stifles long-term project planning.

- *Mitigation*

**Explanation:** For some communities, it may be appropriate to require mitigation projects of certain activities (e.g., construction). Municipal approval to build a hotel along a beachfront could require the developer to remove an ADV. This could be done on a sliding scale; a small activity could require only a small ADV to be removed and a larger development could require many. It may be necessary to articulate the relationship between the specific geographic area of construction and associated ADVs eligible for removal. Additionally, there may be some instances (such as impacts to public access shorelines) in which natural resource damage assessment (NRDA) funds could be applied to ADV work.

**Critical Considerations:** Mitigation funding creates an opportunity that would not otherwise exist to address an ADV (potentially legacy or uniquely challenging). Mitigation could also be conducted through donations from the builder to a state ADV removal program. The negative impacts on the positive action (e.g., construction) would

naturally need to be balanced with the community benefit gained by addressing the ADV. In some states, mitigation activities may require significant outreach and planning efforts with permitting agencies.

- *Gifts/Donations*

**Explanation:** Ensure state legislation related to ADV funds is in place to allow for the acceptance of gifts or donations.

**Critical Considerations:** Gifts can provide financial support; however, they are unlikely to provide sustainable funding.

#### Cost Recovery Mechanisms

- *Insurance/Bonds*

**Explanation:** Utilizing insurance payout monies or bonds for ADV removal

**Critical Considerations:** Getting boaters to insure their vessels provides an avenue to collect funds that could be applied for removal, which reduces the financial burden on the state; the financial value of the insurance policy may not be enough to assist ADV operations; an insurance policy is often for oil pollution only and may not extend to removal of the vessel; an owner may not be legally obligated to use an insurance payout for removal.

- *Cost recovery from owner*

**Explanation:** In some cases, the state may conduct a vessel removal and then negotiate a payment plan with the owner, who may not have the cash on hand to perform the removal but is willing to assume financial responsibility in a way they can afford. In some cases, no interest is charged if agreed payments are made on time.

**Critical Considerations:** This method exemplifies a slow and steady cost recovery, but also keeps the vessel owner engaged and can create good public relations for the state; there may be added administrative costs to track and process payments, and payments received may not cover all costs if there is a long payback period without accrued interest.

#### Fees and Taxes

- *Moorage fees*

**Explanation:** Assess fees for slip rentals, leases, or sales that could be collected similarly to a sales tax.

**Critical Considerations:** Boaters are responsible for payment; only those that use marinas pay.

- *Other boat-related fees*

**Explanation:** Examples include boating fees, registration fees, excise taxes, and bonding of fishing boats when obtaining a commercial fishing license.

**Critical Considerations:** These types of fees can build the base funding to launch a state ADV program, and concurrently get the directly impacted community to recognize their contribution to the issue as well as the benefits they receive; dedicated accounts tied to user fees may be more secure from state budget reclamation during challenging economic circumstances; different state agencies may be responsible for the collection of the funds

and related application for the funds, which can lead to cross-agency interests competing with one another; fees may be uniformly unpopular and politically challenging.

- *Tax on the production of vessels*

**Explanation:** Emulating the concept of an excise tax or other funding source related to the manufacture of all sizes of vessels, taxes could be deposited into a fund administered by a Federal agency, such as NOAA. The fund would provide a grant source for a certain percentage of states' costs of addressing ADVs and could also act to support ADV programs similar to Coastal Zone Management grants.

- *USCG documentation fee*

**Explanation:** Annual USCG documentation fees could be applied toward a grant fund for the removal of documented vessels (or direct disbursement to states based on the percentage of documented boats in that state).

**Critical Considerations:** Funds are frequently already allocated for other purposes.

- *Offshore oil lease revenues*

**Explanation:** Legislation to allow for the use of offshore oil lease revenues for removal of vessels, especially abandoned oil barges.

**Critical Considerations:** May address particularly challenging vessels; not a funding mechanism that is applicable in all states.

- *Other non-boat-related fees*

**Explanation:** Examples include gaming leases, targeted hotel taxes, lottery taxes, and custom license plate fees. The ADV program in Mississippi is partially funded with casino gaming leases. Identifying potential alternative revenue sources to support ADV work may be more acceptable by obtaining support from the groups that will benefit most from the program.

**Critical Considerations:** These are some of the potential untapped revenue sources that could be used for ADV work; these may not be sustainable for the long-term, thus limiting in financial support and ability to conduct ADV projects.

## Inventory

An inventory of ADVs is critical for a successful state program. At the initiation of a program, an accurate inventory is helpful for understanding the scope of the problem and developing the legislative and public mandates to address it. As the state program becomes operational, the inventory will guide priority and goal setting and provide a baseline for program accomplishments and effectiveness. The inventory may also be useful for FEMA baseline data, for disclosure of potential boating and fishing hazards, mapping problem areas, and more easily identifying larger environmental problems associated with ADVs.

- *Components*

**Explanation:** A vessel inventory should include information about the vessel (e.g., location, dimensions, hull material); threats posed by the vessel (e.g., oil, navigation); the vessel history and casualty information; the owner or owners; the location (e.g., shoreline and bottom type, ownership); presence of vessel debris; and presence of sensitive resources. Photo documentation is critical, including a time series if the vessel is revisited. To ensure consistency, an inventory should have standard forms.

**Critical Considerations:** An inventory is valuable in building a legislative case, helpful for operations, and can serve to identify vessels that may be historic; the process for documenting vessels and working with the State Historic Preservation Office may be expedited so that vessel assessments can be completed prior to recovery and disposal activities; information changes rapidly, surveys are expensive, and there may be unmet expectations about prompt removal once a vessel is listed in the inventory.

- *Frequency and geographic scope*

**Explanation:** A baseline vessel inventory is necessary. As the program becomes operational, the inventory should be updated as vessels are added or removed, with an annual or biannual resurvey effort, even though more frequent surveys may be appropriate in certain high-activity areas or after major storm events. The timing of surveys may be state-specific, depending on boating and fishing seasons, and the geographic scope of an inventory should include all state waters, both marine and inland. The scope may extend into Federal waters, especially in areas with offshore shoal areas and marine protected areas.

**Critical Considerations:** Broad and frequent updates allow for performance measurements and routine reprioritization as new vessels are added to the inventory; however, resurvey efforts are expensive, progress may not warrant frequent updates, and GPS data comes in different formats that may require technical expertise; the geographic scope may be beyond the authority of the responsible agency (marine vs. inland agencies).

- *Mine existing data sources*

**Explanation:** A vessel inventory may rely on data from a number of sources. In addition to direct survey efforts, the inventory may build on information available from the USCG, NOAA, existing state, Federal, and local shoreline survey programs (e.g., marine charting, wildlife, coastal zone management surveys), local law enforcement, and marina



records. Aerial surveys are ideal for identification of potentially derelict vessels, as well as Google Earth and other on-line imagery resources. Other potential providers of vessel information are the USCG Auxiliary, marinas, port authorities,, yacht clubs, NGOs (e.g., River and Bay Keepers), salvage and towboat operators, shoreline municipalities, landowners, and the general public. States may benefit from free access to Department of Transportation title abstracts. In many cases, data providers may have incomplete data and a state agency representative will need to conduct a site inspection to confirm the vessel information.

**Critical Considerations:** Use of other sources and providers can reduce costs, help focus agency efforts, and increase buy-in of stakeholders; may lead to expectation of prompt removal, especially for information provided by NGOs and the public; some data sources may be inaccurate or incomplete, and surveys conducted for another purpose may lead to spatial gaps; combining multiple records may lead to double counting of vessels, particularly in areas where there are clusters of vessels or where vessels are not visually distinguishable; aerial surveys are snapshots and will most likely require follow-up surveys.

## Removal

For existing ADVs, removal is the ultimate goal to stop the impacts to the environment and marine species. The choice of which removal technique(s) to use can depend on factors such as habitat type, water depth, degree to which the vessel is grounded, and method of disposal following removal (e.g., reclamation of recyclable materials, directly to landfill). Workshop participants agreed that removal and disposal should be considered together whenever possible.

### Text Box - Case Study

*To provide an operational perspective, a panel of experts was convened to share their field experiences and discuss action-oriented issues. Captain Bill Hicks, Blue Water Marine Services Inc., discussed his years of experience removing ADVs and recommended coordinating the removal effort of multiple ADVs in a single geographic area to minimize mobilization and demobilization costs. Ms. Janet Allen, PBS&J, urged states to consider writing standards to avoid selection of removal contractors based solely on the lowest cost, particularly where ADV projects involve sensitive habitat or complicated removal procedures. Lieutenant David Dipre, Florida Fish and Wildlife Conservation Commission, shared valuable information on some of the State of Florida's statutes and definitions related to ADVs. Mr. John Ricisak, Miami-Dade County Department of Environmental Resources Management, discussed a grant he received in 2007, with which he was able to remove 68 derelict vessels since the start of the project. More than 30 vessels were also removed by responsible parties as a result of coordinated enforcement efforts.*

### Hazardous materials

- *Hazardous materials (Hazmat)*

**Explanation:** Before removing and disposing of an abandoned or derelict vessel, project coordinators must address any hazmat on the vessel or confirm there is none.

**Critical Considerations:** Environmental responsibility can minimize (or eliminate) any hazmat concerns; due diligence may require additional time, resources, oversight, and involvement of other personnel on-scene.

### Methods

- *Barge and crane*

**Explanation:** This is the standard method for vessel/debris removal, although there are numerous variations on this principle. This method may be best suited for vessels not intended for resale or otherwise needed to remain intact.

**Critical Considerations:** This is the industry standard, and is a universal approach that many operators can conduct; inexperienced contractors may do more damage to natural resources than those with demonstrated experience with this method and equipment.

- *Patch and pump*

**Explanation:** This method is used in deeper water when the vessel is intact. The vessel can be pumped, refloated, and taken into port or other nearshore area for further processing.

**Critical Considerations:** Allows for an intact hull and may reduce impacts to surrounding habitat; there are inherent risks with diving, with the potential for dive-related accidents, and this method can be impacted by weather and water conditions; a vessel may be re-abandoned after relocation if not properly overseen.

- *Divers/Lift bags*

**Explanation:** This method can be used in conjunction with “patch and pump.”

**Critical Considerations:** Allows for intact hull to be refloated and salvaged or restored; may require specialized skill-set on the part of the contractor to properly operate.

- *No action*

**Explanation:** This is a possible alternative in limited situations. A vessel may be too challenging or cost-prohibitive to move, so if a responsible party can be identified, they may be held accountable for making the vessel stationary, safe, and lighted and marked for navigation purposes, as well as any other associated costs.

**Critical Considerations:** This method may provide a limited solution to a derelict vessel that poses a hazard to navigation and is cost-prohibitive to address; no action could set a bad precedent to irresponsible owners who anticipate the state will assume all responsibility, as this method is only viable with strict guidelines in place; vessels must be identified on NOAA or USACE charts if not removed.

#### Conducting the Work

- *Removal by private entity/owner*

**Explanation:** Compelling private removal with coordinated law enforcement activities.

**Critical Considerations:** Additional program funding should not be required; a lack of control over removal could result in collateral damage; complex removals may require a complex removal plan and significant oversight.

- *Removal by state ADV program*

**Explanation:** The state ADV program may use its own staff or contract with a salvage/removal company to remove a vessel.

**Critical Considerations:** This method assures that work will be undertaken according to state requirements, and competitive bids can keep costs down; however, extensive state oversight is required; must adhere to state contracting requirements; increases staff workload; must have funds available to undertake work.

- *Inmate crews*

**Explanation:** The use of inmate crews to do certain types of work can substantially lower costs, although this requires working with the state’s Department of Corrections to outline suitable tasks that fit with the inmates’ training, capabilities, and security requirements.

**Critical Considerations:** Labor costs can be substantially lowered, with some small amount of outreach to potential future offenders potentially being accomplished; there may be additional administrative work to set up and oversee this type of work.

- *Innovative Readiness Training*

**Explanation:** Partnering with the military either formally through an Innovative Readiness Training (IRT) program or informally through relationships with locally based Mobile Diving and Salvage Unit, SupSalv, and related diving and engineering groups, this method may allow low- or no-cost removal. It may be required or preferable to have a Federal partner request support through IRT.

**Critical Considerations:** IRT can be a very cost-effective method to remove large or numerous vessels and allows the military to demonstrate active support of the impacted community; experience indicates many divers relish this type of project for training; the timeline associated with IRT is approximately 2 years, during which time the vessel condition and/or location may change; need to develop a list of required equipment and technical support; cost-sharing may be an expectation, particularly on informal training activities; IRT operations require careful oversight to ensure best practices are carried out to prevent biological damage.

## Disposal

As previously discussed, workshop participants felt that any state ADV program must concurrently plan for disposal activities when selecting a removal strategy. Specific ideas pertaining to disposal are:

- *Ship-breaking*  
**Explanation:** Knowing where a vessel can be broken may be a significant challenge for a state ADV program. Some small vessels may be raised and then transported to a designated area without too much difficulty, while larger vessels may pose greater logistical issues. Ship-breaking yards are often notoriously polluted, and it may be that new technologies are required to identify innovative ways to address resulting pollution. If a vessel is to be towed to a ship-breaking yard, a dead-ship tow plan is required by the USCG.  
**Critical Considerations:** A good solution when ships can be raised easily, because they are dismantled completely out of the water, usually resulting in no further contamination of the marine environment; most pollution can be collected and treated if work is performed in dry dock; contamination of the ship-breaking yard is a concern, and large vessels may be challenging to break apart appropriately.
- *Incineration*  
**Explanation:** More research is needed on the ability to incinerate ADVs economically and safely, being mindful of the potential to generate energy in the process. Fiberglass was suggested as a material that could be incinerated or recycled, but more research is warranted.  
**Critical Considerations:** Less waste enters landfills, and energy could potentially be generated from this method; incineration is not an option for all ship materials and is potentially too expensive to be feasible; incineration could prove hazardous and may require special air quality permits; energy generation is feasible only in areas with proper facilities, and haphazard incineration may destroy potentially recyclable materials.
- *Disposal in landfill*  
**Explanation:** A vessel is taken to an approved landfill and destroyed, with verification potentially requiring a witness or comprehensive documentation.  
**Critical Considerations:** This method ensures a particular ADV will not become marine debris again; destruction adds to landfill bulk, and may require consideration of the type/class of landfill to be utilized as some material may have to be separated to meet landfill requirements.
- *Recycling for salvage*  
**Explanation:** Vessels constructed of material with value may be recycled or sold for scrap, and the resulting value may be used to reduce cost paid to the salvor. In some cases, fiberglass may be ground up and added to concrete or asphalt pavement.  
**Critical Considerations:** Allows for recycling of material and adds an incentive to salvors to recover as much material as possible for resale; splitting value of metal with

the salvor may also encourage recovery of more valuable materials; feasibility of this system is subject to the price of metals, and as recycling services are sometimes unavailable the cost-effectiveness may be limited.

- *Recycling for other uses*

**Explanation:** Information is needed on the value of vessel materials for other applications. Can ADV components be restored and resold as second-hand goods to collectors or other boaters? Can processed hull materials be added to construction materials, dock planks, or picnic tables?

**Critical Considerations:** A robust recycling program may provide value to traditional waste material as well as reduce the quantity going to landfill; the demand for and quality of material to be reused are uncertainties, with more market research needed.

- *Scuttling*

**Explanation:** Vessels that require emergency action or that cannot be disposed of on land may have the option to be scuttled at sea, given the proper permits, conditions, and removal of contaminants. State programs may benefit by establishing pre-determined locations appropriate for scuttling a vessel.

**Critical Considerations:** Scuttling removes the vessel debris without adding to landfill bulk and does not require overland transport or processing costs; in certain circumstances, the scuttled vessel can serve as a fish aggregating device for divers (see next section, “Recycling to reef”); this method is an option only for steel-hulled vessels; a perception can be that this is simply relocating an ADV to another part of ocean, since a vessel may still be considered marine debris in some places; the vessel may still have some contaminants associated, and may increase limiting amounts of nutrients in area resulting in biological changes.

- *Recycling to reef*

**Explanation:** Some vessels may have value to states as fish aggregating devices and/or artificial reefs. A high level of cleaning and permitting may be required.

**Critical Considerations:** The same considerations seen in the previous section, “Scuttling,” apply. Reef creation may be an attractive disposal option, particularly if a state faces landfill constraints, and could also be popular among recreational fishers and divers; creating an artificial reef can be expensive, and any future vessel degradation can create an unstable reef.

## Enforcement

Strong enforcement operations may enhance a state's ADV program as the threat, either real or perceived, of prosecution acts as a deterrent to irresponsible management of a vessel. As demonstrated in the State of Florida, law enforcement activities encourage ADV removal by responsible parties. Further ideas on enforcement are:

- *Laws and legislation*  
**Explanation:** Develop standard justification to encourage legislation that requires vessel titling in states that currently lack this requirement. Encourage the use of administrative decisions to reduce the subjectivity of court decisions and establish standards for case process and adjudication. Work with nationwide umbrella groups, such as NASBLA, to provide model legislation for a standard approach and process. Ensure laws governing ADVs are clear and concise to alleviate prosecutors' frustration and/or apathy. Work with counties to establish standard protocols and reduce variation among regions within states and districts. Develop laws that provide amnesty or encouragement for responsible owners of derelict vessels and enforce penalties for irresponsible actions.  
**Critical Considerations:** Unified clear and concise legislation with universal agreement may facilitate prosecution and removal of vessels and also help fund the removal of vessels; these activities may require a high level of effort to maintain.
- *Compliance and enforcement*  
**Explanation:** Enforcement of strong legislation is paramount, as laws are only as good as the ability to enforce them. The ability to enforce laws relies on boater registration and titling, and will perhaps be made easier if neighboring states use consistent language in their statutes. Disincentives and penalties will encourage compliance, as will education about boat owner responsibilities.  
**Critical Considerations:** Encourages boaters to comply with laws, thereby preventing intentional dumping; may be a large burden on enforcement officers, who can only enforce laws as written and may not have sufficient time and funding to support a broad enforcement program.
- *Hotline for reporting*  
**Explanation:** Implement a hotline for the public to report groundings, along with a publicity campaign.  
**Critical Considerations:** May serve to coordinate input from the public into a single state agency; resources to manage a hotline will be required, and specific response procedures will need to be established.
- *Enforcement officer capacity*  
**Explanation:** Provide officers training resources to be familiar with ADV laws and enforcement policies, and incorporate officers into standard program activities to reinforce familiarity and awareness of ADV issues. Increasing marine officer numbers and cross-deputization may elevate ADV issues to same level as general patrol duties.

**Critical Considerations:** Give enforcement a better understanding of the laws under different agencies, as well as the authority to act on them, to increase the engagement of motivated patrol and enforcement squads on the water; increased responsible ownership and awareness by owners and increased outreach through boater safety interactions are both positive possible results; increased officer engagement requires individuals to stay focused and positive to stay diligent, and avoid becoming lackadaisical over time or get lost to other case work.

- *Agency coordination*

**Explanation:** Coordinate all agency jurisdictions (Federal, state, and local) to best use authorities to address ADV issues.

**Critical Considerations:** Increased communication should result; increased coordination frequently requires additional time to be most effective.

- *Tracking vessels photographically long-term*

**Explanation:** Use law enforcement officers' time on the water and local knowledge combined with the low cost of digital photography to help document and record the status of ADVs in their regions over time. This may create a simple, low-cost, effective database to record and prioritize vessel removal needs.

**Critical Considerations:** Low-cost, low-tech, effective, and accurate database to track vessels and document new vessels and associated trends; tracking adds another task to officers' busy schedule and is dependent on their time to conduct the necessary photographic documentation.

- *Judicial system*

**Explanation:** Direct and focused outreach to raise awareness of detrimental impacts of ADVs to state waters and resources. Work with judges, magistrates, and district attorneys' offices to understand and appreciate ADV issues and take a more serious approach to prosecuting ADV cases. Work to keep costs down by standardizing cases and fines/penalties to reduce case load requirements. Develop a case law briefing book to maintain institutional knowledge among new attorneys after any turnover. Reach out to elected judges' constituents to make them aware of the importance of thorough ADV process and prosecution.

**Critical Considerations:** These activities may result in decreased court cost and increased case activities; other boat owners may learn that courts are actively prosecuting ADV cases; a more unified judicial process to support field and management efforts and activities may also result; effort is required to stay engaged with turnover in court system and to maintain relationships throughout the entire system of process.

- *Dealing with offenders*

**Explanation:** Prohibit violators from obtaining a license for commercial and recreational fishing, and report associated fines to taxing authority.

**Critical Considerations:** Awareness may increase responsible boating practices; additional duties for law enforcement officers may be unpopular.



## Prevention

Prevention comprises a variety of items that could fit under the other categories, but which collectively may reduce the accumulation of ADVs. Underlying effective prevention is strong, enforceable legislation (see Legislation section), because without the threat of prosecution, many prevention efforts may be ineffective. On the other hand, incentives are also important. In all cases, an important component of a state ADV program is an outreach campaign articulating a vessel owner's responsibilities and the relevant laws. While slow degradation of a vessel's condition may be one contributor to dereliction, grounding events are another, and responding quickly can minimize collateral damage from the vessel. Further ideas on prevention strategies are:

- *Understand the reasons for ADV creation*  
**Explanation:** ADV creation has several common causes and perhaps others not so common. To successfully prevent ADVs, a state must understand the predominant reasons they have ADVs (this may vary by region or vessel type) and tailor prevention, enforcement, and outreach programs accordingly.
- *Strong legislation*  
**Explanation:** Strong legislation that clearly defines ADVs and indicates the consequences for abandoning or allowing a vessel to become derelict is necessary. Clear legislation makes law enforcement easier, especially when disincentives are written into law and are enforceable. Model legislation could be written for continuity among states for titling, registration, and other ADV law components.  
**Critical Considerations:** See the Legislation section.
- *Moorage area management*  
**Explanation:** Regulating anchorage areas may help identify ADVs and potentially keep them from accumulating.  
**Critical Considerations:** Vessels are easier to remove while still afloat; there may be challenges dealing with live-aboard vessels and other social justice issues.
- *Providing secure moorage for at-risk vessels before storm events*  
**Explanation:** Absent owners should not be a reason for a vessel to sink or break apart in a storm event. If state ADV program staff could secure an abandoned, at-risk, or unattended vessel before a severe storm, property loss, vessel destruction, or further degradation of the vessel may be prevented. This may result in lower costs for the eventual removal of the vessel or eliminate the need altogether.  
**Critical Considerations:** Can prevent the sinking or grounding of vessels or collisions with other property, with a decreased cost of eventual removal, if necessary; liability concerns for whoever secures another person's vessel (handling private property).
- *Rapid response to groundings*  
**Explanation:** In coral reef habitats, and particularly in high-energy wave areas, groundings can quickly result in catastrophic vessel groundings, with the owner walking

away from responsibility. A rapid response to remove a grounded vessel can lead to less damage to the habitat and may also save the vessel. However, owners may choose a lowest-cost response and not know best practices for removing their own vessel. In the interest of saving money, they may contract with the lowest bidder for removal, which may result in substandard removal operations. Ensuring a rapid response to groundings may result in saving boats, habitat, and money.

**Critical Considerations:** Fewer ADVs, fewer impacts to habitat, and lower removal costs; a properly trained and equipped rapid response team through the state will require additional resources, and private contractors may prescribe to differing technical standards.

- *Review laws that may unintentionally encourage vessel abandonment*

**Explanation:** Some laws, such as those to rationalize fishing effort in a particular area and fishery, may have a consequence of creating an excess of boats that are no longer needed to earn a living. Without a financial incentive for maintaining the vessel, the former fisherman may no longer do so. With decreased fishing effort, the market is unlikely to absorb the excess boats, leading to the abandonment of vessels (e.g., Alaska's king crab fishery). Being aware of these potential sources of ADVs can allow a program to work with the targeted group on outreach, education, and amnesty programs.

**Critical Considerations:** Being aware of potential sources of ADVs allows targeted outreach and use of amnesty funds; it also presents an opportunity for legislative or agency outreach regarding unintended consequences; additional resources are required to review these laws and provide recommendations.

- *Amnesty*

**Explanation:** An amnesty program would allow boat owners to surrender their vessels and potentially have fines or disposal fees waived or reduced. While an amnesty program might attract vessels that the owner could afford to dispose of or had no intention of abandoning, the significantly lower cost of accepting a boat in this way rather than waiting for it to become derelict and require removal through the legal and contract process may outweigh that concern. An amnesty program may encourage donations of boats to nonprofit organizations.

**Critical Considerations:** Low cost per vessel by keeping enforcement, contracting, and administrative costs down; by removing vessel before it becomes derelict, hazards and damage to the environment can be minimized; this program could attract vessels that would never have become part of the ADV stream (e.g., boats that were being stored on owner's property).

- *Local salvage companies purchase (or accept) and charitable organizations accept donations of vessels*

**Explanation:** The salvage value of unmaintained vessels may make it worthwhile for a salvage company to accept or even pay minimally for them since they could salvage the valuable materials and responsibly dispose of the remainder. Similarly, charitable organizations could accept vessels as donations and may be able to rehabilitate them and sell them to a responsible owner. Both of these mechanisms could keep insolvent owners from abandoning their vessels.

**Critical Considerations:** Low to no cost for the state, with the potential to rehabilitate some vessels; this is an additional opportunity to protect the boat owner's investment; requires strong outreach to charitable organizations regarding when a vessel cannot responsibly be resold.

- *Cradle-to-grave program*

**Explanation:** A cradle-to-grave program would require liability to be distributed from the manufacturer to the last known owner. In such a program, multiple parties can be assigned responsibility if a vessel becomes derelict, with the benefit that a vessel's identifiable history may discourage resale of vessels already determined as derelict. Legal action could pursue not only the last owner, but also previous owners, dealers, and manufacturers. An imposed manufacturer's bond could be released to the owner following proper disposal, or to the state or county for removal if the vessel is deemed abandoned or derelict.

**Critical Considerations:** Responsibility for a vessel is shared among everyone who has had a stake in it, including the manufacturer, dealer, and all owners; it is unlikely that these types of laws would be enacted, and would likely take a long time to implement; it is questionable whether the time and effort to create the paper trail would be worth the resources needed.

- *Increased vessel longevity*

**Explanation:** Work with boat manufacturers to increase the longevity of the vessel, as such an approach may strengthen a boat manufacturer's sale of repair parts and prevent boats from becoming ADVs.

**Critical Considerations:** Protects the boat owner's investment; these efforts might reduce new boat sales.

- *Link sales departments of marinas*

**Explanation:** If owners of deteriorating boats were approached by sales departments, they might be given information on how to maintain their investment. This could be more effective than being approached by enforcement officers or only by the marina's boating department. A person with a deteriorating boat may need only a nudge from a sales person to put his/her boat up for sale rather than see it continue to fall in value.

**Critical Considerations:** Provides outreach to boat owners on how to avoid letting their vessel become derelict; the effectiveness of the effort is difficult to determine.

## Outreach

When establishing a state ADV program, developing effective outreach to encourage community involvement and stakeholder buy-in requires the identification of different target groups and consideration of both the timing and diversity of the messaging. An understanding of the magnitude of the issue will allow the program to provide solid information and demonstrate an understanding of the issue, both of which will strengthen the outreach campaign. Often outreach requires an individual or single agency to take the lead to develop critical mass before a larger campaign can be led by another (or more appropriate) entity (e.g., boater education group). With increased availability of information, objections to certain ADV program aspects, such as boating fees, may diminish.

- *Boater education programs*

**Explanation:** Education programs are a key component to inform boaters before they go out on the water. Important topics include insurance, sales responsibilities, navigational hazards, safety hazards, and equipment standards, as well as guidance on preferred methods of disposal and information on how to respond to unexpected vessel problems. Education prior to licensing and titling (if required) could be the most effective, though handouts and signage at marinas and boater events, as well as media outlets, are also important.

**Critical Considerations:** Boater education programs are required before boats go into the water; get information out to the correct parties in a friendly format and provide points-of-contact for emergency situations; however, education programs may be difficult to implement, boaters may forget what they learn, and laws may change; program may need to differ depending on state or region.

- *Leadership*

**Explanation:** An individual or individual agency needs to take the lead to launch the outreach campaign to build momentum, and having an appropriate vehicle to deliver the information is paramount. Having a recognized leader (or lead agency) is critical before fully engaging in public outreach efforts. Have a single point of contact for all boating laws.

**Critical Considerations:** Having a specific individual (or agency) identified may alleviate confusion when trying to share information, increase community involvement, and get stakeholder buy-in; leadership may not be easily identified, and without it, the outreach campaign could be perceived as disorganized due to technical difficulties or other obstacles.

- *Leveraging other agencies and groups*

**Explanation:** Examples of groups that could be leveraged include Coast Guard Auxiliary and Power Squadron (for reporting vessels in poor condition and ADVs, providing outreach to boaters, checking for registration and safety equipment, tracking condition of vessels), SeaTow and other towing groups (for informing boat owners/operators of proper next steps for damaged vessels and related owner responsibilities), USCG fishing vessel inspections (for outreach and seaworthiness checks), River/Bay Keeper groups (for

reporting and tracking ADVs), marinas, and fishing and boating supply stores (for providing outreach materials).

**Critical Considerations:** Keeps outreach and information-gathering costs low; requires time to build partnerships, coordinate efforts, and distribute accurate information to other stakeholders.

- *Targeting audiences*

**Explanation:** It is important to identify different target audiences in terms of both the timing of the outreach (during ADV program development) and the messaging. Examples include public officials (especially at the municipal level), general boating public, legislators, industry that could be partnered with, and trade groups. Use of membership organizations (e.g., Bay Keepers) may also be beneficial.

**Critical Considerations:** Appropriately timed outreach efforts to different stakeholders can solicit their input and support at critical times in the process, such as when developing legislation; outreach messaging can be appropriately diverse to benefit all stakeholders to understand how they may be affected by a state ADV program; conversely, poorly developed outreach may be detrimental to building support (e.g., when contact phone numbers are incorrect and website URLs are broken links); relying on one key message (either economics or environment - and not both) cannot engage the full suite of stakeholders.

- *Understanding the magnitude*

**Explanation:** Outreach requires a thorough understanding of the magnitude of the problem, and an effective campaign needs to demonstrate the scope of the problem (e.g., how many vessels, where they are, and impacts caused) as well as the available resources to respond because if the problem far exceeds resources, the public perception could be negative.

**Critical Considerations:** An outreach campaign that increases stakeholder understanding of the magnitude of the challenges may result in support for ADV work not previously identified; lack of specific information (e.g., “it’s just a problem”) is not a helpful message by itself and does not educate the public.

- *Expectation management*

**Explanation:** Anticipating resistance and objections to certain ADV program components such as boater fees may be helpful, while also remaining mindful that with time and increased knowledge, the immediate reactions may change. Addressing expectations about short-term benefits is important, and outreach campaigns may require a few years to become operational. An example is the proposed \$2 fee to dispose of car tires: while the disposal fee was once considered excessive, informal calculations now suggest that removing improperly discarded tires that make their way to a dam facility can cost nearly \$1,500 per tire to remove due to the costs of permits and manpower required. Sharing this type of information with the public can temper expectations.

**Critical Considerations:** Recognizing that objections may change can bolster an outreach campaign and increase community involvement; there is no guarantee that outreach efforts undertaken will change behavior.

- *National outreach program*

**Explanation:** Should highlight the extent of the problem, the impacts, and solutions. This cannot be undertaken by individual states and is seen as important to raise national awareness and raise the political likelihood of addressing ADVs in states that face unique challenges and demonstrated resistance. A national program may also increase the likelihood that states would adopt uniform definitions or reciprocity, and it should include an insurance notification component. Partnering with the insurance industry on ADV issues may facilitate policy writers' obtaining full and complete evidence of an actual vessel malfunction as opposed to deliberate destruction by an owner.

**Critical Considerations:** Can reach the hearts and minds of inland dwellers, and may be less expensive than implementing outreach campaigns within each coastal state; message needs to be carefully crafted to ensure it is general enough to capture the nationwide problem, does not exclude any individual state's interests, and remains effective.

## *Section III*

# **Federal Agency Overview**

## ***Introduction***

Federal agency mandates and authorities primarily concern ADVs that impact federally maintained waterways or are releasing pollutants into the environment. Many Federal agencies have authorities relevant to ADVs; however, four agencies that have significant responsibilities to address ADVs participated in the workshop: the Federal Emergency Management Agency (FEMA), National Oceanic and Atmospheric Administration (NOAA), United States Army Corps of Engineers (USACE), and United States Coast Guard (USCG). The U.S. Environmental Protection Agency, while unable to attend the workshop, provided information that is summarized in the section “Additional Federal Agencies,” below. The layout of this section intentionally replicates the format of the Federal agency presentations at the ADV workshop.

## ***Key Legislation***

As part of the Federal agency presentations during the workshop, each agency identified the most relevant mandates and authorities that provide guidance when responding to ADV issues. While other legislation may be applicable for these primary (and other) agencies, below is a list of the specific mandates and authorities presented during the workshop along with a brief description of specific components most relevant to ADVs. Additional legislative mandates are discussed later in this section.

## ***Case Study Examples***

Federal agency presenters provided contextual examples of their involvement with ADV issues. These examples come directly from each Federal agency’s presentation at the workshop and serve to demonstrate the types of projects each agency has been involved with; they do not constitute all possible scenarios for involvement by these Federal agencies.

## ***Discussion Notes***

During the Federal agency presentations, workshop record-keepers individually documented questions posed and answers given during the discussion. This section is intended to highlight some of the critical questions posed to Federal agency representatives during the roundtable discussion.



# Federal Emergency Management Agency

## *Introduction*

FEMA is involved with ADVs via the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Stafford Act). The Act gives FEMA the responsibility for coordinating the Federal government's response to Presidentially declared disasters. For direct Federal assistance (under 44 CFR §206.208), FEMA may mission-assign another Federal agency to remove eligible ADVs when the state and local governments certify that they lack the capability to perform or contract for the work. For grant assistance, FEMA may reimburse applicants for the removal and disposal of eligible ADVs.

## *Key Legislation*

- Stafford Act – Sections 403, 407, and 502
- Under the Stafford Act, funds may be used for the removal and disposal of ADVs. The objective of the FEMA Public Assistance Grant Program is to provide assistance to state, tribal, and local governments, and certain types of private nonprofit organizations so that communities can quickly respond to and recover from major disasters or emergencies as declared by the President.
- Through the Public Assistance Grant Program, FEMA provides funding to eligible applicants to remove wreckage and sunken vessels from publicly and privately owned waters to eliminate an immediate threat to lives, public health and safety, or improved property, or to ensure the economic recovery of the affected community. A number of factors may be considered in determining eligibility, and in order to be eligible vessels must be
  - Sunken/damaged as a direct result of the Presidentially declared emergency or disaster;
  - Located in the declared designated area; and
  - The legal responsibility of the applicant to remove.

## *Case Study*

Following the impacts of Hurricane Ike in September 2008, the Oil Spill Prevention and Response Act of 1991 authorized the Texas General Land Office (GLO) to remove and dispose of ADVs in Texas coastal waters. ADVs were catalogued using Texas Park and Wildlife's Boat Registration Database and the USCG Vessel Documentation Database. The GLO was able to remove a total of 124 vessels. FEMA will reimburse reasonable GLO costs expended to identify, catalog, tag, remove, store, and dispose of these vessels in Texas coastal waters.

## *Discussion Notes*

Q – Does FEMA have the authority to amend the Stafford Act?

A – No, it can only modify the regulations. Only the U.S. Congress can amend the Act.

Q – Who is eligible for FEMA Disaster Preparedness Grants?

A – States, local entities, private nonprofit organizations that provide similar government services, and tribal entities.

## **National Oceanic and Atmospheric Administration**

### *Introduction*

ADVs may pose a significant threat to NOAA trust resources through physical destruction of habitats and the dispersion of toxic chemicals and fishing gear into the marine environment. NOAA responds to ADVs through the National Marine Sanctuaries Act when a vessel is within or threatens resources within a sanctuary. NOAA additionally supports ADV activities through funding opportunities, such as those focused on ADV removal, and providing technical assistance, as defined in the Marine Debris Research, Prevention, and Reduction Act of 2006. NOAA personnel may provide scientific and technical assistance to the Federal On-Scene Coordinator (FOSC), when requested as part of the National Contingency Plan.

### *Key Legislation*

- Marine Debris Research, Prevention, and Reduction Act
  - Address marine debris through mapping, identification, impact assessment, removal and prevention, focusing on living marine resources; reduce and prevent loss of fishing gear; public outreach and education.
- Coral Reef Conservation Act of 2000
  - Requires NOAA to provide assistance through competitive grant programs; authorizes the national program to provide assistance to states and territories in removing abandoned fishing gear, marine debris, and abandoned vessels that threaten coral reefs.
- National Marine Sanctuaries Act
  - Authorizes the Secretary of Commerce (NOAA) to designate and protect areas of the marine environment with special national significance due to their conservation, recreational, ecological, historical, scientific, cultural, archeological, educational, or esthetic qualities as national marine sanctuaries. Establishes liability and civil penalties for damages done by vessels, authorizes the Secretary to undertake actions to prevent or minimize destruction, loss of, or injury to sanctuary resources and to assess damages to sanctuary resources.

### *Case Study*

NOAA involvement with addressing ADVs has principally included assessment of the vessel itself and providing associated removal options based on the assessment. In 2006, a NOAA project provided vessel inspection training for safety officers in the Commonwealth of the Northern Mariana Islands. Some remaining funds were granted to the CNMI through the National Fish and Wildlife Foundation to partially fund the removal of the wreck of the commercial fishing vessel Nam Sung 62 on the island of Rota. A NOAA project in American Samoa provided salvage options and cost estimates for three ADVs. NOAA has similarly conducted assessments and provided removal options for an abandoned barge in the Occoquan River in northern Virginia.

NOAA's assistance is currently limited to technical assistance and does not generally include providing funds for removal of ADVs.

### *Discussion Notes*

Q – What grant opportunities are available through NOAA, and what is the limit?

A – NOAA competitive grant opportunities to address marine debris, including ADVs, depend on funding, but have historically totaled approximately \$750,000 per year. The limit for a single project has been \$200,000.

Q – What databases have already been created that have information on ADVs?

A – Some of the databases referenced in preparation for this workshop include the NOAA Automated Wrecks and Obstructions Information System (AWOIS), NOAA Abandoned Vessel Program (AVP) database, NOAA Resources and Undersea Threats (RUST), and certain state databases. Not all information is readily accessible, and keeping any database updated is a challenge.

## **United States Army Corps of Engineers**

### *Introduction*

USACE is involved with ADVs when a vessel sinks in or impacts a navigable channel; the owner, operator, or lessee should immediately notify the responsible Corps District or USCG Area, Sector, or Captain of the Port. (In the event there is a pollutant release, the USCG – with assistance from the Environmental Protection Agency – will take the lead, with USACE assisting as needed). USACE may need to conduct a channel survey to determine whether the vessel constitutes an obstruction to navigation. Under current USACE policy and funding limitations, the location of the vessel with respect to the navigation channel will determine whether further USACE involvement in removal is warranted.

### *Key Legislation*

- Rivers and Harbors Act of 1899 – Sections 15 (33 USC 409), 19 (33 USC 414), and 20 (33 USC 415)

- Sec. 15 - Prohibits obstructing of navigable channels in a way which prevents the passage of other vessels.
- Sec. 19 - Allows USACE to remove an obstructing vessel after 30 days without liability for damages to the owner of the same.
- Sec. 20 - In an emergency, allows USACE to remove or oversee removal of an obstructing vessel after 24 hours and seek reimbursement of removal costs by the owner, operator, or lessee of said vessel.
- Engineer Regulation and Pamphlet 1130-2-520, Chapter 4 – Removal of Wrecks and Other Obstructions (and related appendixes)
  - Owner, operator, or lessee (if identifiable) is responsible for removal of wrecks or other obstructions to navigable waterways within USACE jurisdiction.
  - USACE must notify owner, operator, or lessee that wreck or obstruction has been determined an obstruction to navigation and must be removed.
  - USACE cannot take private property. Must attempt notification of need for removal.
  - Appendix B – Memorandum of Agreement (MOA) between USCG and USACE defining roles during and following marine accidents.

### *Case Study*

Given the responsibility to clear federally maintained waterways of ADVs, USACE was involved with removing ADVs from navigation channels following Hurricane Katrina in 2005. USACE has additionally been involved in clearing intercoastal waterways and responding to vessel collisions.

### *Discussion Notes*

Q – What is the definition of a “navigable channel”?

A – Commercially navigable waters, which are authorized by Congress as navigation channels. A list of these can be obtained from local district offices and they are not always the same as navigable waters of the U.S. as defined under the Clean Water Act.

Q – How is USACE involved in clearing ADVs from navigable channels at times other than following a Presidentially declared disaster?

A – USACE works to remove ADVs from the water, and not just move them out of the channel. The entire annual budget for ADV work, however, is \$500,000 so the agency must work with states and other partners to prioritize removal so no single vessel consumes the entire budget.

## **United States Coast Guard**

### *Introduction*

USCG is involved with ADVs by its designation as the Federal On-Scene Coordinator to oversee Federal response efforts for the containment, removal, and disposal of oil or hazardous substance releases into the marine environment. USCG may be responsible for ADVs if given a direct mission assignment by FEMA. Agencies given mission assignments (MA) to remove debris are responsible for removing anything within the definition of debris provided in that MA.

### *Key Legislation*

- Clean Water Act (CWA) and Oil Pollution Act of 1990 (OPA)
  - CWA, as amended by OPA 90, provides the basic statutory authority for pollution prevention, contingency planning, and response activities within the 200-mile Exclusive Economic Zone for oil and hazardous substances.
- Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA)
  - CERCLA, also known as Superfund, extends the response provisions of the Clean Water Act to a wide range of “hazardous substances, pollutants, and contaminants” and to releases that threaten not only coastal or navigable waters but also other environments, such as the air or ground.
- Abandoned Barge Act of 1992
  - Prevent future marine pollution and take law enforcement actions with respect to abandoned barges over 100 GT and those that pose a significant threat.

### *Case Study*

U.S. Coast Guard involvement with ADVs is often demonstrated through Federal response efforts for the containment, removal, and disposal of oil or hazardous substance releases into the marine environment, which may entail vessel removal. Additionally, USCG may be tasked by FEMA through a MA to contribute to the removal of ADVs. For example, USCG has been working in the Gulf of Mexico on ADVs following Hurricane Katrina.

### *Discussion Notes*

Q – When conducting environmental assessments of ADVs, is there a distinction between potential impacts to habitat versus species?

A – No, a thorough assessment will be conducted if there is a threat to the environment anywhere.

Q – Is there a possibility for cost-sharing between Federal agencies when responding to ADV issues?

A – The USCG has been working for some time to facilitate improved coordination between Federal partners so the entire process is effectively handled in the most efficient and effective way. Agencies need to get working agreements in place before initiating a case, and must also work with the responsible party to the extent possible.

## ***Additional Federal Agencies***

In addition to the Federal agencies giving formal presentations during the workshop, other agencies have important roles to play regarding ADVs. The workshop benefited from the involvement of EPA and the Department of the Interior (DOI).

EPA provided information on the Marine Protection, Research, and Sanctuary Act (as amended by the Ocean Dumping Act), broadly describing the process for obtaining a general permit for ocean disposal of vessels. Permits are issued and managed regionally, and close collaboration with other Federal agencies is a requirement. In an effort to strengthen communication and partnerships at the Federal level when considering ADV issues, additional agencies merit inclusion in any future workshops to better understand the full breadth of Federal agency responsibilities. The following list serves only as a starting point of agencies with a demonstrated interest in ADVs:

- Environmental Protection Agency
- Department of the Interior (Fish and Wildlife Service; National Park Service)
- Department of the Navy – Supervisor of Salvage and Diving (SupSalv)
- Department of Transportation (U.S. Maritime Administration)

## ***Identified Legislative Gaps***

Based on historical knowledge, the identification of numerous “if/then” scenarios, and discussion of the case studies, it was clear that a comprehensive response to ADVs on the Federal side is not always possible due to gaps in existing legislative mandates. Supplementary legislation and agreements related to ADVs are currently under consideration, both domestically in the U.S. House of Representatives and internationally through the International Maritime Organization (IMO). The Coral Reef Conservation Act Reauthorization and Enhancement Amendments of 2009 (HR860 in 111<sup>th</sup> Congress) includes a section on the development of an inventory of vessel grounding incidents. While this database may complement other existing Federal inventories, the focus will be on incidents involving coral reefs. Potential international agreements include the Convention on the Removal of Wrecks, adopted by a Diplomatic Conference in Nairobi in 2007 through the IMO. The Convention is intended to fill a gap in the existing legal framework and addresses the navigational hazard caused by vessels, damage to the marine environment, and costs associated with marking and removing hazardous wrecks. As of May 2009, only Nigeria had ratified the Convention, with another four countries as signatories still requiring ratification.

On March 23, 2010, FEMA issued Recovery Policy 9523.5, entitled “Debris Removal from Waterways,” to provide guidance for determining the eligibility of debris for removal from navigable waterways, the coastal and inland zones, and wetlands under the Public Assistance Program. Recent disaster activity, including Hurricanes Katrina and Ike, demonstrated the need for additional guidance to clarify the roles and responsibilities of FEMA, USACE, and USCG in

removing debris, wreckage, and sunken vessels from waterways. USACE and USCG reviewed and provided input on this policy.

## ***Conclusion***

Current Federal mandates and authorities related to ADVs do not provide comprehensive responsibility to remove vessels that are hazards to navigation or release pollutants. Existing laws governing responses to polluting or potentially polluting vessels, those that are or could become navigation hazards, and those actually or threatening to damage certain protected areas have created only a patchwork resolution to this nationwide issue. Addressing recreational vessels remains largely outside the scope of any Federal agency, particularly if navigational disruptions or hazardous material releases are not demonstrated. Thus, responsibility to address these ADVs generally falls to state and local authorities, which is why the workshop intentionally focused on increasing the capacity of state-level managers.

## *Section IV*



## Conclusion and Next Steps

The State-level Responses to Abandoned and Derelict Vessels workshop was the first nationwide opportunity for stakeholders to work together to critically discuss the myriad of challenges associated with ADVs. Following the Federal agency session's identification of legislative gaps, it was agreed that states may be best suited to address their specific ADV issues. As states have different levels of need and capacity to respond to the issue, the workshop benefited attendees through the sharing of challenges and successes in order to learn from one another—something attendees identified as important before the workshop.

An additional outcome of the group discussions at the workshop is this document, which outlines the critical components of a state-level ADV program. While having each of the program components is not a requirement for an effective ADV program, they are all interrelated parts that merit consideration when developing or refining a state program. All states impacted by ADVs are advised to consider each of these components when building or strengthening their programs.

Participants in the workshop provided a number of suggestions for future efforts that those interested in developing or strengthening a state program could undertake.

- Workshop attendees should continue to learn from one another, particularly as states develop or expand their ADV programs. This community of individuals may be uniquely qualified to assist one another in the future.
- States will need to devise their own processes for establishing an ADV program, and the suggested program components, while helpful guides, may not be appropriate for each state. Furthermore, this document will require revision to remain a guidance tool.
- Federal agency representatives acknowledged gaps in existing legislative mandates and authorities, and while this document does not advocate new Federal legislation, pragmatic approaches to ensuring the consistent application and interpretation of relevant federal ADV legislation were encouraged.
- Re-convening this group in the future would provide an opportunity to critically review both obstacles to progress and implantation successes following the State-level Response to Abandoned and Derelict Vessels workshop in September 2009.

# *Appendix A*

# AGENDA

## Abandoned and Derelict Vessel Workshop September 15-17, 2009 Miami, Florida

Time	Topic
<b>Tuesday</b>	
8:00–8:30am	Registration and coffee
8:30–9:15am	Welcome, overview, and introductions
9:15–10:00am	What constitutes a successful abandoned and derelict vessel program?
10:00–10:30am	Break
10:30–12:00pm	Nationwide support efforts <ul style="list-style-type: none"><li>• Sea Grant Law Center</li><li>• National Association of State Boating Law Administrators</li><li>• NOAA Abandoned Vessel Program</li></ul>
12:00–1:30pm	Lunch
1:30–2:30pm	Perspectives from other sectors (law enforcement, salvage, removal)
2:30–3:00pm	Break
3:00–4:45pm	Federal interests and responsibilities <ul style="list-style-type: none"><li>• Federal Emergency Management Agency (FEMA)</li><li>• National Oceanic and Atmospheric Administration (NOAA)</li><li>• United States Army Corps of Engineers (USACE)</li><li>• United States Coast Guard (USCG)</li></ul>
4:45–5:00pm	Closing
<b>Wednesday</b>	
8:30–8:45am	Welcome and agenda review
8:45–9:45am	Funding an ADV statewide program – WA, CA, MD
9:45–10:45am	Components and challenges of building a successful program – MS, FL, PR, MN
10:45–11:15am	Break
11:15–12:30pm	Documenting the components and challenges of building a successful program (Session I)
12:30–2:00pm	Lunch
2:00–4:15pm	Documenting the components and challenges of building a successful program (Session II)
4:15–4:30pm	Closing
<b>Thursday</b>	
8:30–9:00am	Coffee
9:00–10:00am	Review of discussion outputs on components and challenges of building a successful program
10:00–11:30am	Moving forward together
11:30–12:00pm	Closing remarks



## *Appendix B*

## Comparison of Coastal State Programs Addressing Abandoned and Derelict Vessels - September 2009

STATE	Explicit Definition of Abandoned Vessel	Formal Program	Dedicated Funding Source	Lead Agency	Formal Designation Process	Removal Requirements	Disposition Process	Disposal Requirements	Prioritization Scheme	Additional Information
Alabama	No	No	No	None	No	None, removal governed by state's salvage laws	None	None	None	Port Authorities may order derelict vessel removed from a state port.
Alaska	Yes, Alaska defines both "derelict" and "abandoned" vessels.	No	No	Department of Transportation and Public Facilities	None, abandoned and derelict vessels may be immediately taken into custody by the Department or law enforcement personnel.	None	Following provision of notice, vessels can be disposed of through public sale, as junk, or otherwise destroyed.	None	None	Separate rules apply for derelict and abandoned vessels in state harbor facilities.
California	No	Yes, the California Abandoned Watercraft Abatement Fund Grant Program	Yes, up to \$1 million per year may be authorized.	Department of Boating and Waterways	None, designated state employees may immediately remove abandoned vessels if an obstruction to navigation or poses a danger to public health or the environment.	None	Following provision of notice, vessels can be disposed of through public sale.	Must comply with local city health ordinances.	Funding from AWAF is granted based on need.	
Connecticut	No	No	No	Department of Environmental Protection	None, state boating law enforcement officers may immediately take abandoned vessels into custody.	None	None	None	None	Marina owners may acquire liens for storage charges.
Delaware	Yes, Delaware defines "abandoned vessel"	No	No	Department of Natural Resources and Environmental Control	None, the Department may seize abandoned vessels located on public property.	None	Following provision of notice, vessels can be disposed of through public sale. If the vessel can't be removed intact, Department may dispose of it in any reasonable manner.	None	None	
Florida	Yes, Florida defines "derelict vessel"	Yes	Yes, Derelict Vessel Removal Grant Program when funded by legislature.	Fish and Wildlife Conservation Commission	Yes, Commission designates derelict vessels for removal after attempts are made to identify owner.	None, derelict vessels located on public property may be taken into custody by Commission or law enforcement personnel.	Vessels may be retained, traded, donated, sold or disposed of by notifying a refuse removal service.	Disposal options are limited to permitted artificial reefs site and landfill locations.	Derelict vessels that are public safety and navigational hazards are removed first.	
Georgia	Yes, Georgia defines "abandoned vessel"	Yes, the Georgia Sunken Vessel Project	No	Georgia Department of Natural Resources	None, law enforcement personnel have the authority to remove abandoned vessels upon notifying DNR.	None	Once removed, vessels are subject to liens and foreclosure proceedings (public sale).	None	DNR prioritizes removal efforts based on tiers.	Failure to pay AbV removal fees or liens can result in revocation or suspension of boat and motor vehicle licenses.
Hawaii	Yes, Hawaii defines both "derelict" and "abandoned" vessels.	No	No	Hawaii Department of Land and Natural Resources	None, the Department is authorized to immediately take abandoned and derelict vessels into custody.	None	Following provision of notice, vessels can be disposed of through public sale.	None	None	Hawaii has special provisions for vessels abandoned upon premises of vessel repair business, private marina, or yacht club or left at small boat harbor.
Illinois	Yes, regulations define "abandoned watercraft"	No	No	Department of Natural Resources	None, when a watercraft is abandoned on state waters for more than 24 hours, any law enforcement agency with jurisdiction may authorize its removal.	None	Following provision of notice, vessels can be disposed of through public sale or depending on the age of the vessel disposed as junk or sold for salvage.	None	None	
Indiana	No	No	No	Department of Natural Resources	None, Department law enforcement officers may impound abandoned watercraft upon discovery.	None	Upon expiration of 90-day waiting period, abandoned watercraft may be destroyed or sold at public auction.	None	None	Indiana has special provisions authorizing the sale of watercraft by marina operators.
Louisiana	No	Yes, for oil-bearing abandoned vessels - the Louisiana Oil Spill Coordinator's Office Abandoned Barge Program	No, although Oil Spill Contingency Fund can be used by LOSCO in limited circumstances.	Louisiana Oil Spill Coordinator's Office (AbV that threatens release of oil)	The Louisiana Oil Spill Prevention and Response Act requires LOSCO to locate, identify, mark, and analyze the contents of any abandoned or derelict vessels or structures found within the state.	None, LOSCO is authorized to remove abandoned and derelict vessels and structures.	State agencies are authorized to sell abandoned vessels.	None	Under OSPRA, abandoned and derelict vessels are removed on the basis of highest risk to human health and safety, the environment, and wildlife habitat.	The Louisiana Department of Environmental Quality has jurisdiction over the removal of abandoned vessels pursuant to a delegation of authority by the Governor following Hurricane Katrina. DEQ is required to provide notice to vessel owners and approve removal plans.

## Comparison of Coastal State Programs Addressing Abandoned and Derelict Vessels - September 2009

STATE	Explicit Definition of Abandoned Vessel	Formal Program	Dedicated Funding Source	Lead Agency	Formal Designation Process	Removal Requirements	Disposition Process	Disposal Requirements	Prioritization Scheme	Additional Information
Maine	Yes, Maine defines "abandoned watercraft"	No	Submerged Lands Fund	Maine Department of Conservation	The Director of the Maine Department of Conservation may only initiate the removal of a watercraft after the municipal board or commission entrusted with harbor management determines that the vessel is derelict or abandoned and attempts have been made to identify the owner.	Removal efforts must comply with all state and federal environmental laws.	The Department is authorized to sell abandoned watercraft.	None	None	Watercraft that have been abandoned prior to July 1, 1993 are not subject to removal.
Maryland	Yes, Maryland defines "abandoned vessel"	Yes, the Maryland Abandoned Boat Program	Waterway Improvement Fund (approximately \$500,000 per year)	Department of Natural Resources	DNR may only seize, remove, or take custody of an abandoned vessel if notice was provided to the last known registered owner 15 days prior or by publication within 30 days of the seizure (if owner unknown).	None	DNR may sell abandoned vessels at public auction, receive title to vessel, or otherwise dispose of it.	None	Priority is given to abandoned vessels that are navigational or environmental hazards.	Landowners in Maryland may acquire title to any abandoned vessel on their land or in adjacent water upon submittal of proper forms and information to DNR. Maryland law also allows marina operators to remove vessels than have been left for more than 48 hours without permission.
Massachusetts	No	No	Abandoned Vessel Trust Fund	Department of Conservation and Recreation	DCR may immediately remove abandoned vessels that are an obstruction to navigation and other uses of state waters. However, if the owner is known, notice must be given prior to removal.	None	None	None	None	Individuals can acquire ownership over abandoned vessels by utilizing procedures established by the state's abandoned property laws.
Michigan	No	No	No	Secretary of State (abandoned property)	No	None, abandoned vessels can be claimed by applying for a certificate of title with the SOS.	Under the state's abandoned property laws, property may be disposed of by returning it to finder or public sale.	None	None	Title to "abandoned property of historic or recreational value" found on state-owned bottomlands of the Great Lakes belongs to the state. Removal of such vessels requires a permit from Department of Environmental Quality.
Minnesota	No	No	No	N/A	No	None, removal is the responsibility of the owner. However, local governments can remove abandoned watercraft when owners fail to do so.	Under the state's abandoned property laws, property that remains unclaimed for more than 6 months becomes the property of the person in possession.	None	None	
Mississippi	Yes, Mississippi defines "derelict vessels"	Yes, the Mississippi Derelict Vessel Removal Program	Derelict Vessel Fund	Department of Marine Resources	Not generally, but sunken or submerged vessels in coastal wetlands within any designated navigation channel or 100 yards of a state, county, or municipal boat boundary may be declare a hazard to navigation by DMR.	Prior to the removal of any derelict vessel, an environmental assessment must be performed to determine potential impacts to coastal wetlands.	Derelict vessels may be destroyed or otherwise disposed of.	Derelict vessels are to be disposed of in an approved landfill. If the vessel has a steel hull, DMR may clean it for use as artificial reef material.	Removal prioritized based on highest threat. Derelict vessels declared to be a navigation or environmental hazard are to be removed immediately.	
New Hampshire	No	No	No	Department of Safety (generally); Pease Development Authority (Ports and Harbors)	None, the Department of Safety and the PDA may immediately impound abandoned vessels.	None	Upon expiration of 90-day waiting period, abandoned vessels may be sold at public auction or retained for use by the state.	None	None	Boat storage yard owners may place a lien for rental and other reasonable charges for any vessel or boat abandoned on their premises.
New Jersey	No	No	No	N/A	None, municipalities and law enforcement officials have authority to immediately seize abandoned vessels.	None	Abandoned flat-bottom boats, barges, scows, and rafts may be sold at public auction. Vessels may only be disposed of by someone (landowner, municipality, harbor commission) acquiring title.	None	None	The state may require the owner of a barge docked in or on the bank of any river for more than 10 consecutive days to post a bond of \$25,000 with the municipality, which will be forfeited if the barge sinks or becomes unnavigable.

## Comparison of Coastal State Programs Addressing Abandoned and Derelict Vessels - September 2009

STATE	Explicit Definition of Abandoned Vessel	Formal Program	Dedicated Funding Source	Lead Agency	Formal Designation Process	Removal Requirements	Disposition Process	Disposal Requirements	Prioritization Scheme	Additional Information
New York	Yes, New York defines "wreck"	No	No	N/A	None, sheriffs may immediately take possession of wreck property.	None	Wrecked property may be sold at public auction.	None	None	
North Carolina	Yes, North Carolina defines "abandoned vessel"	No	No	Wildlife Resources Commission	No	None	Under the state's unclaimed property laws, property having no substantial commercial value may be destroyed unless it has historical significance. Property remaining unclaimed after three years can be sold at public auction.	None	None	Under state law, a person may acquire ownership of an abandoned vessel by providing proof to the Wildlife Resources Commission that the lawful owner has actually abandoned the vessel.
Ohio	Yes, Ohio defines "abandoned vessel" and "abandoned junk vessel"	No	No	N/A	None, law enforcement personnel may immediately order abandoned vessels into storage.	None	Abandoned vessels may be disposed of in a variety of ways depending on where they were found, including public sale and delivery to marine salvage dealer.	None	None	
Oregon	No	Yes, the Oregon Abandoned Vessel Program	Abandoned Boat Removal and Cleanup Subaccount	Oregon State Marine Board	Unless immediate removal of the vessel is necessary to prevent imminent environmental damage or risk to public safety, law enforcement personnel must notify the Board and the owner (if identifiable) prior to taking it into custody.	None	If vessels remain unclaimed for more than 60 days, law enforcement personnel may dispose of it by acquiring title pursuant to state law and thereafter selling or otherwise transferring the vessel.	None	None, although only vessels posing an environmental threat or hazard to navigation are eligible for funding from the Abandoned Vessel Fund.	
Pennsylvania	No	No	No	Pennsylvania Fish and Boat Commission	None, the Commission may immediately take possession of a boat abandoned on public property or waters. For vessels on private property, landowners must register the vessel as an abandoned boat to acquire title.	None	Unclaimed abandoned boats found on public waters may be sold at public auction. If the vessel has no value other than salvage, the salvor in possession may apply to acquire title and thereafter destroy, dismantle, salvage, or recycle the boat.	None	None	
Rhode Island	No	No	No	Department of Environmental Management	The Director of the Department of Environmental Management may only remove a vessel after the owner has been notified and failed to act within the time specified in the notice.	None	Abandoned vessels may be sold at public or private sales.	None	None	Harbormasters have authority to take custody and control of abandoned vessels located in the coastal waters and harbor areas of their towns.
South Carolina	Yes, South Carolina defines "abandoned vessel"	Yes, there is a formal program guided by the Abandoned Vessel Removal Task Force	No, removal efforts dependent on grant funding	Department of Health and Environmental Control, Office of Ocean and Coastal Resource Management	No, OCRM is authorized to immediately seize abandoned vessels.	OCRM may require a permit be obtained for the removal of a vessel from a "critical area" if the removal process will significantly impact the surrounding marsh environment.	OCRM requires that all abandoned vessels be completely removed from the water and disposed in an approved landfill to prevent future reuse and abandonment.	If contractors are used to remove vessels, OCRM requires them to submit a spill prevention and recovery plan.	None, although OCRM does give preference for grant funding to local governments who have not previously participated in removal efforts.	South Carolina has procedures for obtaining title to abandoned vessels.

## Comparison of Coastal State Programs Addressing Abandoned and Derelict Vessels - September 2009

STATE	Explicit Definition of Abandoned Vessel	Formal Program	Dedicated Funding Source	Lead Agency	Formal Designation Process	Removal Requirements	Disposition Process	Disposal Requirements	Prioritization Scheme	Additional Information
Texas	No	Yes, the Abandoned Vessel and Structure Removal Program	Coastal Protection Fund	General Lands Office	GLO may immediately remove vessels which are involved in an actual or threatened unauthorized discharge of oil. Before removing vessels which are a threat to public health, safety, or welfare, a threat to the environment, or a navigation hazard, the GLO must conduct an investigation, prepare a report, and comply with any hearing requests. Law enforcement agencies are also authorized to immediately take abandoned watercraft into custody.	None	The GLO may dispose of removed vessel "in any reasonable and environmentally sound manner." If an abandoned watercraft taken into custody by a law enforcement agency is not claimed by the owner, the agency may sell, transfer, or use the watercraft.	None	None	GLO Commissioner is authorized to order the forfeiture of any money paid to a person under the Texas Parks and Wildlife Department's shrimp license buyback program if he finds the vessel to which the license was applied was abandoned.
Virginia	No	No	Marine Habitat and Waterways Improvement Fund	Marine Resources Commission	The Marine Resources Commission must notify the owner, if known, and wait one week before removing the vessel. If the vessel's state of disrepair is due to a natural disaster, the state must wait 60 days before issuing a notice.	None, anyone is entitled to "take up a boat or vessel adrift."	There is no identified disposal options for vessels removed by MRC. Landowners can acquire title to any vessel abandoned on his land or in adjacent water for more than 60 days and drift property may be sold.	None	None	Virginia law permits local governments to enact ordinances authorizing the removal of vessels.
Washington	Yes, Washington defines "derelict" and "abandoned" vessel.	Yes, Washington has a derelict vessel removal program	Derelict Vessel Removal Account	Department of Natural Resources	Public entities authorized to remove vessels must first obtain custody of the vessel by notifying the owner of its intent by mail and posting on the vessel. If the vessel is an immediate threat, public entities may take temporary possession.	None	Authorized public entities may use or dispose of the vessel in any appropriate and environmentally sound manner without further notice to the owners.	Vessel disposal must be done in an environmentally sound manner and in accordance with all federal, state, and local laws, including the state solid waste disposal provisions.	Use of funds from the Derelict Vessel Removal Account are prioritized for the removal of derelict and abandoned vessels that are in danger of sinking, breaking up, or blocking navigation channels or that present environmental risks such as leaking fuel or other hazardous substances.	Separate rules exist for public moorage facilities and marinas.
Wisconsin	No	No	No	N/A	The abandonment of a boat in a traffic lane and obstructions to navigation are considered public nuisances. County district attorneys, at the request of the Department of Natural Resources, shall institute proceedings to abate such nuisances.	None, municipalities may have any watercraft obstructing or interfering with the free navigation of any river, canal, channel, or slip within its harbor removed to a convenient and safe place.	Property abandoned on state lands and unclaimed for more than 60 days may be returned to the finder or sold at private or public sale. Political subdivisions may dispose of property after 30 days.	None	None	



## *Appendix C*

# 2009

National Association of  
State Boating Law  
Administrators

Governmental Affairs and  
Administration  
Committee, Waterways  
Management  
Subcommittee



## ***BEST MANAGEMENT PRACTICES (BMP) FOR ABANDONED BOATS***

Ten BMPs are recommended to provide the most expeditious removal of recreational vessels from our national waterways and lands.

## Introduction

Abandoned recreational vessels are unsightly and pose potential threats to navigation and the environment (i.e., sources of pollution and illegal dump sites). Additionally, they are often difficult and expensive to remove. Such vessels are a growing national problem<sup>1</sup>, for example:

- Florida is reported to have 1,500 abandoned vessels in or around the waters of the state and for FY 2008-09 Florida legislators allocated \$1.55 million for ongoing removal activities,<sup>2</sup>
- Louisiana developed an inventory of abandoned vessels and barges totaling approximately 800 vessels/barges of which roughly 200 were characterized as posing a potential pollution problem,<sup>3</sup>
- Maryland received reports of 132 abandoned vessels in 2008 and expect similar numbers for 2009,<sup>4</sup>
- The State of Washington State has approximately 200 known abandoned boats,<sup>5</sup>
- South Carolina has about 150 abandoned boats,<sup>6</sup>
- Georgia reportedly has 100 – 150 abandoned vessels along its 118-mile coast.<sup>7</sup>



Some government officials and others expect to see more boats headed for a watery grave as the effects of the present recession drag on. “The suspicion is that the number (of

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<sup>1</sup> See [http://www.nytimes.com/2009/04/01/business/01boats.html?\\_r=1](http://www.nytimes.com/2009/04/01/business/01boats.html?_r=1)

<sup>2</sup> See <http://fosterfollynews.com/news/2009April8FWCRemovesJunkedBoats.php>.

<sup>3</sup> See [http://www.losco.state.la.us/print\\_pages/print\\_ps\\_prevention.htm](http://www.losco.state.la.us/print_pages/print_ps_prevention.htm).

<sup>4</sup> Personal communication with Bob Gaudette, Director MD DNR Boating Services 6/23/09.

<sup>5</sup> See [www.threesheetsnorthwest.com/2009/06/washington-one-of-few-states-with-programs-to-deal-with-derelict-and-abandoned-boats/](http://www.threesheetsnorthwest.com/2009/06/washington-one-of-few-states-with-programs-to-deal-with-derelict-and-abandoned-boats/)

<sup>6</sup> See <http://www.nytimes.com/2009/04/01/business/01boats.html>.

<sup>7</sup> See <http://www2.tbo.com/content/2008/nov/13/abandoned-boats-leaving-behind-environmental-wreck/> and <http://www.altamahariverkeeper.org/aboutus/news/012807.asp>.

abandoned boats) is growing because of the economy,” said Doug Helton of the National Oceanic and Atmospheric Administration’s Office of Response and Restoration.<sup>8</sup>

Severe weather events, economic hardships, financial problems and the potentially high costs for removal all increase the likelihood that boats will be abandoned. When boaters live a long distance from where their boats are docked, they can fail to provide necessary repairs and monitoring. While Federal agencies can provide some relief for vessels that threaten waters through the discharge of oil and other pollutants and for those that impede navigation, in reality it is unusual for a Federal agency to fund or initiate the removal of an abandoned vessel.<sup>9</sup> Therefore, it is usually left to the states or local municipalities to remove the vessels.



States and municipalities need the ability to dispose of abandoned or derelict boats in the most efficient, expeditious and cost effective manner. States that are subject to frequent storms or hurricanes may be especially susceptible to derelict vessels. The Waterways Management Subcommittee, of the National Association of State Boating Law Administrator’s Governmental Affairs and Administration Committee, was charged with writing a report containing recommendations for *best management practices* (BMPs) on issues surrounding salvage insurance and the effects of abandoned vessels on the states. This charge correlates with NASBLA’s Strategic Plan under 1.4 and 3.5 and was a carry-over charge from 2008.<sup>10</sup>

## Details

The Subcommittee conducted two surveys to address the charge. A short survey was completed in 2008 that investigated salvage insurance and abandoned boats (Appendix A). Forty states and territories responded. The second survey, conducted in 2009, dealt specifically with abandoned and derelict vessels (Appendix B). Thirty-two states and territories responded. Results from both surveys are utilized in this report. While both commercial and recreational boats are abandoned for numerous reasons, this report focuses on recreational boats.

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<sup>8</sup> See <http://www.threesheetsnorthwest.com/2009/06/left-to-rot-and-sink-dozens-of-abandoned-boats-litter-washingtons-waterways/>.

<sup>9</sup> See Boring and Zelo, 2006, available electronically at [http://response.restoration.noaa.gov/book\\_shelf/1295\\_AVP\\_State\\_Review\\_12\\_2006.pdf](http://response.restoration.noaa.gov/book_shelf/1295_AVP_State_Review_12_2006.pdf).

<sup>10</sup> See <http://www.nasbla.org/files/public/governance/Strategic%20Plan%20FY08-2.pdf>

According to the first survey, no laws require recreational vessels to have a salvage provision or rider on boat insurance. In New Jersey, barges docked along the bank of any river for more than 10 days may be required to post a bond of \$25,000 with the municipality. The bond may be forfeited and used to remove the vessel should it become abandoned. South Carolina reported that most owners that have recorded liens are required by the lien holder to insure their vessel. The issue of salvage insurance appears to be handled locally as a contractual requirement of many marinas and yacht clubs. No state indicated it was moving toward requiring such insurance. Arkansas requires liability insurance on vessels powered by over 50hp and all personal watercraft, but does not have a salvage provision or rider. In addition, vessel salvage has roots in admiralty law and is



beyond the scope of this investigation. Therefore, the Subcommittee decided no further action would be taken with regard to salvage insurance from a national perspective. See Appendix A for the full survey and responses.

The focus of this report is to recommend BMPs applicable to the steps commonly taken by states to resolve the issues of abandoned or derelict vessels. These elements include:

- 1) Determination of abandonment/derelict vessel,
- 2) Determination of ownership,
- 3) Notification phase,
- 4) Waiting period,
- 5) Notice of intent to sell or notice of waiver of rights,
- 6) Sale or disposition, and
- 7) Transfer of ownership and re-registration, if warranted.

Survey results are discussed in the context of the investigative and removal processes and related to funding mechanisms for the disposition of abandoned or derelict boats. This report also discusses NASBLA's "Abandoned or Salvaged Recreational Boat Procedure"<sup>11</sup> that was adopted in 1998 by what was then the Numbering and Titling Committee.

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<sup>11</sup> See <http://www.nasbla.org/files/public/VIRT/Abandoned Procedure 091698.pdf>.

## Best Management Practices



**BMP #1: Make it easy for the boater to understand where they can properly dispose of their vessel in order to avoid having the vessel abandoned.**

Boaters must be given methods to properly dispose of their vessels and alternatives to abandonment. For example, California identifies various alternatives to abandoning boats and recommends:

- **Donation:** Some charities accept motorboats, sailboats, personal watercraft, and other vessels, as tax-deductible donations. The boat will generally need to be in decent condition to use as a donation.
- **Recycling:** Used boat part dealers, or salvagers, may accept your old vessel for its parts, which they resell. Each dealer will compensate the boat owner for the value of the useable parts minus the total cost of dismantling the vessel and recycling or disposing of hazardous wastes; however each dealer has its own specific requirements for the length and type of vessel they will accept. These dealers can be found under the heading "Boat" in your local yellow pages.
- **Dismantling:** Some used boat dealers will dismantle and dispose of a vessel that has no redeemable value. Each dealer has its own requirements for vessel length and type, and each dealer will charge for this service. The costs usually run between \$15 and \$20 per foot and include transportation, labor, disposal, and recycling or disposing of used oil and other hazardous materials.

Further, names and addresses of boat salvage companies are provided on California's web site.<sup>12</sup>

Connecticut, in their *Clean Marina Guidebook*, provides names of companies that take boat donations and includes Best Management Practices for disposing of a vessel that will be accepted at a permitted solid waste landfill or transfer station.<sup>13</sup>



**BMP #2: Provide incentives for boaters to properly dispose of their vessel and disincentives for improper disposal.**

<sup>12</sup> See [www.dbw.ca.gov/Funding/AWAF.aspx](http://www.dbw.ca.gov/Funding/AWAF.aspx).

<sup>13</sup> See [www.ct.gov/dep/cleanmarina](http://www.ct.gov/dep/cleanmarina).

Providing incentives to dispose of a vessel properly and disincentives for abandoning a vessel can reduce the number of boats that are abandoned or become derelict. South Carolina has a state law that allows salvage of abandoned vessels, which may encourage removal by others. California has proposed legislation that would allow boaters to turn in their boats rather than abandon them as a result of a paper published in 2005 entitled "Report and Recommendations Related to Abandoned Vessels". The first ten recommendations provide strategies to prevent recreational vessels from being abandoned. The recommendations relate to revising the lien sale laws and regulations to make it easier for local agencies to dispose of wrecked vessels before they sink and become more costly to remove from the waterways. The recommendations advocate increasing the penalties for abandoning a vessel and providing a stronger deterrent to vessel owners. Finally, the recommendations address vessel registration, tracking and enforcement processes available



to local law enforcement to provide law enforcement with better tools to quickly identify vessel owners and dispose of vessels before they sink and become a hazard on the waterways and to provide a greater deterrent to owners that contemplate abandoning their vessels. The next eight recommendations relate to developing a pilot turn-in program that would allow vessel owners to

dispose of their vessel through a local agency rather than abandoning the vessel.<sup>14</sup> After several attempts, California is getting closer to having a bill passed for such a program. On September 4, 2009, the California senate passed the Abandoned Boat Abatement Bill (AB 166).<sup>15</sup>

- California's "Abandoned Boat Abatement" will:
  1. Increase the fine minimum fine for abandoning a boat from \$500 to \$1,000.
  2. Allow monies from the fines to be used for disposal of a "surrendered vessel"
  3. Require the Dept. of Boating and Waterways to track the number of surrendered vessels between January 1, 2010 and January 1, 2012 and attributed costs for consideration to continue or revise the program.
  4. The bill would sunset January 1, 2013 unless extended by enabling legislation.

<sup>14</sup> See [http://www.dbw.ca.gov/PDF/Reports/AVAC\\_Report.pdf](http://www.dbw.ca.gov/PDF/Reports/AVAC_Report.pdf).

<sup>15</sup> See <http://democrats.assembly.ca.gov/members/a53/Pressroom/Press/20090904AD53PR01.aspx>

5. Under this law:

- “Surrendered vessel” means a vessel that the verified titleholder has willingly surrendered to a willing public agency under both of the following conditions:
  1. The public agency has determined that the vessel is in danger of being abandoned with the likelihood of causing environmental degradation or becoming a hazard to navigation;
  2. The decision to accept a vessel is based solely on the potential of the vessel to likely be abandoned and cause environmental degradation or become a hazard to navigation.
- A surrendered vessel may be disposed of immediately upon acceptance by a public agency.

The State of Washington has also tried to initiate a program to defray the cost to boat owners of disposing of boats before they are abandoned or become derelict. Washington was not successful in getting their program implemented, but the concept warrants discussion. In 2008, Washington put forth legislation for a “vessel amnesty” pilot project which proposed to use up to \$200,000 of the derelict vessel removal account, funded from boater registration fees, to dispose of boats that had the greatest potential to become derelict or abandoned.<sup>16</sup> In order to be eligible for reimbursement of up to 100% of the costs to dispose of a vessel, the boat owner would have to prove that he or she:

1. Was a Washington state resident;
2. Owns a vessel in an advanced state of disrepair, with no material value and has a high likelihood of becoming an abandoned or derelict vessel;
3. Has insufficient resources to properly dispose of the vessel outside of the program.

There are laws on the books now that provide a disincentive to abandoning a vessel. In Maryland, there is a \$1,000 charge for abandoning a boat. Minnesota has a state law that allows a local unit of government to charge up to 5 times the cost of removal if the owner does not pay. Fines of up to \$500 per day can accrue to someone who abandons a boat in Mississippi waters. Florida can charge up to \$1,000 criminal penalty, but owners of vessels that contribute pollution to the states waterways can be charged civilly with fines up to

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<sup>16</sup> See <http://www.statesurge.com/bills/502855-sb5058-washington>



\$50,000 per violation per day. Additionally, a judge may require that an owner perform community service. To date the longest service time is 250 hours.<sup>17</sup>



**BMP #3: States and territories are encouraged to title boats because it provides a paper trail that can simplify the ownership discovery phase.**

The Discovery Phase can be difficult. Various Federal agencies (e.g., NOAA and US Coast Guard) have programs to identify and inventory possible abandoned vessels. The US Coast Guard has started a pilot project at Sector Baltimore to use the US Coast Guard Auxiliary for this task.<sup>18</sup>

It should be noted that the titling of boats will assist in tracking the owner in a great number of cases, especially those where a vessel is sold and the new owner never registers it. Titling facilitates contact with any lien holders who may have an interest in the boat. Also, hidden *Hull Identification Numbers* (HINs) installed by the manufacturer, can assist with tracking a vessel. However, the reality is that in many cases owners cannot be tracked because all identifying marks (registration and hull Identification numbers) are removed or the legal owner is indigent and costly legal proceedings would not provide the funding to have the vessel removed.

The US Coast Guard has implemented a program entitled *Vessel Identification System*, or VIS for short. This voluntary program requires states to sign a Memorandum of Understanding with the USCG. In return for a state providing current registration information to contractors with the USCG, VIS will merge vessel registration information with vessel documentation records. Databases from all participating states will be available to VIS agreement holders. Having this information available to the officers in the field may significantly facilitate the discovery phase. While NASBLA has encouraged all states to participate in VIS<sup>19</sup>, some states are having difficulties due to identity protection laws which prohibit releasing the information. To date, there are 31 states and territories participating.<sup>20</sup>

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<sup>17</sup> Lt. David Dipre; Florida Boating and Waterways Division of Law Enforcement, personal communication, 9/16/09.

<sup>18</sup> See <http://www.avp-balt.org/letter.php>.

<sup>19</sup> See <http://www.nasbla.org/files/public/Policy-Govt%20Affairs/2008%20Resolutions/Urging%20States%20to%20Join%20VIS%20Final.pdf>

<sup>20</sup> Personal Communication: Lynne McMahan; RBS Specialist, USCG; 9/11/09



**BMP #4: States and territories need to understand 1) what agencies are available to them to handle abandoned boats, 2) under what circumstances they will remove vessels and 3) if permits are needed before work can be performed.**

The question of who takes charge of removing abandoned and derelict boats is far from a simple question. While many entities have the authority to remove them, lack of funding is often seen as a reason that these groups do not. Abandonment on private lands is a common occurrence in the region of the country covered by the *Northern Association of Boating Administrators* (NABA) where the boating season is short. When a vessel is abandoned on private property, it often becomes the burden of the property owner to take the necessary steps to resolve the issue. This may also be case in locations where tidelands are privately owned. In states that have a short boating season, boats are often abandoned on land. If the boat is abandoned on a public road or state property and involves a currently licensed trailer, removal and disposal is generally handled through abandoned vehicle laws. In such cases, the towing company is responsible for the tow vehicle and whatever is on it. However, in the majority of cases, the vessel with or without a trailer is found on private lands and it becomes the landowners responsibility for disposition.

When a vessel is abandoned or is deemed derelict on a waterbody or shoreline, various entities could claim responsibility. Federal or state agencies will often step in when pollution is imminent or when the vessel represents a navigation hazard. Certain Federal agencies will only resolve the hazard which may not result in the removal of the vessel. For example, the pollutants may be removed and a vessel may be refloated, but monies are not made available to remove the vessel. Local governments bear significant responsibility when the state or federal governments fail to do so. Indiana and Illinois are poised to sign a Memorandum of Understanding with the US Coast Guard regarding abandoned boats.<sup>21</sup> USCG will remove those vessels that are a hazard to navigation and will assist in tagging vessels abandoned on the southern tip of Lake Michigan. Tagged vessels will carry a serial number that will provide contact information which will be available to both states to increase the search base for the owner.

Nationally, several states noted that jurisdiction for handling abandoned boats was not clear. While all states implied that the vessel owner is ultimately responsible for removing an abandoned vessel or reimbursing the removing agency once removed, it often happens that the vessel owner does not step up to remove the vessel. When the states and territories were surveyed as to under whose responsibility abandoned vessels fall, the

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<sup>21</sup> Personal Communication: Maj. Felix Hensley, BLA Indiana

answers were complex with overlapping authorities cited by many states. Of the 13 states who replied from NABA, 4 indicated that the land or vessel owner was responsible for disposing of the vessel; 11 indicated that states could remove vessels; 1 noted that Federal agencies can intervene and 8 indicated that local jurisdictions are generally responsible. Of the 11 states that responded in the southern regional states (*Southern States Boating Law Administrators Association* [SSBLAA]), one indicated that it was the owner's responsibility; ten that it was the state and six that local governments were authorized to remove vessels. One state responded that it was the wrecker service that was responsible for removing the vessel and that the service could request title. In the western states (*Western States Boating Administrators Association* [WSBAA]), of the 8 states that responded, one indicated that the boat owner was responsible, six that the state would respond; one, Federal agency and five that local governments were responsible. These responses make it clear that in most states, no one entity is responsible for removing vessels. The preponderance of responses in the NABA states that cite that the vessel owner or property owner upon whose property a vessel is abandoned is responsible for disposing of the vessel may point to differences in seasonality from the Southern or Western states. NABA states share a short boating season, whereby boat owners are accustomed to hauling their boats out. Therefore, in many cases the vessels are abandoned on land rather than in the water. In those states most of the property owners bear the responsibility for the vessel.

The Robert T. Stafford Disaster Relief and Emergency Assistance Act (PL 100-707, a.k.a "The Stafford Act"), signed into law in 1988, amended the Disaster Relief Act of 1974 (93-288). This federal legislation created a national program for disaster preparedness, response, recovery and mitigation and enables the Federal Energy Management Agency to approve state's disaster management plans. Such plans identify a framework for the proper management of the debris generated by a natural disaster to facilitate the prompt and cost efficient recovery that is eligible for FEMA reimbursement and protective of the environment. States should become familiar with their state's Natural Disaster Planning document to ensure that protocols are followed. The understandable attitude to "do whatever needs to be done" can prove costly. Federal reimbursement will not be made if it cannot be demonstrated that money was expended or that damages have been incurred as a direct result of the declared disaster or emergency. States could lose out on reimbursable expenses for removing vessels that are destroyed in natural disasters.

Not only should the states and territories understand what governmental agencies are authorized to remove boats within their waters but good intra- and inter-agency communications are critical. To ensure that the unit responsible for removing derelict boats does not go afield of state laws, the unit must know what permits may be needed and from whom, to remove a vessel. Many states are required to have permits from their sister agencies or departments before the bottom can be disturbed. This is especially true in

warm waters where corals and other state or federally endangered species may grow on vessels that have been derelict for a long time. Furthermore, State Historic Preservation Office (SHPO) review may be required for vessels abandoned for more than 50 years.

The National Oceanographic and Atmospheric Association (NOAA) Marine Debris Program recently held an Abandoned and Derelict Vessel Workshop in Miami, FL, September 15-17, 2009.<sup>22</sup> It was clear at this meeting that communication with all entities responsible for an abandoned or derelict vessel was lacking. For example, few of the managers responsible for handling the abandoned boat programs in their states or territories knew about NASBLA or that their state or territory had a designated boating law administrator.



**BMP #5: The terms “abandoned boat”, “derelict vessel”, “vessel” and “ownership” should be defined, as necessary. Specific time limits need to be set as part of the definition for abandoned and derelict vessels.**

Definitions become important in the ability to remove vessels in an expeditious manner. Of the 32 states /territories that responded to the question in the second survey, one half of those states (16) did not have definitions for either “abandoned boat” or “derelict vessel” although many of those states had laws dealing with abandoned or derelict boats. Sixteen states formally defined the terms. None of the states had a definition for “seaworthy,” although California uses it in the process for removing a derelict or abandoned boat. The purpose for defining both an “abandoned vessel” and “derelict vessel” is to provide a more expeditious process for removal of a derelict vessel that is not capable of floating without assistance. Boring and Zelo (2006)<sup>23</sup> found that the definitions of “vessel” and “ownership” were important because such definitions could exclude certain watercraft from established removal processes or funding opportunities. In NASBLA’s Abandoned or Salvaged Recreational Boat Procedure, the Numbering and Titling Committee incorporated the term “derelict vessel” in the definition of “abandoned vessel”. States may find that separating the two can provide a more streamlined process for removal of those boats that are clearly of no value. In many cases, according to the survey, the last registered owner is responsible for removal of the vessel. In all states and territories, the primary entity responsible for disposition of a boat is the “owner”.

<sup>22</sup> See <http://marinedebris.noaa.gov/about/welcome.html> for proceedings of the workshop, when published.

<sup>23</sup> Boring, Christine and Zelo, Ian, 2006 Review of State Abandoned and Derelict Vessel Programs, NOAA Office of Response and Restoration,

[http://response.restoration.noaa.gov/book\\_shelf/1295\\_AVP\\_State\\_Review\\_12\\_2006.pdf](http://response.restoration.noaa.gov/book_shelf/1295_AVP_State_Review_12_2006.pdf)

Time limits need to be set whereby, if a boat is left on a property for greater than this specified time period, the boat may be considered abandoned. Of the 32 states that responded to the question on the second survey, 14 had specific time limits after which a vessel on waters of the state or upon property other than his own without the consent of the owner would be deemed to be abandoned. Of interest, is the state of Florida. By design, no time limit is assigned to determine derelict or abandoned boats because by definition “abandoned property” means it has no apparent intrinsic value to the rightful owner.<sup>24</sup> For those states who did assign time limits, Connecticut had the shortest time frame of 24 hours; the majority of those responding listed 30 days. Indiana indicated that no one could abandon a vessel at any time, indicating removal could be immediate if the vessel was found unattended in a sunken, beached, or drifting condition. Other time frames were seven days, 15, 90, and 45 days. The District of Columbia had the longest wait time to define a boat as abandoned at 180 days. Maryland has various time frames depending on the situation: if a boat is left in a private marina or boatyard (in water or on land), a private dock at or near the water’s edge without consent of the owner it is considered abandoned after 30 days or 90 days with initial consent; if abandoned anywhere else on private land without consent of the owner it is considered abandoned after 180 days. Finally, it can be considered abandoned under a mechanic’s lien after 30 days.<sup>25</sup> Several states indicated that removal could be immediate if the vessel impedes the use of a public facility or presents a safety, navigational or environmental hazard. However, once removed the “abandoned boat/derelict” vessel process continues. Florida takes an aggressive stand on abandoned boats. The owner is given 5 days to remove the vessel once the vessel is posted. If it is not removed, the state agency removes the vessel and disposes of it.



<sup>24</sup> See FL statutes: 705.101(3) and 823.11.

<sup>25</sup> See [http://www.dnr.state.md.us/download/B117\\_abinstuction.pdf](http://www.dnr.state.md.us/download/B117_abinstuction.pdf).



**BMP #6: There must be a notice to owner(s) and/or secured parties by certified mail/return receipt which includes:**

- **Description of the vessel and identifying numbers**
- **Location where vessel is located**
- **Rights to reclaim vessel within XX days**
- **Notice that failure to claim the vessel will constitute a waiver of all rights, title and interest in the vessel**
- **Notice that any costs for removal/recovery will be the responsibility of the owner**

In order to provide assistance to the states and territories dealing with abandoned and derelict boats it is incumbent upon the state to have legislation in place that clearly defines the process to remove a vessel once it has been abandoned. Once a boat is determined to be “abandoned” or to be a “derelict” vessel, determination must be made early on, as to what type of process will be followed in the event a vessel is “abandoned”.

If a boat owner does not pay for services rendered, the service dealer (marina operator, repair shop), in many states, can initiate a vessel or mechanic’s lien on the vessel and the vessel may be sold for satisfaction of the lien. Liens for US Coast Guard documented vessels cannot be made through regular state lien procedures and must be filed through the USCG. Vessels that measure five net tons by volume (not weight) are eligible for documentation through the US Coast Guard. Generally, most vessels greater than 25 feet will measure five net tons. The benefit to the recreational boat owner is that documentation serves as proof of nationality and enhances vessel financing through the availability of preferred mortgages on the documented vessel. Under such cases the USCG is prohibited from making changes to the documentation paperwork including change of vessel ownership, name and hailing port without the consent of the mortgagee. Some states choose to treat documented vessels through the basic abandoned boat process since it has been noted by several states that USCG documented vessels present more difficulties in the disposition process. In the second survey, California responded that unless the boat is in imminent danger of sinking or has sunk, the only way law enforcement officers can declare a USCG documented vessel as “derelict”, and thus subject to removal, is if the documentation has elapsed. In general, it appears that if a state chooses to define “derelict” vessel, disposal may follow a more streamlined process. Finally, the processing of vessels after a natural disaster (e.g., floods or hurricanes) may follow different rules.

In the removal process, the rightful owner must be notified and given sufficient time to remove the vessel. This is typically done by the claimant (“finder”) but is sometimes done by the state agency. Contact information can be obtained from state agencies responsible for titling or vessel registration or sometimes from a law enforcement agency. In some states a law enforcement agency must be contacted to 1) ensure that the vessel was not reported stolen and 2) start the clock on providing proper notice to the last registered owner (i.e., for right to reclaim). Sometimes the vessel is moved from one illegal location to another, thereby re-starting the clock and process.



**BMP #7: If an owner cannot be identified, a public notice to attempt to locate the owner of the abandoned/derelict boat is critical. While the purpose is to locate the owner, the public notice serves to notify the vessel owner that failure to claim the vessel will constitute a waiver of all rights, title and interest in the vessel. Consideration should be made for advertisement via the Web.**

Those responding to the second survey had varying times for a person to claim the vessel before removal was initiated. Waiting times ranged from three to ninety days. In Ohio, a person must respond within 72 hours if the vessel is on public property. While it is critical for protecting the boat owners rights, the shorter the time period the better, especially if the boat is sunk or broken up.

However, if the owner is unknown or if the certified mail notice is returned “undeliverable,” notice by publication is often initiated, thereby increasing the process. Twenty-two (22) of those responding to the second survey indicated newspaper advertisements are used. Ten (10) states indicated they have no process or set time limit for advertising. The time period for placing an advertisement in the local newspaper where the vessel is located varied by respondent. Examples are one day in one local newspaper, three consecutive days in a local newspaper; and two successive weeks in one or more daily newspapers. Tennessee law stipulates that the notification by publication must be submitted within 15 days of the second failed attempt at certified mail. Most respondents indicated that notification via the Internet would not be allowed by state statute; however, three indicated that web posting would be acceptable. The State of Washington indicated that they do use web postings. Structuring the statute to allow for advertizing via specific websites may prove to be a cost efficient method of notice.

If the owner is located, most states are very flexible in allowing them to make provisions to remove the vessel, since it achieves the desired outcome. If the owner comes

forward and makes it clear they do not want the boat, sometimes the problem can be resolved without completing the process if another person wants it. Those two parties can then negotiate and the vessel can be legally transferred. However, such situations are rare and special consideration must be given not to pass on a vessel that will continue to degrade in quality. More typically, the owner is not located and the process continues.

The waiting period for a notice through advertisement varies by state. Some do not use this additional step and only require contact through certified mail. Indiana indicated that they try to contact the last known owner by certified letter. By state statute they must wait 90 days after which any unclaimed craft shall be destroyed or sold at public auction. No other publication is required.

While necessary to afford boaters their rights to claim their property, the waiting period delays removal operations. For example, in Arizona, if the state is successful in contacting the owner through certified mail, they must wait 180 days for the owner to respond. Non response means that they waive their rights to ownership. After that time ownership can be transferred. Arizona does have a more streamlined process in the event the owner cannot be located, in which they have 15 days to notify the applicant and within 45 days must publish in the paper that ownership will be transferred 10 days after notification. Generally, the waiting period is about 30 days. Having a definition for a derelict vessel and concomitant process could streamline the removal process even further.



Some states require that a physical notice be placed on the vessel.

A red notice form with white text and fields. The text reads: "NOTICE TO THE OWNER AND ALL PERSONS INTERESTED IN THE ATTACHED PROPERTY". Below this, there are fields for "THIS PROPERTY, TO WIT" and "IS UNLAWFULLY UPON PUBLIC PROPERTY KNOWN AS". A warning states: "AND MUST BE REMOVED WITHIN 5 DAYS; OTHERWISE, IT WILL BE REMOVED AND DISPOSED OF PURSUANT TO CHAPTER 705, FLORIDA STATUTES. THE OWNER WILL BE LIABLE FOR THE COSTS OF REMOVAL, STORAGE, AND PUBLICATION OF NOTICE." At the bottom, there are fields for "DATE OF POSTING", "NAME", "TITLE", "ADDRESS", and "TELEPHONE NUMBER". The form is flanked by two circular logos of the National Association of State Boat Law Administrators (NASBLA).





**BMP #8: The applicant for title or registration of an abandoned or salvaged boat needs clear expectations early on of what they will need to complete the registration/titling process including:**

- 1. Police report, if required**
- 2. Notarized affidavit for registration/titling of the abandoned or salvaged vessel**
- 3. Receipts for certified mail to identified owner(s) and lien holders**
- 4. Original copies of the notice of publication, if necessary.**

Once the notice period is complete the claimant can receive title and/or the right to register the vessel. Generally, a notarized affidavit is needed to register or title the abandoned or salvaged recreational vessel. Other paperwork, as required by the state may be needed. This can be the most frustrating part of process for the person that is attempting to register or get title to an abandoned vessel. Many times people do not realize the proof that must be provided before claiming a vessel.



**BMP #9: The fewer the steps to allow transfer to an applicant that will take the vessel the better. States need to review what steps are legally necessary to allow an entity to remove and dispose of a vessel. Transfer may be by title, registration or affidavit.**

A question was posed in the second survey to determine if the applicant could keep a boat abandoned on private property without having to put it up for auction and bid on it. For those states that take abandoned boats and then sell them to recoup charges, it makes sense to require a sale. In Delaware, any recovered vessel must be turned over to the Department of Fish and Wildlife Enforcement. It is stored for at least six months after which it is sold at public auction. Streamlining of this time line may serve beneficial. Also, perhaps, the requirement to sell the vessel does not make as much sense for private individuals who are attempting to claim an abandoned boat. For example, in Connecticut, the person wishing to keep a boat abandoned on their property must put the boat up for sale. They are then eligible to bid on it. Similarly, in Ohio, if no one bids on the vessel and it is on private property, the claimant may keep the boat. In Florida, if a person claims a derelict vessel as found property they must be willing to bring the vessel into compliance immediately, meaning the vessel must be removed from waters of the state upon filing the claim.

In states where ownership is provided after proof that the owner cannot be found, the applicant requesting the vessel could then use, sell or dispose of the vessel. Under Virginia's abandoned boat law, title is transferred to the applicant and they can sell it, keep it, or dispose of it. However, under the mechanic's lien or self service storage liens, auction of the boat is required.

With respect to derelict vessels that are sunken or beyond repair, Utah allows that if the vessel is inoperable and cannot be rebuilt or reconstructed the vessel may be converted to scrap or otherwise disposed of without following the typical abandoned boat procedure.



**BMP #10: States should allocate funds dedicated to the removal of derelict and abandoned boats and provide a mechanism which prioritizes such removals.**

While the BMPs above outline the process for disposing of an abandoned vessel, whether by sale, transfer to another owner or by destruction of the vessel, derelict vessels require salvage costs that typically are not reimbursed to the removing agency. A steady source of funding and mechanism to distribute the funds is most beneficial. Few states or territories have such programs, but with the rise in number of abandoned boats, such programs will become critical to success in removing vessels from waters and lands.

- In Indiana, all vessels unclaimed by the owner after 90 days shall be destroyed or sold by public auction. All monies received from the sale are deposited in the fish and wildlife fund. This fund helps support the program.
- In 2001, the State of Washington's legislature authorized the use of money in the states toxics account for cleanup and disposal of hazardous substances on abandoned and derelict vessels. In 2002 the legislature provided authority and funding for a "Derelict Vessel Removal Program" to dispose of abandoned and derelict vessels.<sup>26</sup> Three dollars (\$3) per vessel numbered and \$5 per out-of-state

<sup>26</sup> See [http://www.dnr.wa.gov/Publications/aqr\\_dv\\_derelict\\_brochure.pdf](http://www.dnr.wa.gov/Publications/aqr_dv_derelict_brochure.pdf)

vessel registered in Washington goes into the fund. Washington registers about 265,000 boats annually.

- Oregon provides grants to reimburse the removal authority up to 75% of the cost of removal. Generally, the Dept. of State Lands, who usually owns the bed upon which the sunken boat sits or will sit, pays the other 25%. By law, funding for the Abandoned Boat Fund cannot exceed \$150,000 per year.<sup>27</sup> Oregon also provided questions and answers (Q&As) regarding abandoned vessels as part of their outreach program.<sup>28</sup>
- Maryland has a grant program whereby local jurisdictions can apply for a state DNR grant. Typical grants range from \$10,000 to \$50,000 per jurisdiction annually. Funds come from a 5% excise tax on newly registered boats.<sup>29</sup>
- Texas does provide some funding which is handled by the General Land Office. The vessel must qualify for funds. Environmental concerns are used to determine priority.
- California has a grant program whereby local agencies may apply for money to remove derelict boats and boats that are hazards to navigation through the Abandoned Watercraft Abatement Fund. The fund, created in 1997 provides up to \$1 million per year in removal, storage and disposal costs. Local agencies must supply 10% matching funds.<sup>30</sup>
- Florida provides grants to states through a Derelict Vessels Removal Grant Program. The program has not been funded in a number of years but was funded through the Florida Coastal Protection Trust Fund.<sup>31</sup>
- Mississippi has a Derelict Vessel Removal Program, established in 1998 funded through the Tidelands Trust Fund. The Department of Marine Resources Marine Patrol is responsible for investigating claims.<sup>32</sup>
- South Carolina has received federal assistance from NOAA for a Marine Debris and Abandoned Vessel Removal Project.<sup>33</sup>

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<sup>27</sup> See [www.oregon.gov/OSMB/docs/PDF-Publications/AbVesselProg.pdf](http://www.oregon.gov/OSMB/docs/PDF-Publications/AbVesselProg.pdf).

<sup>28</sup> See <http://www.oregon.gov/OSMB/BoatLaws/salvageboats.shtml>.

<sup>29</sup> See [www.mlis.state.md.us/2001rs/fnotes/bil\\_0005/sb0605.doc](http://www.mlis.state.md.us/2001rs/fnotes/bil_0005/sb0605.doc).

<sup>30</sup> See <http://www.dbw.ca.gov/Funding/AWAF.aspx>.

<sup>31</sup> See [myfwc.com/Recreation/boat\\_grant\\_DerelictVessel.htm](http://myfwc.com/Recreation/boat_grant_DerelictVessel.htm).

<sup>32</sup> See [www.dmr.state.ms.us/DMR/Derelict-vessels/derelict.htm](http://www.dmr.state.ms.us/DMR/Derelict-vessels/derelict.htm).

- In the event of a natural disaster, *Federal Emergency Management Agency (FEMA)* Public Assistance funds may be available.<sup>34</sup> In those cases, vessels in public waterways will be brought to a centralized place for processing and are exempt from being penalized for abandonment. Owner’s insurance plans generally come into play under natural disasters. States and local governments can request reimbursement for disposal costs during declared emergency situations.

## Conclusions

Two major processes (not including the mechanic lien process) are primarily used by the states to deal with abandoned and derelict boats once it is clear that the owner of the vessel in question cannot be determined or is financially unable to dispose of the boat. The first works to transfer ownership to an individual or a state agency so that steps can be taken to either recover costs by selling the vessel or having the right to dispose of the vessel without concern for liability to the last registered owner. The second process involves vessels with little to no monetary value, in which disposal is the most likely conclusion. Removal and disposal costs can be significant in these cases and some mechanism to fund the removals is necessary.

Based on the BMPs presented and recommendations from the Abandoned and Derelict Vessel Workshop hosted by NOAA Marine Debris Program <sup>35</sup> it is recommended by the Waterways Management Subcommittee that the “Abandoned or Salvaged Recreational Boat Procedure” adopted in 1998 by NASBLA’s Vessel Identification, Registration and Titling Subcommittee be updated using a multidisciplinary approach. States and territories need a model act that provides for the entire abandoned boat process, including penalties and fines and provisions for funding. Therefore, the Waterways Management Subcommittee recommends that the Subcommittee work with the NASBLA Vessel Identification, Registration and Titling Subcommittee and Enforcement and Training Committee to develop a comprehensive model act regarding abandoned and derelict vessels.

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<sup>33</sup> See [www.coastalmanagement.noaa.gov/issues/docs/debris\\_summary.pdf](http://www.coastalmanagement.noaa.gov/issues/docs/debris_summary.pdf).

<sup>34</sup> See <http://www.fema.gov/news/newsrelease.fema?id=46389> for more information on abandoned vessels from FEMA.

<sup>35</sup> See <http://marinedebris.noaa.gov/about/welcome.html>, Workshop Proceedings, when posted.

## *Appendix D*

## Federal Agency Gallery Walk

Abandoned & Derelict Vessel workshop



US Army Corps of Engineers ©



## Federal interests & responsibilities

- Key Agency mandates & authorities
- Scenarios for initiating Agency involvement
- Agency capacity
  - Examples of involvement (Case Study)
- Critical thinking: *After listening to all Agency talks... Where are the opportunities for increased State and Federal collaboration?*

## Agency mandates & authorities

Legislation	Activities	Outputs
Marine Debris Research, Prevention, and Reduction Act	<ul style="list-style-type: none"> <li>• Address marine debris through mapping, identification, impact assessment, removal and prevention, focusing on living marine resources</li> <li>• Reduce and prevent loss of fishing gear</li> <li>• Public outreach and education</li> </ul>	<ul style="list-style-type: none"> <li>• Federal Information Clearinghouse</li> <li>• Research and assessment of marine debris impacts</li> <li>• Workshops for researchers</li> <li>• Nets-to-Energy and Fishing-for-Energy partnerships</li> <li>• Over 150 grants and contracts since 2005</li> </ul>



## Agency mandates & authorities (con't)

Legislation	Activities	Outputs
Coral Reef Conservation Act of 2000	<ul style="list-style-type: none"> <li>• Requires NOAA to provide assistance through grant programs to states in removing abandoned fishing gear, marine debris, and abandoned vessels from coral reefs to conserve living marine resources</li> </ul>	<ul style="list-style-type: none"> <li>• Coral Reef Conservation Act Reauthorization and Enhancement Amendments of 2009 (H.R. 860 in 111<sup>th</sup> Congress) – Section 210 “Vessel Grounding Inventory”</li> <li>• Derelict Fishing Gear (DFG) removed from the Northwestern Hawaiian Islands since 1995</li> </ul>



## Agency mandates & authorities (con't)

Legislation	Activities	Outputs
National Marine Sanctuaries Act	<ul style="list-style-type: none"> <li>• Authorizes the Secretary of Commerce (NOAA) to designate and protect areas of the marine environment with special national significance due to their conservation, recreational, ecological, historical, scientific, cultural, archeological, educational, or esthetic qualities as national marine sanctuaries.</li> </ul>	<ul style="list-style-type: none"> <li>• NOAA Office of National Marine Sanctuaries (ONMS) has removed vessels under this authority in emergency salvage/response situations, as well as in a prevention capacity (even if outside a NMS boundary if imposing an imminent threat).</li> <li>• Decline in marine insurance prevalence has reduced available funding</li> </ul>



## Scenarios for NOAA Involvement



- National Marine Sanctuary
- Scientific Support Coordinators
  - Regional Response Team participation
- Grant programs
- By definition



## NOAA (and USCG) definition of “marine debris”

*Marine debris is any persistent solid material that is manufactured or processed and directly or indirectly, intentionally or unintentionally, disposed of or abandoned into the marine environment or the Great Lakes.*

Abandoned & Derelict Vessels fit within this working definition!



## Case Study #1

- (2006) Commonwealth of the Northern Mariana Islands (CNMI)
- Nam Sung 62 wreck on Rota
  - competitive grant for vessel inspection
  - Final removal complete in April 2009



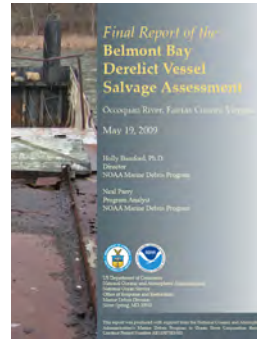
## Case Study #2



- (2009) Belmont Bay, VA
  - assessment and options for removal



## Case Study #2 (con't)



- Assessment (including removal options) sent to Congressman Gerald Connolly's office
  - Information passed to local citizen groups who petitioned for action
  - Funding for removal remains unclear



## Opportunities

- In those cases where there is a clear connection between derelict vessels and marine debris threats to living marine resources, there are ways NOAA (within our mandates) might assist. Ideas currently being developed include the following:
  1. competitive grant opportunities (with a match requirement, per the Act) for funding derelict vessel activities – focus on prevention
  2. helping develop guidelines for assessing priority derelict vessel situations
  3. assisting in the coordination of workshops to bring people and new ideas together to address this important issue



## Critical Thinking

- How can NOAA better assist states facing the challenges of abandoned & derelict vessels in their waters?
- How helpful would re-authorization of the Coral Reef Conservation Act “Vessel Grounding Inventory” be?



## Federal Agency Gallery Walk

Abandoned & Derelict Vessel Workshop



US Army Corps of  
Engineers ©

## Federal Interests & Responsibilities

- Key agency authorities
- FEMA PA eligibility
- Agency capacity
  - Examples of involvement (Case Study)
- Update
- Critical thinking: *After listening to all agency talks...* Where are the opportunities for increased State and Federal collaboration?



## FEMA PA ADV authorities

- Sections 403, 407, and 502 of the Stafford Act authorize FEMA to provide funding to eligible applicants to remove wreckage and sunken vessels from publicly and privately owned waters to eliminate an immediate threat to lives, public health and safety, or improved property, or to ensure the economic recovery of the affected community.
- The removal of wreckage and sunken vessels from Federally maintained navigable channels and waterways is ineligible for reimbursement from FEMA.



## FEMA Public Assistance (PA)

### Direct Federal Assistance (44 CFR §206.208)

- FEMA may mission assign another Federal agency to remove eligible ADV vessels when the State and local government certify that they lack the capability to perform or contract for the work.
- ### Grant Assistance
- FEMA may reimburse applicants for the removal and disposal of eligible ADV vessels.



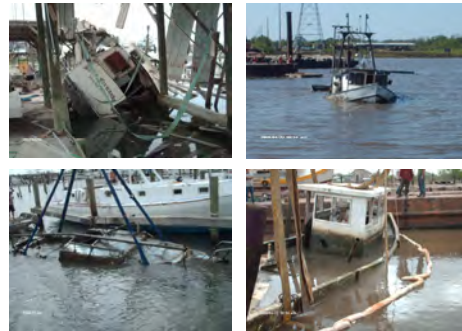
## FEMA PA Assistance Eligibility

In order to be eligible vessels must be:

- Sunken/damaged as a direct result of the Presidentially declared emergency or disaster;
- Located in the declared designated area; and
- The legal responsibility of the applicant to remove



## 1791-DR-TX Hurricane Ike





## 1791-DR-TX Hurricane Ike

- Oil Spill Prevention and Response Act of 1991 authorizes Texas GLO to remove and dispose of ADVs in TX coastal waters
- ADVs were catalogued using TX Parks and Wildlife's Boat Registration Database and the USCG Vessel Documentation Database
- GLO removed 124 ADVs
- FEMA will reimburse GLO reasonable costs to identify, catalog, tag and remove, store and dispose of ADVs in TX coastal waters



## DAP 9523.5

FEMA is currently developing Disaster Assistance Policy 9523.5 **Debris Removal from Waterways** to provide eligibility guidance for the removal of debris and sunken vessels from non-federally maintained navigable waterways.

- A draft policy was submitted to FEMA regions, IAEM, NEMA and its members for comment in February 2009
- The policy will be transmitted to and reviewed by USACE and USCG prior to final issue.



## Critical Thinking

- Within its authority, how can FEMA better assist states facing the challenges of abandoned & derelict vessels in their waters?



## Federal Agency Gallery Walk

Abandoned & Derelict Vessel Workshop  
U.S. Army Corps of Engineers (USACE)



**US Army Corps  
of Engineers®**



## Federal Interests & Responsibilities

- Key USACE mandates & authorities
- Initiating USACE involvement
- USACE capacity
  - Examples of involvement (Case Study)
- Opportunities
- Critical thinking: *After listening to all agency talks...* Where are the opportunities for increased State and Federal collaboration?



Legislation	Requirements	Actions
River & Harbor Act of 1899 – Sections 15 (33 USC 409), 19 (33 USC 414), and 20 (33 USC 415)	<ul style="list-style-type: none"> <li>• Sec. 15 - Prohibits obstructing of navigable channels in a way which prevents the passage of other vessels or raft.</li> <li>• Sec. 19 - Allows USACE to remove an obstructing vessel or raft after 30 days without liability for damages to the owner of the same.</li> <li>• Sec. 20 - In an emergency, allows USACE to remove or oversee removal of an obstructing vessel or raft after 24 hours and seek reimbursement of removal costs by the owner, operator or lessee of said vessel.</li> </ul>	<ul style="list-style-type: none"> <li>• Notify owner, operator, or lessee of vessel or raft being a hazard to navigation and request immediate removal.</li> <li>• Ensure owner, operator, or lessee has a viable removal plan and implements that plan promptly.</li> <li>• Closely monitor the removal process to ensure no additional damages result and removal is done efficiently.</li> <li>• Determine the need for emergency removal of vessel or raft and notify owner, operator, or lessee of that intention.</li> </ul>



Legislation	Requirements	Actions
• Engineer Regulation and Pamphlet 1130-2-520, Chapter 4 – Removal of Wrecks and Other Obstructions (and related appendices)	<ul style="list-style-type: none"> <li>• Owner, operator, or lessee (if identifiable) is responsible for removal of wrecks or other obstructions to navigable waterways within USACE jurisdiction.</li> <li>• USACE must notify owner, operator, or lessee that wreck or obstruction has been determined an obstruction to navigation and must be removed.</li> <li>• USACE cannot take private property. Must attempt notification of need for removal.</li> <li>• Appendix B – MOA between USCG and USACE defining roles during and following marine accidents.</li> </ul>	<ul style="list-style-type: none"> <li>• Owner, operator, or lessee remove wreck or other obstruction from navigable channel in a timely manner.</li> <li>• Owner indicate to USACE in writing that abandonment is intended.</li> <li>• Owner reimburse USACE for removal expenses.</li> </ul>



Legislation	Requirements	Actions
• The Robert T. Stafford Disaster Relief & Emergency Assistance Act (42 USC 5121 and the following) (88 Stat. 143) (The Stafford Act)	<ul style="list-style-type: none"> <li>• The President may provide financial assistance to state and local governments following presidentially-declared major disasters and emergencies.</li> </ul>	<ul style="list-style-type: none"> <li>• FEMA is the lead and source of funding and direction.</li> </ul>



## Initiating USACE Involvement

- When a vessel or raft sinks in or impacts a navigable channel, the owner, operator, or lessee should immediately notify the responsible Corps District or USCG Area, Sector, or Captain of the Port. (In the event there is a pollution spill, the USCG - with assistance from the Environmental Protection Agency - will take the lead with USACE assisting as needed.)
- The USACE may need to conduct a channel survey to determine whether the location of the vessel or raft constitutes an obstruction to navigation.
- The location of the vessel or raft with respect to the navigation channel will determine whether further USACE involvement in removal is warranted.



## Case Studies

- (2005) Wreck Removal from federal channel after Hurricane Katrina - Gulfport, MS and Bayou La Batre, AL



USACE Survey Boat  
Irvington Assisting -  
Gulfport



Fishing vessel location  
Bayou La Batre

- (2008) Barge halves location after 23 July collision between the downbound tanker M/V Tintomara and a fuel barge being pushed by towboat M/V Mel Oliver - New Orleans, LA



## Case Studies (cont'd)

- (2008) Wreck Removal - M/V Shark (tugboat) and S/V Catharina from Intracoastal Waterway, Dania, FL



## Opportunities

- In those cases where there is a clear or potential connection between abandoned & derelict vessels and a federally-maintained navigation channel, the USACE can help:
  1. by first locating the vessels and determining whether they constitute hazards to navigation and then coordinating those findings with the USCG
  2. by overseeing or effecting the removal of vessels determined to be hazards to navigation.
  3. by ensuring that the removal was complete and that the navigation channel, closed or restricted by the USCG, can be reopened to unimpeded navigation.



## Critical Thinking

- Within its authority, how can USACE better assist states facing the challenges of abandoned & derelict vessels in their waters?
  - Channel Surveys?
- How helpful are federal-level materials, technologies or resources in developing state programs? ?
- Other thoughts?



## Federal Agency Gallery Walk

### Abandoned & Derelict Vessel Workshop



US Army Corps of Engineers®



## Federal Interests & Responsibilities

- Key agency mandates & authorities
- Initiating agency involvement
- Agency capacity
  - Examples of involvement (Case Study)
- Opportunities
- Critical thinking: *After listening to all agency talks...Where are the opportunities for increased State and Federal collaboration?*



## Agency ADV mandates & authorities

Legislation	Requirements	Actions
Clean Water Act (CWA) Oil Pollution Act of 1990 (OPA)	CWA, as amended by OPA 90, provides the basic statutory authority for pollution prevention, contingency planning, and response activities within the 200-mile Exclusive Economic Zone for oil and hazardous substances.	<ul style="list-style-type: none"> <li>• Harmful quantity of Oil</li> <li>• Authorizes cleanup action under federal authority</li> <li>• Oils Spill Liability trust Fund (OSLTF)</li> <li>• Designate Responsible Parties</li> <li>• Administrative Orders</li> </ul>



## Agency ADV mandates & authorities

Legislation	Requirements	Actions
Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA)	CERCLA, also known as <i>Superfund</i> , extends the response provisions of the Clean Water Act to a wide range of "hazardous substances, pollutants, and contaminants" and to releases that threaten not only coastal or navigable waters but also those that may threaten other environments, such as the air or ground.	<ul style="list-style-type: none"> <li>• Cleanup for hazardous waste sites and emergency response to hazardous substances releases</li> <li>• Designate Responsible Parties</li> <li>• Hazardous material lists and RQs</li> <li>• Superfund</li> </ul>



## Agency ADV mandates & authorities

Legislation	Requirements	Actions
Abandoned Barge Act of 1992	<ul style="list-style-type: none"> <li>• Prevent future marine pollution and take law enforcement actions with respect to abandoned barges over 100 GT</li> <li>• Removal of barges that pose a significant threat</li> </ul>	<ul style="list-style-type: none"> <li>• Environmental threat – OSLTF or CERCLA funding</li> <li>• Threat to public health, safety, or welfare that cannot be effectively abated by means other than removal, and there is no cost to the CG</li> </ul>

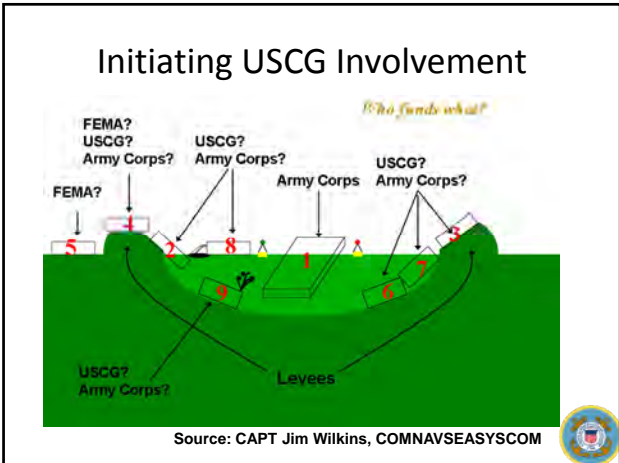
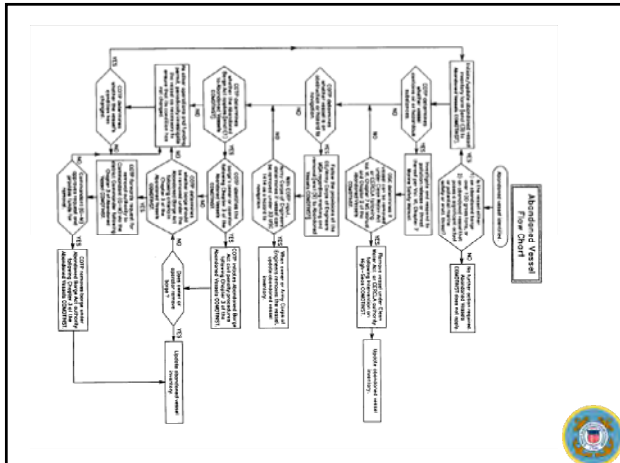


## Initiating USCG Involvement



Courtesy Sector Mobile and USCG





### Case Studies

- P/C LOVELY LADY
- 1930 wooden hull yacht
- 107' L / 19' B / 9.9' D
- 172 GRT
- Miami River, Biscayne Bay Aquatic Preserve

### Opportunities

- Define local working agreements
- Identify abandoned vessels
- Area Contingency Plans
- Harbor Safety Committees

### Critical Thinking

- Work within statutory authority
- Incident Command / Removal planning
- Responsible parties
- Salvage
- Other thoughts?



**Marine Protection, Research, and Sanctuaries Act (MPRSA)  
General Permit for Ocean Disposal of Vessels**

EPA ocean dumping regulations contain a General Permit for disposal of vessels (40 CFR 229.3)

- ❖ Permits are issued and managed by EPA Regions
- ❖ General Permit notice and clean-up provisions:
  - ❖ Requires the following information to be provided in writing to EPA no later than 1 month before proposed disposal date:
    - ❖ Need for vessel disposal
    - ❖ Type and description of cargo normally carried
    - ❖ Proposed disposal procedures
    - ❖ Potential effects on marine environment
    - ❖ Adequate evaluation of disposal alternatives
      - ❖ Re-use of vessel or parts removed from vessel
      - ❖ Recycling
      - ❖ Destruction of hazardous constituents
      - ❖ Cleaning of vessel or components, removal of components, or treatment



**Marine Protection, Research, and Sanctuaries Act (MPRSA)  
General Permit for Ocean Disposal of Vessels**

❖ General Permit notice and clean-up provisions (continued):

- ❖ Requires that qualified personnel take appropriate measures to remove to the maximum extent practicable all materials that may potentially degrade marine environment, including:
  - ❖ Emptying and flushing all fuel lines and tanks
  - ❖ Removing other pollutants and readily detachable material from hull
  - ❖ Items with potential substances of concern include:
    - ❖ Coolers, separators, scrubbers, heat exchangers
    - ❖ Diesel and other tanks, paints, piping, pumps, engines
    - ❖ Fire extinguishing/fighting equipment, generators
    - ❖ Oil sumps, hydraulic systems, compressors, cables
    - ❖ Valves and fittings, electrical equipment
- ❖ Requires notice to EPA and USCG at the following intervals:
  - ❖ At least 10 days before proposed disposal that vessel has been cleaned and is available for inspection
    - ❖ Vessel may be transported for dumping only after EPA and USCG agree that cleanup requirements in the General Permit have been met
  - ❖ 48 hours before proposed disposal
  - ❖ By phone 12 hours before vessel's departure, including:
    - ❖ Proposed departure time and place
    - ❖ Disposal site location
    - ❖ Estimated time of arrival
    - ❖ Name and communication capability of towing vessel
- ❖ Requires notice of schedule changes to USCG as rapidly as possible



**Marine Protection, Research, and Sanctuaries Act (MPRSA)  
General Permit for Ocean Disposal of Vessels**

❖ Disposal procedures

- ❖ Disposal must take place:
  - ❖ During daylight hours
  - ❖ No closer than 22 km (12 mi) from nearest land and in water no less than 50 fathoms (300 ft) deep **OR** in a designated site on current nautical charts for the disposal of wrecks
- ❖ All necessary measures must be taken to insure vessels sink to the bottom rapidly and marine navigation is not impaired
- ❖ Disposal must **NOT** take place:
  - ❖ In established shipping lanes unless at a designated wreck site
  - ❖ In a marine sanctuary
  - ❖ In a location where hull may present hazard to commercial trawling or national defense
  - ❖ In the Exclusive Economic Zone (EEZ) of another country
- ❖ EPA must report all disposals to the International Maritime Organization (IMO) pursuant to the London Convention



**Marine Protection, Research, and Sanctuaries Act (MPRSA)  
General Permit for Ocean Disposal of Vessels**

❖ Example of use of the General Permit (Russian Barge CTP-424, 2007)

- ❖ Abandoned Russian barge threatened to run aground at a sea lion rookery near Kodiak, AK
- ❖ Coast Guard inspected the vessel and appropriately disposed of several spent batteries (only hazardous material aboard), then identified and contacted the owner
- ❖ Owner subsequently forfeited ownership and responsibility of the barge and the Coast Guard made the determination that it was "abandoned" pursuant to 46 U.S.C. §§ 4701, et. seq., and other authorities
- ❖ Coast Guard submitted proposal to EPA Region 10 to sink the Russian barge under the General Permit for ocean disposal of vessels (40 CFR § 229.3)



### NOAA Roles in Response to Shipwrecks and Abandoned and Derelict Vessels

National Oceanic and Atmospheric Administration  
NOAA Ocean Service Office of Response and Restoration



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National Oceanic and Atmospheric Administration • NOAA Ocean Service • Office of Response and Restoration

### Terminology

- Salvage
  - When a vessel or cargo has residual value.
  - Removal incentive
- Wreck Removal
  - When vessel or debris has no significant value.
  - Contract removal
- Abandonment



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### Presentation Summary

- Introduction
- Threats from Vessels
- NOAA Roles and Concerns
- NOAA Databases
- NOAA Abandoned Vessel Program History and Activities



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### Presentation Summary

- Introduction
- Threats from Vessels
- NOAA Roles and Concerns
- NOAA Databases
- NOAA Abandoned Vessel Program History and Activities
- *Why are we worried about small spills of non-persistent oils but leaving 10 tons of steel and fiberglass is okay?*



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Hurricane Katrina, 2005

### Threats from Vessels

- Threat of oil spills and other pollutants
- Physical destruction of substrate
- Wildlife entrapment
- Hazard to navigation
- Source of marine debris
- Illegal dump sites
- Nutrient enrichment and invasive species
- Visual eyesore
- Human Health and Safety





Habitat Injury

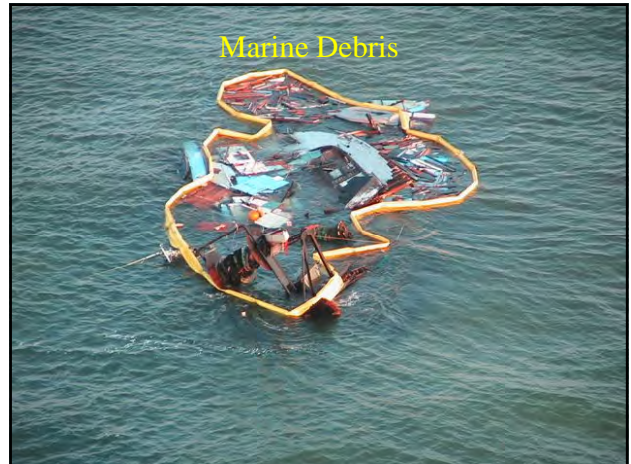


Entanglement Hazard

### Threats to Navigation



National Oceanic and Atmospheric Administration • NOAA Ocean Service • Office of Response and Restoration



Marine Debris

### Illegal Dump Sites

- M/V Kimton, Fajardo, Puerto Rico
  - Vessel used for illegal dumping of waste oils and explosives
- Abandoned Barge, Louisiana. Potential dumping site




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### Science News

#### Shipwrecks On Coral Reefs Harbor Unwanted Species

*ScienceDaily (Aug. 22, 2008)* — Shipwrecks on coral reefs may increase invasion of unwanted species, according to a recent U.S. Geological Survey study. These unwanted species can completely overtake the reef and eliminate all the native coral, dramatically decreasing the diversity of marine organisms on the reef. This study documents for the first time that a rapid change in the dominant biota on a coral reef is unambiguously associated with man-made structures.



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## Visual eyesore and loss of tourism

- F/V Van Loi, Kauai
- Oil, debris, and fishing gear spread along hotel beach



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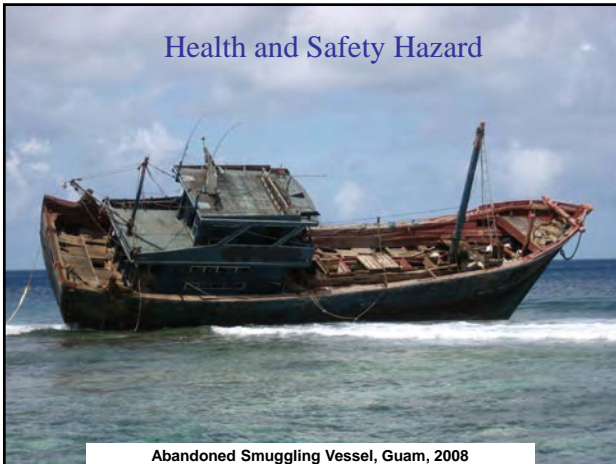
## Public Safety



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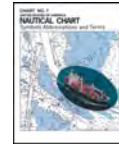
## Health and Safety Hazard



Abandoned Smuggling Vessel, Guam, 2008

## NOAA interests in shipwrecks and abandoned vessels

- National Marine Sanctuary Program
- Office of Coast Survey
- Office of Ocean Exploration
- Office of Response and Restoration



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## NOAA Databases

- Abandoned Vessels (primarily affecting corals)
- Automated Wrecks and Obstructions Information System (Navigation hazards)
- Resources and Undersea Threats (historic and pollution)

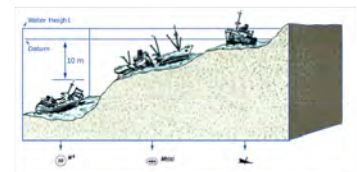


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## AWOIS

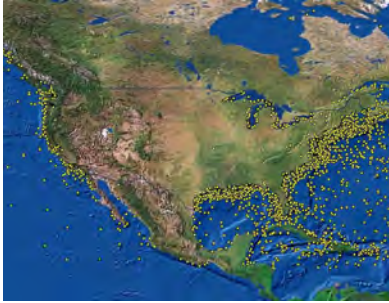
- NOAA Coast Survey
- Automated Wrecks and Obstructions Information System



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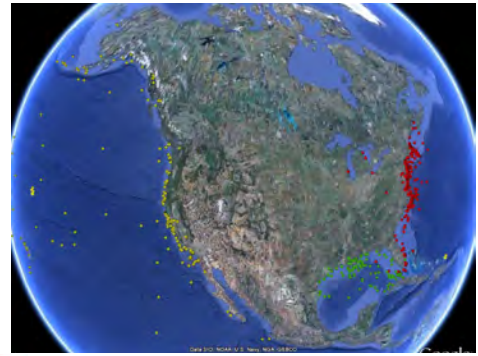
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Resources and Undersea Threats (RUST)  
NOAA Marine Sanctuaries Program



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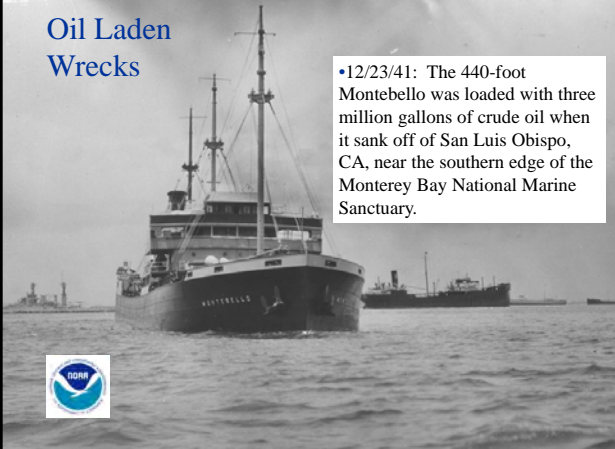
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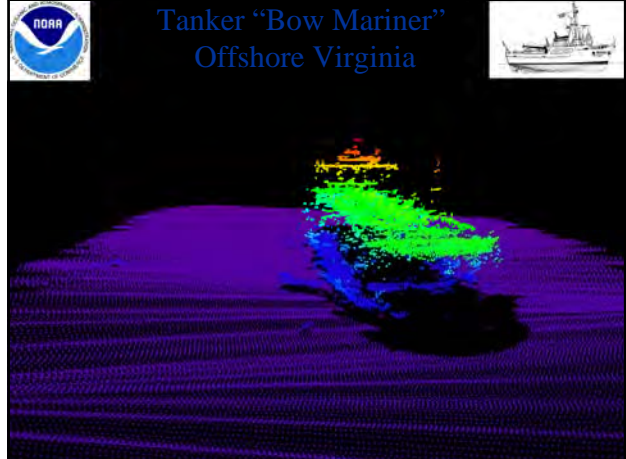
Oil Laden  
Wrecks



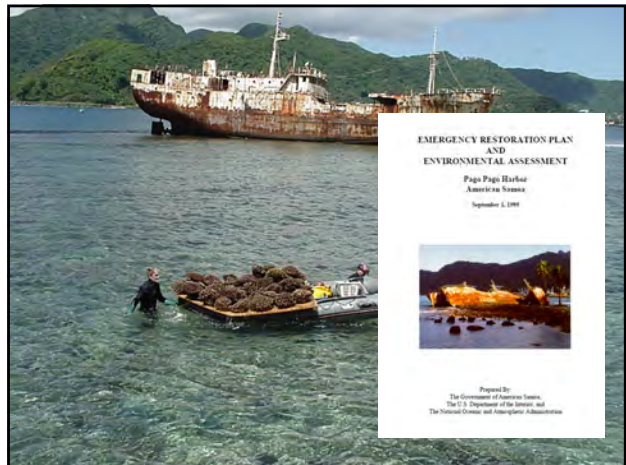
•12/23/41: The 440-foot Montebello was loaded with three million gallons of crude oil when it sank off of San Luis Obispo, CA, near the southern edge of the Monterey Bay National Marine Sanctuary.




Tanker "Bow Mariner"  
Offshore Virginia



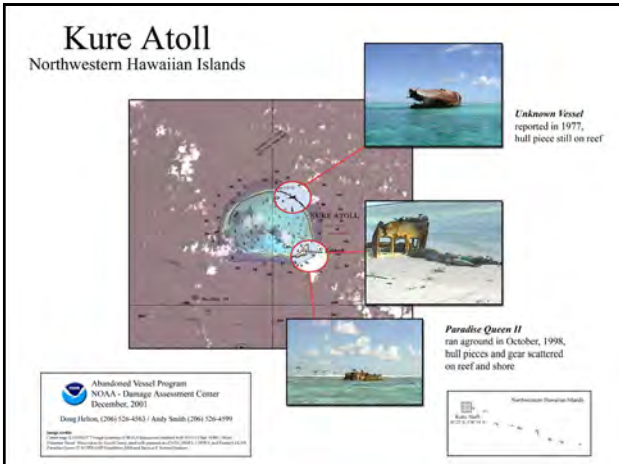
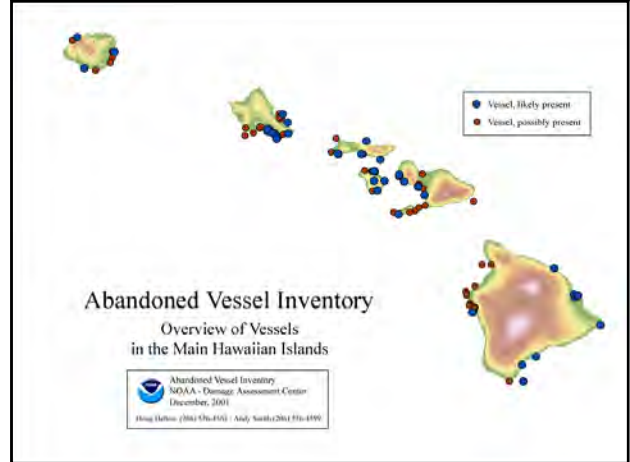
NOAA Abandoned Vessel Program



EMERGENCY RESTORATION PLAN  
AND  
ENVIRONMENTAL ASSESSMENT  
Pago Pago Harbor  
American Samoa  
September 1, 1997



Prepared by:  
The Government of American Samoa,  
The U.S. Department of the Interior and  
The National Oceanic and Atmospheric Administration



**NOAA Abandoned Vessel Program**  
**Removal Case Study: Nago No. 15**  
Contributing Agency: CNMI Coastal Resources Management Office

**OVERVIEW**

<b>VESSEL</b>			
Dimensions:	16' x 53'	Hull:	Fiberglass
Type:	Longliner	Tonnage:	56

**SITE**

Name:	Tanapag Lagoon
Location:	Saipan, CNMI
Coordinates:	15.23463N 145.74295E
Land:	Above OLV - CNMI Public Land Below OLV - United States

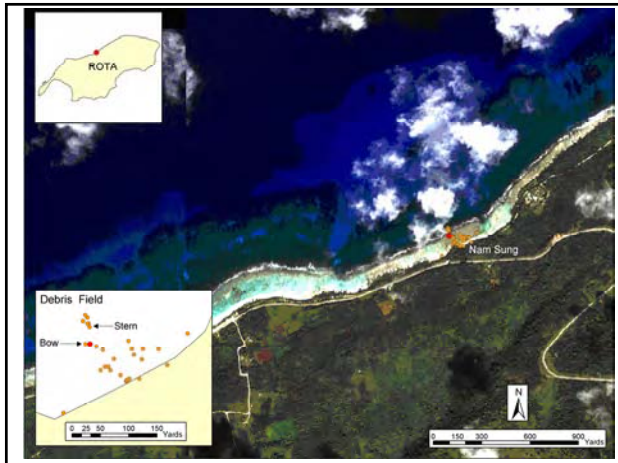
**INCIDENT & REMOVAL**

Situation:	Grounded during Typhoon Winnie
Incident Date:	August 1997
Total Duration:	8 1/2 Years, Aug. 1997 - Feb. 2006
Actual Operations:	2 months, Dec 14, 2005 - Feb 20, 2006
Cost:	\$49,100
Funding:	\$19,100 - CNMI Coral Reef Initiative \$30,000 - NOAA Coral Reef Conservation Program

**Agencies Involved:** NOAA, USCG, US Army Corp of Engineers, CNMI Department of Lands and Natural Resources-Division of Fish and Wildlife, Historical Preservation Office (HPO), CNMI Division of Environmental Quality (DEQ), and CNMI CRMO

**Primary Threats:** Environment





## State Roles

- Initial review of state efforts
- Most states have limited ability to address derelict vessels, and even more limited funding

### Review of State Abandoned and Derelict Vessel Programs

NOAA is an Equal Opportunity and Affirmative Action Employer. All Federal Agencies are encouraged to hire and advance the qualified. Minorities and women are encouraged to apply.

### Wreck Removal feasibility study, American Samoa February 2008

Planning for Removal of Derelict Vessels and Vessel Debris in American Samoa

MARINE DEBRIS PROGRAM

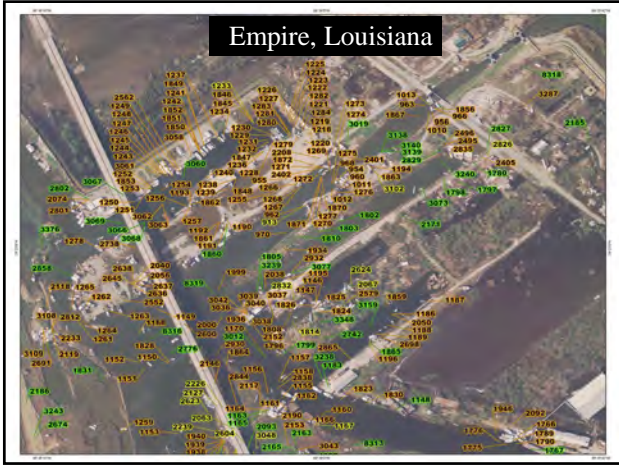


## Vessels still afloat

- F/V Mwaalil Saat
- Surveyed in 2003
- Sank in 2004 during Typhoon Tingting
- Response costs in excess of \$3.5 million

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• [www.response.restoration.noaa.gov](http://www.response.restoration.noaa.gov)

Doug.Helton@NOAA.gov

## Washington State's Derelict Vessel Removal Program, Department of Natural Resources

Melissa Montgomery (Ferris), [melissa.montgomery@dnr.wa.gov](mailto:melissa.montgomery@dnr.wa.gov); 360-902-1574

Sept. 16, 2009

Funding Discussion for NOAA Workshop

### Washington's Approach to Funding the Derelict Vessel Removal Program

- Original legislation in 2002 established the Derelict Vessel Removal Account (RCW 79.100.100)
- Consistently funded by recreational boater annual registration fee (\$2/boat) and \$5 fee on "foreign vessel registration" (fee on non-Washington boaters staying for longer than 60 days). ~\$500,000/yr.
- 2006 legislative amendment, added ability to receive gifts. Created a mechanism to receive grants, donations & legal settlements. In '07-09 received \$253,000 from a legal settlement and \$300,000 in local grants.
- 2007 legislative amendment, added ability to receive money from general fund transfers and special appropriations. In '07-09, received \$1 million from general fund, \$2 million from watercraft excise tax.
- 2007 legislative amendment, added additional \$1 to recreational boater fee for calendar year 2008-2014.

### Lessons Learned & Challenges

- Recognize time it takes to start up the program. Original year start up of program didn't allow full expenditure of the funds and they had to be re-appropriated.
- Funding based on recreational vessels is not sufficient to remove large (>100') vessels and wasn't sufficient to deal with the existing backlog.
- Fishing vessels and other commercial vessels don't pay into the Removal Account but are still removed. In 2007 we created a legislative report looking at alternative funding sources to increase equity but didn't find a good solution. (Report available at [http://www.dnr.wa.gov/RecreationEducation/Topics/DerelictVessels/Pages/aqr\\_dv\\_balance\\_of\\_removal\\_fund.aspx](http://www.dnr.wa.gov/RecreationEducation/Topics/DerelictVessels/Pages/aqr_dv_balance_of_removal_fund.aspx))
- Program should be able to receive gifts. Adds flexibility.
- Pursue cost recovery—owners are sometimes willing (& relieved) to be able to set up a payment plan to deal with their vessels. Provides some deterrent to others who would abandon their boats. Provides responsible boat owners with the feeling that there is some punishment for being irresponsible. Collection agencies add fees to the boat owners' debts but don't charge the agency.

### Recommendations to Programs Seeking Sustainable Funding

- Start conservatively and show progress with the funds given.
- Engage the Ports. This program developed in part out of a report on derelict vessels in Washington ports and in part out of dedication from one key legislator (Senator Rockefeller, D-Kitsap).
- User fee is palatable to many boaters as long as it is small and the results can be seen. Focus on support from the groups that will benefit most.
- Create flexibility in the program—don't limit yourself to one source of funds.



### Funding Approach:

- In 1997 Senate Bill 172 created the Abandoned Watercraft Abatement Fund (AWAF). It provides funds to public agencies to remove, store, and dispose of abandoned, wrecked, or dismantled vessels or any other partially submerged objects which pose a substantial hazard to navigation, from navigable waterways or adjacent public property, or private property with the landowner's consent.
- As part of its commitment to provide clean, safe and enjoyable recreational boating on State waterways, the Department of Boating and Waterways administers this statewide program. It allows local public agencies to apply for funding and upon approval, enter into a contract grant agreement with Cal Boating.

### Funding Approach, continued

- Currently funded at \$500,000 per FY
- The fund may be allocated up to 1 million
- Funding comes from the Departments overall Harbors & Watercraft Fund, which is funded by boater registration fees, gas taxes and interest payments on loans.
- The fund is a revolving fund, so any unspent money reverts back into the fund to meet the \$500,000 allocation.

### Lessons Learned:

- One approach does not work for all grantees
- There are many case-by-case considerations that may not meet the letter of the law, but instead, meet the intent of the law
- The Program is doing good things for the environment, one boat at a time
- The program is only as successful as the motivation of the agency receiving the funding

### Funding Challenges:

- The total amount of grant requests exceeds the Program allocation
- Getting agencies to spend their money, so the Fund may be increased to meet the demand
- Flexibility to distribute or reallocate funds that have not been spent
- Some agencies are unable to provide the 10% match of funds, and therefore do not participate
- Being able to meet the needs of agencies with emergency removal costs

### Funding Concerns:

- Agencies not spending their grant funds
- Agencies using the Fund as a "line of credit" and ultimately, tying up funds that could be used for actual removals
- Unable to work my way through the red tape



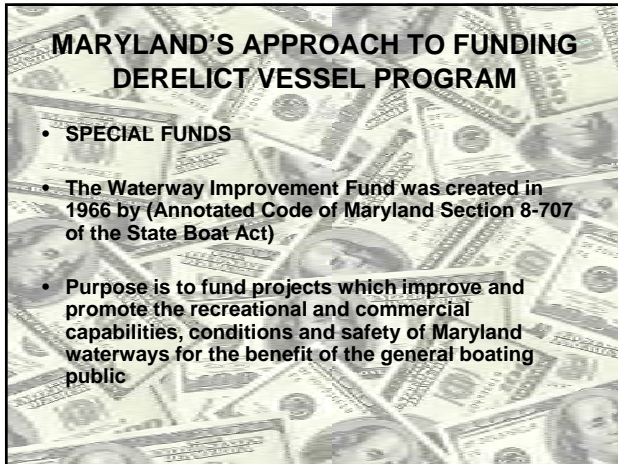
## Grant Administration:

- Grants are awarded to local agencies (Counties, Cities, Public Marinas) based on actual need
- The grantee coordinates the hiring of salvors, confirms insurance requirements, etc.
- Grantee oversees and administers all aspects of actual vessel/hazard removal
- Funds are reimbursed to the Grantee after completion of work



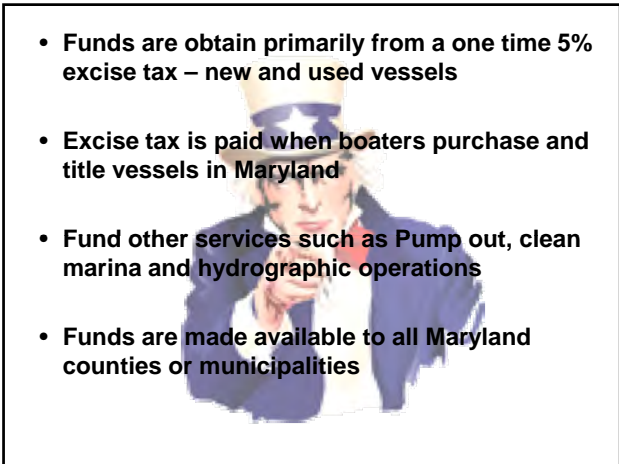


- MARYLAND'S APPROACH TO FUNDING
- LESSONS LEARNED/FAILURES
- RECOMMENDATIONS

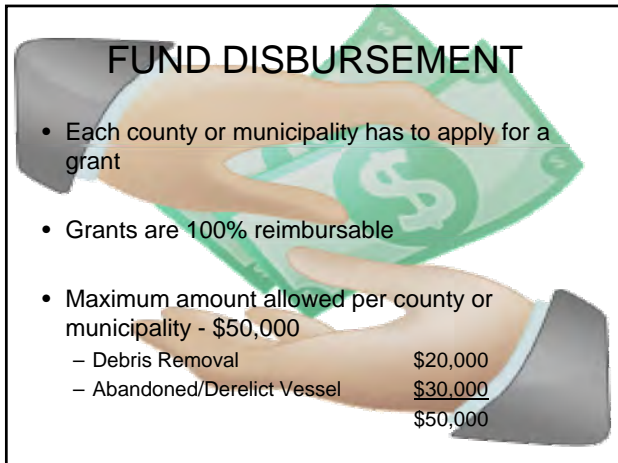


**MARYLAND'S APPROACH TO FUNDING DERELICT VESSEL PROGRAM**

- SPECIAL FUNDS
- The Waterway Improvement Fund was created in 1966 by (Annotated Code of Maryland Section 8-707 of the State Boat Act)
- Purpose is to fund projects which improve and promote the recreational and commercial capabilities, conditions and safety of Maryland waterways for the benefit of the general boating public

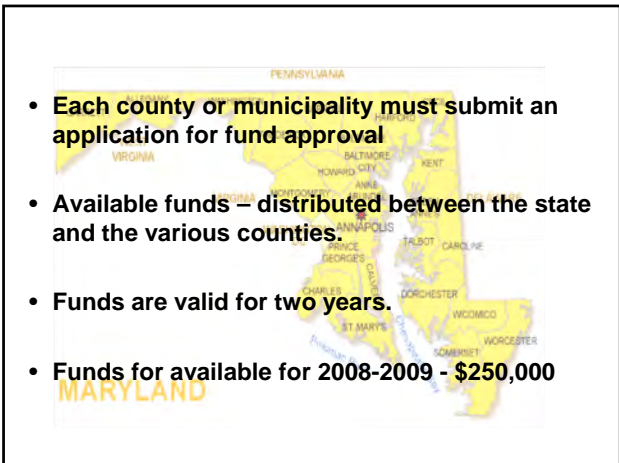


- Funds are obtain primarily from a one time 5% excise tax – new and used vessels
- Excise tax is paid when boaters purchase and title vessels in Maryland
- Fund other services such as Pump out, clean marina and hydrographic operations
- Funds are made available to all Maryland counties or municipalities



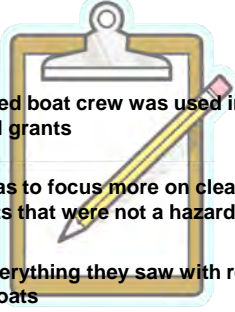
**FUND DISBURSEMENT**

- Each county or municipality has to apply for a grant
- Grants are 100% reimbursable
- Maximum amount allowed per county or municipality - \$50,000
  - Debris Removal \$20,000
  - Abandoned/Derelict Vessel \$30,000
  - \$50,000



- Each county or municipality must submit an application for fund approval
- Available funds – distributed between the state and the various counties.
- Funds are valid for two years.
- Funds for available for 2008-2009 - \$250,000

## LESSONS LEARNED/FAILURES



- An abandoned boat crew was used in addition to issuing local grants
- Their role was to focus more on cleaning up old derelict boats that were not a hazard to navigation.
- Removed everything they saw with regard to debris or derelict boats
- The crew was stopped for budget reasons

## SUSTAINABLE FUNDING RECOMMENDATION



- Find some source of special funding
- A marginal increase in a fee or registration such as \$5.00 or \$10.00
- An excise tax usage

## MARYLAND DEPARTMENT OF NATURAL RESOURCES

BOATING SERVICES, E-4  
LA JUAN LEE  
580 TAYLOR AVENUE  
ANNAPOLIS, MD 21401  
PHONE: 410-260-8463  
[WWW.DNR.MARYLAND.GOV](http://WWW.DNR.MARYLAND.GOV)  
llee@dnr.state.md.us





## DERELICT VESSEL REMOVAL

- Periodic Surveys to Locate DV's
- DV's Reported by Public and Other Agencies

**Priority for Removal:**

- DV's Leaking Fuel/Oil, or Other Hazardous Chemicals
- Hazards to Navigation
- Future Storm Threats - Hurricanes
- Derelict Vessels Restricting Public Access

2

## DERELICT VESSEL REMOVAL

- DV's Must be Sunk (below mean-high tide) for 30 Days
- Legal Requirements for Known and Unknown Owners

**Contracting for Removal:**

- Establish Scope of Work
- Quotes or Bids Requested Based on Est. Cost
- P.O. or Contract Issued to Lowest Qualified Contractor
- Removal Normally Occurs Within 30 Days After Award

3

## DERELICT VESSEL REMOVAL

Permit/Waiver Required: Coordinated With Corps. Of Engineers.

- Contractor/Owner: Must describe how DV will be removed.
- EVA: Required for Hazardous Chemicals
- Hazardous Chemicals (Oil/Fuel) Must be Disposed of at an Approved Disposal Site.
- Protective Boom Must be Placed Around DV Prior to Start of Work.

4

## DERELICT VESSEL REMOVAL

Methods of DV Removal: Land/Water

- Equipment Required: Normally a Barge and Crane
- Some Steel DV's Require Cutting by Torch or Chopping
- Some DV's Can be Refloated and Disassembled on Shore.
- DV Debris is Loaded on Barge and Transported to Shore for Deliver to Approved Dump Site.
- Some Steel Hull DV's Can be Used for Artificial Reefs.

5

## DERELICT VESSEL REMOVAL

**Accomplishments:**

- **216** DVs removed to date
- 43 - Steel Hull Vessels & Barges to Artificial Reefs
- 25 - Derelict Fishing Boats Removed by Owner
- Average cost \$6,560.00 per Wood Hull Vessel
- Average cost \$25,000 to \$50,000.00 Steel Hull Vessel

6

**Barges to Become Artificial Fishing Reefs**



Bayou Portage, Pass Christian, MS to FH-2 11/13/01, to FH-13 12/7/01. to FH-4, 3/24/02

**Boat To Artificial Fishing Reef**

7 Dec. 01



From Bayou Portage, Pass Christian, MS – To Fish Haven 13

**Boat To Artificial Fishing Reef**

7 Dec. 01



From Bayou Portage, Pass Christian, MS – To Fish Haven 13

**Typical Derelict Vessels**



**Bayou Caddy**  
**4 Derelict Vessels**



Hancock County  
Effort completed 2/20/03

**Capt. Terrell and Amvina V**

*Gulfport Purchasing, behind Grand Casino  
Removed August 01, 2001*



**Barges to Reefs Program:**

• Typical barge along the MS Gulf Coast to be used as artificial reef material over the next 12 months.



Typical Method of Derelict Vessel Removal



13

Removal of the "Rough Times" From Bayou Caddy



14

## Derelict Vessels: Common Understanding vs. the Law.



Lieutenant David Dipre

Florida Fish and Wildlife Conservation Commission  
Division of Law Enforcement  
Boating and Waterways Section  
Waterway Management Unit



## That's my boat and it's not a derelict boat!

Most people think:

It can't be derelict until it has been trashed, crashed, dumped and sunk.



## Florida Statute 823.11

- Any Vessel that is left or stored
- In a Wrecked, Junked or Substantially Dismantled condition



## The Definitions

- Left (1) – to cause or allow to remain in a specific condition.
- Left (2) – to have gone away from
- Store – to put away for future use



## Definitions continued...

- Wrecked – to cast ashore, to reduce to a ruinous state by or as if by violence



## Definitions continued...

- Junked – something of poor quality, something of little meaning, worth or significance, to get rid of as worthless



## Definitions continued...

- Substantially dismantled – largely but not wholly taken to pieces, stripped of dress or covering, stripped of furniture and equipment



## Problems associated with Derelict Vessel

- Fuel Pollutants
- Debris from vessel degradation
- Hazard to navigation
- Damage to sea grasses
- Damage to marine corals
- Criminal Activity areas



Never moves and is never pumped out



## Associated Politics/Socioeconomics of Derelict Vessels

- Derelict vessels only directly affect coastal and inland waterways.
  - Derelict vessels affect our waters but those affects are only directly observed, felt or otherwise experienced by those of us on or around the coastal and inland waterways.
  - Persons living in landlocked areas often have no knowledge of derelict vessels. These people are the larger portion of the voting public having other interests and concerns.



## Associated Politics/Socioeconomics of Derelict Vessels...continued

- Boaters
  - Most boaters view DVs as hazards to navigation. These vessels are often submerged in shallow, but navigable, waters. They may also be adrift, unseen and unexpected, threatening the boater's safety. Sailboats and small dinghys are the most common of all DVs.



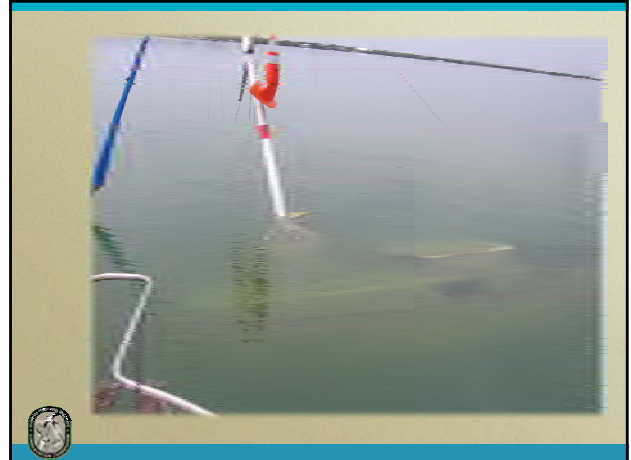
Drifting in open water....at night





## Associated Politics/Socioeconomics of Derelict Vessels...continued

- Recreational fishermen
  - Fishermen often take a positive view of DVs as a potential fishing spots. Derelict Vessels provide habitat, even in shallow waters, for many species of fish. Because of their ability to provide habitat, these vessels may often find some assistance to deeper water. Vessels are occasionally scuttled to use as future fishing spots.



## Associated Politics/Socioeconomics of Derelict Vessels...continued

- Home Owners
  - Home owners view DVs most often as an eyesore, a pollutant hazard, and as a potential threat to home and property in the event of a storm. FWC is often asked to investigate live-aboard vessels that are anchored near homes. These vessels are often reported as DVs or having other violations.



## Associated Politics/Socioeconomics of Derelict Vessels...continued

- Homeless
  - Homeless living on or around the water utilize these DVs. They will often refloat them, patch them and move onto them as temporary housing. If the vessels have been marked as DVs, the homeless individuals will paint over the notices and move the vessels to a new location. These vessels are only temporary housing and are often abandoned allowing them to sink again or drift.



## What Constitutes a successful DV program?

- Strong Leadership
- Interagency cooperation –NOAA, DEP, FWC
- Reliable Funding
- Community Interaction
- Strong legislation
- Dedicated Staff
- Sufficient Resources – salvage, restoration, marinas
- Public and Agency education about derelict vessels.



## Strong Leadership



OK...Well...Uh...Sort of...?



## Stronger Leadership



## Interagency Cooperation



## Reliable/Consistent Funding



## Community Interaction



## Strong Legislation



## Dedicated Staff



## Sufficient Resources



## Public and Agency Education



## DVs from a Law Enforcement perspective

- DVs are a public nuisance due to the potential hazards to navigation and potential threat to boater's safety and to the environment



## DVs from a Law Enforcement perspective

To leave or store an abandoned/derelict vessel is a crime committed out of negligence or with the intent to avoid responsibility for the expense and labor to properly remove the vessel thus allowing others handle the consequences of such and act.



## DVs from a Law Enforcement perspective

- To Make the Case:
  - Vessel identifiers
  - Titles, state registration, USCG Documentation
  - Proof of responsibility
  - Proof of ownership
  - Notifications through certified mail
  - Proof of the vessels derelict condition



I like the Native American...he said it all without saying anything.



## Abandoned and Derelict Vessel

Workshop  
Puerto Rico DNER



## Original NOAA Inventory

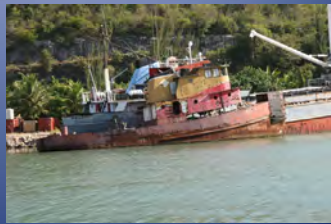
- Year: 2002
- Total vessels inventoried: 34



## First DNER inventory update

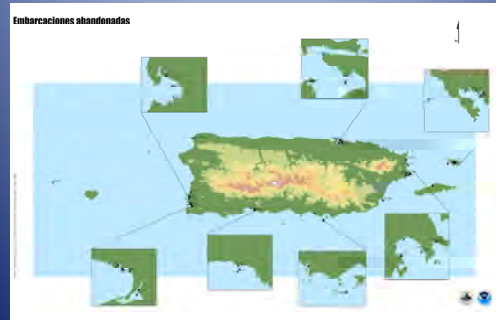
- Year:2007
- Total vessels inventoried:68

Year	Count
2002	34
2007	68



## Mapping of Abandoned Vessels

Clusters in San Juan, Fajardo, Culebra, Boqueron.



## Abandoned vessels interagency workgroup

- Attempt by DNER Secretary to address the problem (2007). Immediate priority was to find a way to remove a couple of large vessels in Cataño.
- Several meeting held, issues discussed, need was clearly presented.
- Result: no PR nor federal agency had funds to deal with them.
- Workgroup was disbanded – no formal program currently exists in DNER for abandoned vessels issue.

## DNER Marine Resources Division

- Has submitted 2 proposals to NOAA Marine Debris program – not funded.
- Convinced 1 insurance company (Integrand) to remove one sailboat from seagrass bed; Owner clearly identified.
- Even though a few additional abandoned vessel owners can be identified, and reports have been sent to our Rangers, no enforcement action has resulted.

## U.S. Coast Guard

- Has been very cooperative.
- Accompany us on abandoned vessel inspections: check for oil and fuel on board, hazardous substances, and if it's being used as clandestine dump site.
- Has removed at least 2 vessels in recent years in PR that were used to dump oil, but concentrates on those posing threat to shipping lanes.

## Detection of Abandoned Vessels

- We often find them during routine overflights, for mooring buoy program purposes.
- May follow up with field visit, during mooring buoy maintenance or on special trips.
- Almost always all identification has been removed, making enforcement nearly impossible.
- NGO's and dive shops alert us to others.
- Hope to start a new project – using SSS and ROV to document submerged abandoned vessels in the Fajardo area. Some from storms, some accidents, some on purpose. None authorized.



## Examples of Abandoned Vessels in Puerto Rico



## Legal issues

- Legal framework for dealing with abandoned vessels in PR is very weak.
- "Abandoned Vessel" is not defined in boating regulations.
- Failure to notify DNER of vessel abandonment is a \$50 fine.
- Expired registration of a vessel on the water is a \$100 fine.
- Marine benthic and coastal habitat is definitely impacted by the large number of abandoned and derelict vessels on the coasts on Puerto Rico.

Any questions?



# Minnesota Department of Natural Resources Adopt-a-River Program

Paul Nordell  
Adopt-a-River Program Coordinator  
Parks and Trails Division



# State-level Responses to Abandoned and Derelict Vessels (ADV)

Paul Nordell  
Adopt-a-River Program Coordinator



## Adopt-a-River Program

Minnesota has about 92,000 miles of flowing water and 22,000 lakes and basins.



## Adopt-a-River Program

The Adopt-a-River program empowers Minnesotans to keep their resources beautiful by removing rubbish from public waters.



## Adopt-a-River Program



Statewide Adoption Status, 2009

Since 1989, Adopt-a-River program has:

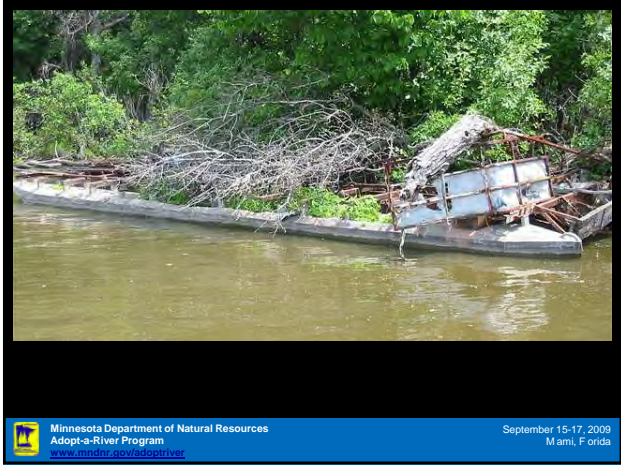
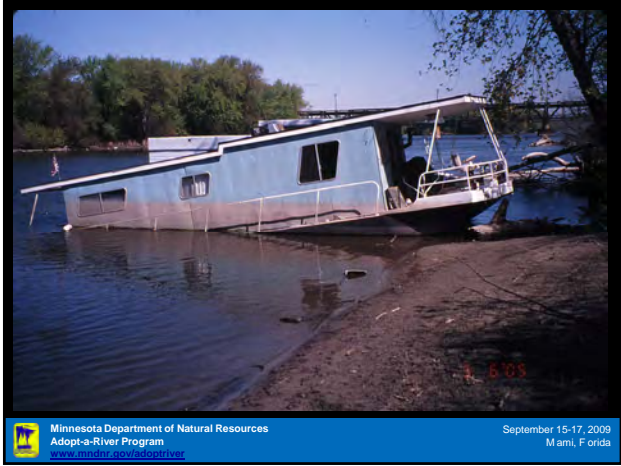
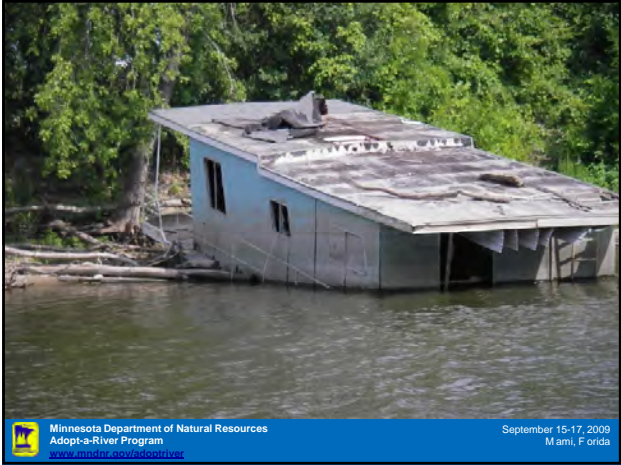
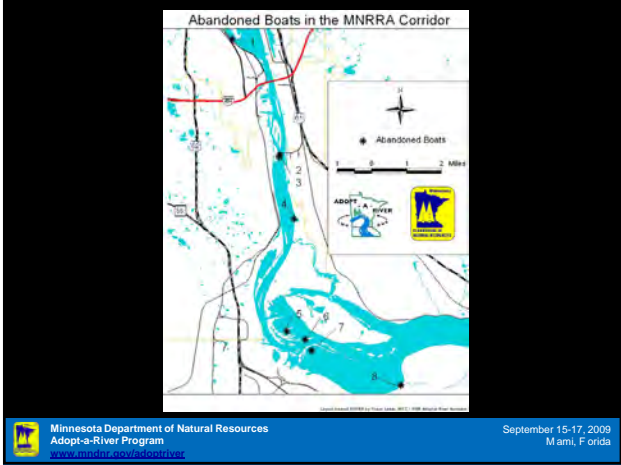
- Organized 2, 802 cleanups by 78, 507 volunteers.
- Volunteered over 265,000 hours.
- Cleaned over 9,200 miles of Minnesota shoreline.
- Removed over 5.3 million pounds of trash!

## Adopt-a-River Program

The entire community depends upon the quality of our waters for safe drinking, health of wildlife, and recreation. Through involvement in volunteer cleanups, the polluting impacts of litter-strewn storm water can be reduced.

**Annual Mississippi Riverboat Cleanup**  
In 2009, over 3,000 pounds of trash were removed.









Minnesota Department of Natural Resources  
Adopt-a-River Program  
[www.mndnr.gov/adoptriver](http://www.mndnr.gov/adoptriver) September 15-17, 2009  
Miami, Florida



Minnesota Department of Natural Resources  
Adopt-a-River Program  
[www.mndnr.gov/adoptriver](http://www.mndnr.gov/adoptriver) September 15-17, 2009  
Miami, Florida



Minnesota Department of Natural Resources  
Adopt-a-River Program  
[www.mndnr.gov/adoptriver](http://www.mndnr.gov/adoptriver) September 15-17, 2009  
Miami, Florida



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### Found Objects Sculpture - Minnesota State Fair

- Since 1994, the Minnesota DNR has commissioned an artist to create a sculpture made entirely from trash taken from water resources.
- Fairgoers, young and old, complete a scavenger hunt and receive a prize.
- This brings a lot of attention to the problems in our public waters.



Urgie the Sturgeon  
by Demian Jackman  
2009

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Red Alert by Al Wadzinsky  
2002

The sculpture's permanent  
location in St. Paul, Minnesota

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Dragonfly by Paul Byer  
2006

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### Contact Information

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Adopt-a-River Program  
DNR Parks & Trails Division  
500 Lafayette Rd. Box 52  
St. Paul, MN 55155-4052



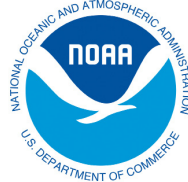
Fax: 651-297-5475

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Photos were supplied by volunteers, the DNR, and  
Roll Hagberg of the Minnesota Conservation Corps.

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Gary Locke  
United States Secretary of Commerce

Jane Lubchenco, Ph.D.  
Under Secretary of Commerce for Oceans and Atmosphere

David Kennedy  
Acting Assistant Administrator for Ocean Service and Coastal Zone Management