

State of Maine

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

NOAA Marine Debris Region:
Northeast



Definition of a Vessel

The State of Maine does not have a definition for “vessel” but instead uses the term “watercraft”, as defined under Me. Rev. Stat. tit. 12, § 1866(1)(D):

Watercraft: means any type of vessel, boat, barge, float or craft 20 or more feet in length that is used or capable of use as a means of transportation on water.

“Watercraft” includes seaplanes.

Definition of an Abandoned and/or Derelict Vessel

Maine general statutes provide a definition for “abandoned watercraft” under Me. Rev. Stat. tit. 12, § 1866(1)(A), but does not provide a legal definition for “derelict” vessel.

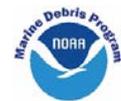
Abandoned Watercraft: means any watercraft that is inoperative and neglected, submerged or partially submerged or that has been left by the owner in coastal waters without intention of removal. This term includes motors, electronic and mechanical equipment and other machinery customarily used in the operation of watercraft.

Formal State Program for Abandoned Vessels

The State of Maine does have statutory authorization for dealing with abandoned watercraft, established and regulated under Me. Rev. Stat. tit. 12, § 1866, which is managed by the Bureau of Parks and Lands (Bureau) within the Department of Agriculture, Conservation and Forestry. It includes legislation outlining the procedures for eligibility, determining ownership, establishing basic removal requirements and sets penalties for failure to pay the costs of removal for abandoned watercraft in state waters.

Pursuant to Me. Rev. Stat. tit. 12, § 1866(4)(B), the director of the Bureau of Parks and Lands “shall establish and implement, subject to available funding, a program to remove from coastal waters those abandoned watercraft that have been reported under subsection 3. The program must provide that, if another government agency is responsible for removal of an abandoned watercraft, the director will notify that agency of the existence of that abandoned watercraft”. However, due to a consistent lack of funding a formal program for dealing with abandoned has yet to be established within the State.

If the person who abandoned the watercraft does not compensate the State for the removal costs the State has the right to bring a civil action against the owner of the abandoned watercraft to cover any cost to the state for the removal of the vessel (Me. Rev. Stat. tit. 12, § 1866(6)). The court hearing the case has the discretion to award up to an additional 50% of the removal costs to the State which is payable to the submerged lands leasing program pursuant to Me. Rev. Stat. tit. 12, § 1862. In addition, it is considered a Class E crime for any person to bring into or maintain an abandoned or derelict watercraft (or watercraft for salvage) in a harbor without permission from the harbormaster or appropriate municipal official (Me. Rev. Stat. tit. 38, § 9). Salvage firms licensed by the State are excluded from this requirement.



Maine ADV Legislative and Administrative Review 2015

Maine statutes also create a Submerged Lands Fund, under Me. Rev. Stat. tit. 12, § 1861, monies from which can be used to remove abandoned watercraft from the submerged lands of the State. According to Me. Rev. Stat. tit. 12, § 1866(4)(B), funding for the removal of abandoned watercraft by the director of the Bureau comes from funds through the Submerged Lands Fund.

Designation of Abandoned and/or Derelict Vessels

The State of Maine does not have a formal process in place for designating a watercraft as abandoned. Any watercraft which meet the definition of abandoned (see above), under Me. Rev. Stat. tit. 12, § 1866(1)(A), are considered by the State to be abandoned. If a vessel is located in a harbor the municipal board or commission entrusted with harbor management shall be the sole determiner for what constitutes a vessel as derelict or abandoned (Me. Rev. Stat. tit. 38, § 9).

Responsibility for Removal of Abandoned or Derelict Vessels

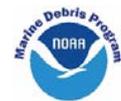
A watercraft designated as “abandoned” is subject to removal if it meets the eligibility requirements as set forth under Me. Rev. Stat. tit. 12, § 1866(2), which include the following conditions:

- A. A permit under Title 38, section 9 has not been granted by the municipal board or commission entrusted with harbor management for the area.
- B. A landowner has not granted permission to a watercraft owner to abandon a watercraft on that landowner's property.
- C. Notice has been given the director (of the Bureau) within 120 days of the date that the municipal board or commission determines, in its opinion, that the watercraft has been abandoned.

According to this section the municipal board or commission entrusted with harbor management is responsible for meeting the notification requirements outlined under Me. Rev. Stat. tit. 12, § 1866(2). Watercraft abandoned prior to July 1, 1993 are not subject to removal under this statute.

Under Maine law the municipal board or commission entrusted with harbor management over the location where the watercraft was abandoned shall attempt to determine the owner of the abandoned vessel (Me. Rev. Stat. tit. 12, § 1866-3). Pursuant to Me. Rev. Stat. tit. 12, § 1866(4)(A), the Director of the Bureau, after notice of abandonment is received, has the responsibility to investigate the abandonment report and then notify the watercraft owner, if one can be determined. The notice must state that the owner is required to respond to the director within 15 days and that they have 60 days after notification to remove the watercraft (unless the watercraft is ice-bound, at which point they have 60 days after ice-out to remove the it). If the owner does not respond within the allotted time frame or the owner cannot be identified or contacted the director of the Bureau may initiate the removal of the watercraft.

The director of the Bureau has the authority to designate a third party to remove the watercraft, as long as the director is satisfied they can complete the required work (Me. Rev. Stat. tit. 12, § 1866(4)(C)). If a third party removes the vessel under authority from the director they are entitled to 95% of the proceeds from the sale, with the remaining 5% accruing to the Submerged Lands Fund.



Removal and Disposal Requirements/Guidelines

The State of Maine does not set forth any specific guidelines or requirements that address the actual removal or disposal methods other than those as set forth under Me. Rev. Stat. tit. 12, § 1866(5); which requires that the method of removal, whether it's done by the state, the owner or a third party, must comply with all state and federal environmental laws. If the Bureau Director determines that a watercraft is a health or safety hazard it can immediately be removed from the coastal waters (Me. Rev. Stat. tit. 12, § 1866(4)(D)). If an abandoned vessel is found on intertidal land it may not be removed without the permission of the landowner (Me. Rev. Stat. tit. 12, § 1866(4)(F)).

If the Bureau director initiates the removal of an abandoned watercraft, funds for the removal process come from those available, if any, under the Submerged Lands Fund (Me. Rev. Stat. tit. 12, § 1866(4)(B)). Watercraft which are removed by the director under Title 12 can be sold by the director with the proceeds applied (first) to offset the costs of the removal to the State then to satisfy any liens against the watercraft. If any proceeds still remain they are to accrue to the Submerged Lands Fund (Me. Rev. Stat. tit. 12, § 1866(4)(E)).

Differences between Commercial and Recreational Vessel Treatment

The State of Maine does not distinguish between commercial and recreational vessels under the state statutes for abandoned vessels.

Vessel Size Requirements or Limits

Maine does not set any size requirements or limits for abandoned watercraft under their Abandoned Watercraft legislation (Me. Rev. Stat. tit. 12, § 1866).

Funding Sources

Funding for the removal of abandoned watercraft (by the director) comes from funds available through Maine's Submerged Lands Fund, which was established under Me. Rev. Stat. tit. 12, § 1861. This fund was created to provide funding for a wide range of activities including the removal of abandoned watercraft, management of submerged lands pursuant to Me. Rev. Stat. tit. 12, § 1862, and to provide grants to municipalities pursuant to Me. Rev. Stat. tit. 12, § 1863.

Lead State Agency

The Bureau of Parks and Public Lands, within the Department of Agriculture, Conservation and Forestry, is the lead agency for abandoned watercraft in the State of Maine.

Email: DACF@Maine.gov

Telephone: 207-287-3821

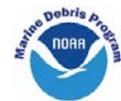
Website: <http://www.maine.gov/dacf/parks/>

Insurance Requirements for Vessels

The State of Maine does not require watercraft insurance.

Specific Location Factors, Limitations and Additional information

According to Me. Rev. Stat. tit. 12, § 1866 the State's jurisdiction to remove abandoned watercraft only applies to "coastal waters" as defined under Me. Rev. Stat. tit. 1, § 2, which also includes intertidal lands as defined under Me. Rev. Stat. tit. 12, § 572. If an abandoned watercraft is located on intertidal land the Bureau cannot remove it without the landowner's permission (Me. Rev. Stat. tit. 12, § 1866(4)(F)).



Maine ADV Legislative and Administrative Review 2015

In addition, under Me. Rev. Stat. tit. 38, § 9, it is unlawful to bring into or maintain any derelict watercraft, watercraft for salvage, or abandon any watercraft into a harbor without a permit from the harbor master or, an appropriate municipal official. The municipal board or commission entrusted with harbor management are the only bodies that can determine what constitutes a watercraft that is derelict and what constitutes a watercraft that is abandoned.

Any watercraft which were abandoned prior to July 1, 1993 are not subject to removal under Maine's abandoned watercraft legislation (Me. Rev. Stat. tit. 12, § 1866).

Prioritization Scheme

Maine law or administrative codes do not provide a prioritization scheme for the removal of abandoned or derelict watercraft. Watercraft that are deemed to be a safety or health hazard by the Bureau can be removed immediately pursuant to Me. Rev. Stat. tit. 12, § 1866(4)(D).

Legislation and Administrative Codes

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

Maine Revised Statutes (2014):

<http://legislature.maine.gov/statutes/>

Code of Maine Rules (2015):

<http://www.maine.gov/sos/cec/rules/rules.html>

These Legislative and Administrative Reviews are intended for informational purposes only. They are summaries and not meant to be legal references, and should not be used as such. See the official state statutes and administrative codes for current state laws and rules and regulations for any legal references.