

State of New Hampshire

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

NOAA Marine Debris Region:
Northeast



Definition of a Vessel

The State of New Hampshire defines “vessel” for registration and numbering purposes under N.H. Rev. Stat. Ann. § 270-E:2. They also make the distinction between a “commercial” and “private” vessel (and boat); however, both fall within the definition for vessel as follows:

Vessel: means every description of watercraft, other than seaplanes, used or capable of being used as a means of transportation on water.

New Hampshire statutes also provide a definition for “vessel” under legislation enacted for the Pease Development Authority, which was established to manage the redevelopment of the former Pease Air Force Base property (N.H. Rev. Stat. Ann. § 12-G:2):

Vessel: means boats of all sizes propelled by sail, machinery, or hand, scows, dredgers, shellfish cars, barges, seaplanes, personal water craft, and craft of every kind, including but not limited to non-displacement craft, used or capable of being used as a means of transportation or storage on water.

Definition of an Abandoned and/or Derelict Vessel

New Hampshire statutes do not provide explicit definitions for “abandoned” or “derelict” vessels; however, they do have a provision that defines abandonment as it relates to vessels under N.H. Rev. Stat. Ann. § 270-B:2.

Abandonment: Any boat found unattended in a sunken, beached, or drifting condition shall be deemed abandoned by the owner.

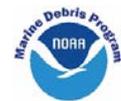
In addition, provisions under the Pilots and Harbor Masters section of the Pease Development Authority (N.H. Rev. Stat. Ann. § 12-G:50(I)), state that:

“Any vessel found unattended in a sunken, beached, or drifting condition, or otherwise anchored and unattended in such a manner as to pose a threat to navigation or the safety of the public or other vessels shall be deemed abandoned by the owner.”

Formal State Program for Abandoned Vessels

The State of New Hampshire does not currently have a formal abandoned/derelict vessel program. They do have statutes, which are administered through the commissioner of the Department of Safety and enforced by the Marine Patrol, that specifically address abandoned boats under N.H. Rev. Stat. Ann. § 270-B. The provisions under chapter 270-B define abandonment, establish jurisdiction and impoundment authority, set notification and redemption requirements, and address liability and disposal procedures. In addition, statutes under the Pease Development Authority provide regulations addressing abandoned vessels within the state’s ports and harbors and in the jurisdiction of the authority (N.H. Rev. Stat. Ann. § 12-G:50).

Under New Hampshire statutes it is prohibited to abandon any boat at any time on the waters of the state (N.H. Rev. Stat. Ann. § 270-B:1). However, penalties for abandoning a vessel are not established under this chapter. Under the Pease Development Authority statutes it is also



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unlawful to abandon any vessel at any time on state tidal waters (N.H. Rev. Stat. Ann. § 12-G:50-I). Pursuant to N.H. Rev. Stat. Ann. § 12-G:52, the penalties for illegally mooring or anchoring a vessel on property under the jurisdiction of the development authority include fines ranging from a violation with a \$100 fine (first offense) to a class B misdemeanor with a minimum \$500 fine (third offense).

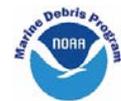
In addition, pursuant to the provisions of N.H. Rev. Stat. Ann. § 485-A, if a person fails to remove a submerged vehicle/vessel, as required by law, they are guilty of a violation that can result in fines of \$500 for every day the vehicle remains in the water. In addition, they can be charged with a class B felony if the vehicle is submerged in the source, or tributary to the source, of the domestic water supply system. It is also unlawful, under N.H. Rev. Stat. Ann. § 485-A:15, for any person to put or place, or cause to be put or placed, any solid waste into the surface waters of the state (and ice covering them) or on the banks of these waters. Any person who recklessly violates this provision can be charged with a misdemeanor, while any person who purposely or knowingly does so shall be guilty of a class B felony.

Designation of Abandoned and/or Derelict Vessels

New Hampshire laws do not outline a formal process for designating vessels as abandoned or derelict. If a vessel meets the definition of an abandoned vessel under N.H. Rev. Stat. Ann. § 270-B:2, it can be removed, impounded and disposed of in the interest of public safety. If a vessel is declared abandoned under N.H. Rev. Stat. Ann. § 270-B, the director of state police is required to notify the owner, if known, of the impoundment, removal and storage of the vessel. If the boat is registered in New Hampshire the notification will be mailed to the last registered owner. If they are unable to determine an owner then the statute requires the notice to be published in a newspaper of general circulation and placed on file with the director of motor vehicles (N.H. Rev. Stat. Ann. § 270-B:4). Pursuant to N.H. Rev. Stat. Ann. § 270-B:5, the owner of a vessel designated as abandoned can redeem the boat within 90 days after its removal if they pay the associated fees and are released from any liens identified pursuant to N.H. Rev. Stat. Ann. § 270-B:3.

Under N.H. Rev. Stat. Ann. § 485-A:14 the lawful owner(s) of any petroleum-powered vehicle, which include motorized boats, or petroleum containers are required by law to remove the vehicle or container within 48 hours, or as soon as safety or weather conditions permit, if they become partially or completely submerged in the surface waters of the state. The owner is also required to notify the Department of Environmental Services pursuant to N.H. Rev. Stat. Ann. § 146-A, at which point the department will investigate the area for contamination and ensure the vehicle or container is safely removed. If the owner refuses to remove the submerged vehicle or container, or if the owner cannot be identified, the Department of Environmental Services can contract out for its removal.

Pursuant to N.H. Rev. Stat. Ann. § 485-A, the owner of the submerged vehicle becomes liable for all costs associated with its removal an impoundment and is also responsible for paying the costs incurred for the investigation, containment/cleanup and corrective measures. The state can attempt to recover the costs through an action of debt by the attorney general of the state. The state will not release the vessel to the owner until all costs incurred by the state have been paid. Contractors who impound vessels for the state must receive approval by the state prior to disposing of the vessel pursuant to N.H. Rev. Stat. Ann. § 262:36-A. If the owner is not known the vessel can be disposed of through an appropriate salvage yard.



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Under the provisions of N.H. Rev. Stat. Ann. § 485-A, if a person fails to remove a submerged vehicle/vessel, as required by law, they are guilty of a violation that can result in fines of \$500 for every day the vehicle remains in the water. In addition, they can be charged with a class B felony if the vehicle is submerged in the source, or tributary to the source, of the domestic water supply system.

New Hampshire statutes require the owner of any vessel to notify the Department of Safety within 15 days if a vessel has been transferred, destroyed or abandoned (N.H. Rev. Stat. Ann. § 270-E:10). If the vessel is destroyed or abandoned the certificate numbers will be terminated by the state.

The state of New Hampshire also has laws which address abandoned vehicles, under N.H. Rev. Stat. Ann. § 262, that could be applied to abandoned vessels if the waterway in which the vessel is abandoned is considered a “way” under the definitions provided in N.H. Rev. Stat. Ann. § 259.

Responsibility for Removal of Abandoned or Derelict Vessels

When a vessel meets the definitions of abandoned pursuant to N.H. Rev. Stat. Ann. § 270-B:2, the director of state police or an authorized representative may impound and remove the vessel to a place of safe keeping. All reasonable charges associated with the impoundment, removal, and storage will be placed in lien against the vessel (N.H. Rev. Stat. Ann. § 270-B:3). Any person who impounds a vessel under the provisions of N.H. Rev. Stat. Ann. § 270-B is exempt from liability for any damages that may result during the impoundment, removal or storage (N.H. Rev. Stat. Ann. § 270-B:6). Any person who impounds a vessel pursuant to N.H. Rev. Stat. Ann. § 12-G:52(b) cannot be held liable for any damages to the vessel arising from the removal or storage.

Removal and Disposal Requirements/Guidelines

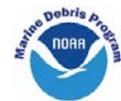
New Hampshire statutes do not contain provisions that specify the methods of how an abandoned or derelict vessel must be removed or disposed of. They do provide provisions, under N.H. Rev. Stat. Ann. § 270-B:7, which allow for the destruction or public sale of an abandoned vessel but not the method of disposal. Pursuant to N.H. Rev. Stat. Ann. § 270-B:6, if a vessel designated as abandoned is not claimed by the owner within 90 days after removal the director of the state police can destroy the vessel, sell it by public auction, or retain the vessel for use by the state (N.H. Rev. Stat. Ann. § 270-B:7). If the vessel is sold at auction the purchaser becomes responsible for paying the costs, and satisfying the lien(s), associated with the impoundment, removal and storage of the vessel. If the state retains possession they become responsible for the associated costs. Any money received from the public sale of abandoned vessels goes into the New Hampshire general fund.

Differences between Commercial and Recreational Vessel Treatment

New Hampshire statutes do not differentiate between commercial and recreational vessels for the purposes of their abandoned or sunken vessel laws.

Vessel Size Requirements or Limits

There are no defined size requirements or limits in New Hampshire’s statutes addressing abandoned or derelict vessels.



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Funding Sources

The State of New Hampshire, lacking a formal abandoned and derelict vessel program, does not have a dedicated mechanism for funding the processing and removal of abandoned or derelict vessels. The costs associated with the removal, storage and disposal of abandoned vessels are the responsibility of the last registered owner; however, if the owner cannot be identified then the State or the purchaser (if the vessel is sold) become responsible for paying the costs and releasing the liens on the vessel (N.H. Rev. Stat. Ann. § 270-B:7).

Lead State Agency

The Department of Safety administers the abandoned vessel program in New Hampshire.

Email: through website
Telephone: 603-223-3889
Website: <http://www.nh.gov/safety/>

The New Hampshire Marine Patrol, a division of the state police, also deals with enforcement matters concerning abandoned and sunken vessels.

Email: marinepatrol@dos.nh.gov
Telephone: 877-642-9700
Website: <http://www.nh.gov/safety/divisions/nhsp/fob/marine-patrol/index.html>

The Division of Ports and Harbors of the Pease Development Authority (PDA) has authority when abandoned boats are located in the state's ports and harbors or within the Pease Development boundaries.

Email: contact@peasedev.org
Telephone: 603-433-6088
Website: <http://www.peasedev.org/>

Insurance Requirements for Vessels

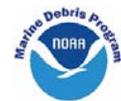
New Hampshire does not require vessel insurance. They do require that all vessels are registered in the state pursuant to N.H. Rev. Stat. Ann. § 270-E:3.

Specific Location Factors, Limitations and Additional Information

Legislation under N.H. Rev. Stat. Ann. § 12-G:2, statutes dealing with the Pease Development Authority, only provides jurisdiction within the boundaries of the former Pease Air Force base and within the states ports and harbors. Provisions under this chapter do not apply to state waters outside of the authority, which are administered through the Department of Safety.

A vessel can also be classified as abandoned under the Pease Development Authority if it falls within the definition provided under N.H. Rev. Stat. Ann. § 12-G:50. Under the provisions of N.H. Rev. Stat. Ann. § 12G:43, the Division of Ports and Harbors for the State of New Hampshire was established within the Pease Development Authority and is subject to the direction and control of the Authorities' board and directors. Pursuant to N.H. Rev. Stat. Ann. § 12-G:50(a), it is unlawful for any person, at any time, to abandon a vessel on or in state tidal waters. Any vessel found sunken, beached, anchored and unattended, or drifting that poses a threat to navigation, other vessels or public safety will be designated as abandoned.

Pursuant to N.H. Rev. Stat. Ann. § 12-G:52(b), any vessel found to be in violation of the provisions under N.H. Rev. Stat. Ann. § 12-G:50(a) can be impounded and stored by the Director of the Division of Ports and Harbors or a chief or deputy chief harbor master. All reasonable



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costs incurred during the impoundment, including removal and storage costs, will constitute a lien against the vessel. Any owner or operator who leaves a vessel moored or anchored in violation of N.H. Rev. Stat. Ann. § 12-G is subject to penalties ranging from \$100 to \$1000, depending on the number of offenses (N.H. Rev. Stat. Ann. § 12-G: 52(a)).

If a vessel is impounded under the provisions of N.H. Rev. Stat. Ann. § 12-G: 50(b) the Director of Ports and Harbors must notify the owner, if known, of the impoundment. If the vessel is registered in New Hampshire the notification will be mailed to the address on the registration. In all other cases the notice must be published in a newspaper of general circulation and filed with the division director. The owner may reclaim the vessel within 90 days of the removal, providing they pay all the charges and fees associated with the impoundment, removal and storage. If the vessel is not claimed within 90 days the vessel can be disposed of by public auction, retained for use by the state, or destroyed. If the vessel is sold at auction or retained by the state the purchaser or state, respectively, are then responsible for covering the costs and releasing the lien associated with impounding, removing and storing the vessel. Any monies received through a public sale must be deposited into the Pease Development Authority ports and harbor fund (established under N.H. Rev. Stat. Ann. § 12-G:37).

Vessels abandoned in public boatyards, marine dealerships or similar places are addressed under N.H. Rev. Stat. Ann. § 450-A:5. Any person who maintains a dealership, public boatyard or the like have the right to place liens on abandoned vessels for rent and other reasonable charges as long as the vessel remains in their possession. If the vessel remains unclaimed for a period of 30 days it can be reported as unclaimed to the nearest police department. If the vessel remains unclaimed for 90 days it can be sold at public auction by the person/business in possession. Notice of the sale must be posted 14 days prior to the sale in at least 2 public places in the locality where the vessel is stored. The vessel can be reclaimed by the owner at any time during the 90 day period providing they pay the charges and satisfy any liens. If the vessel is sold any proceeds remaining, after payment of the lien and expenses incident to the sale, shall be paid to the owner (or legal representative) if claimed within one year of the sale; however, if the monies remain unclaimed they will be transferred into the state's treasury.

Prioritization Scheme

The State of New Hampshire does not currently have a prioritization scheme for the removal and disposal of abandoned or derelict vessels.

Legislation and Administrative Codes

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

New Hampshire Revised Statutes (2015):

<http://www.gencourt.state.nh.us/rsa/html/indexes/>

New Hampshire Code of Administrative Rules (2012):

<http://www.gencourt.state.nh.us/rules/>

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.