

State of New Jersey



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

NOAA Marine Debris Region:
Mid-Atlantic



Definition of a Vessel

The State of New Jersey defines a “vessel” under N.J. Rev. Stat. § 12:7-71 (and § 12:7A-3) of the Commerce and Navigation statutes as:

Vessel: means a boat or watercraft, other than a sea plane on the water, used or capable of being used as a means of transportation on water.

A slightly modified definition is available under N.J. Rev. Stat. § 12:7D-1 of the Commerce and Navigation statutes:

Vessel: means a ship, boat or other watercraft, other than a seaplane on the water, used or capable of being used as a means of transportation on the water.

In addition, a definition for vessel is also provided under the Abandoned or Sunken Vessels Disposition Law (N.J. Rev. Stat. § 12:7C-8), which applies specifically to abandoned vessels:

Vessel: means a boat, ship, or any other watercraft, regardless of whether it is, or was, used for recreational, commercial, or industrial purposes, or any other purpose, other than a seaplane on the water, used or capable of being used as a means of transportation on the water, except a boat or watercraft which is subject to the provisions of P.L.1969, c.264 (C.12:7C-1 et seq.), and includes any trailer used to transport or store it.

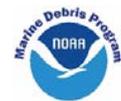
Definition of an Abandoned and/or Derelict Vessel

The statutes of New Jersey do not provide an explicit definition for “abandoned” or “derelict” vessels but they do address them under the Abandoned or Sunken Vessels Disposition Law. Pursuant to N.J. Rev. Stat. § 12:7C-9-3(b) evidence exists that a vessel has been abandoned when:

“A vessel which has remained moored, grounded, docked, or otherwise attached or fastened to or upon any public land or waterway or any private property without such consent for a period of more than 30 days, or which is submerged partially or completely into the water for any period of time shall be deemed abandoned...”

The Abandoned or Sunken Vessels Disposition Law does not consider flat-bottom boats, barges, scows and rafts within the definition of vessel as provided above. These types of watercraft are dealt with under separate legislation that defines evidence of abandonment under N.J. Rev. Stat. § 12:7C-1 as:

“A flat-bottomed boat, barge, scow or raft which has remained moored, grounded or otherwise attached or fastened to or upon any public land or waterway or any private property without such consent for a period of more than 20 days shall be prima facie evidence of such abandonment. “



Formal State Program for Abandoned Vessels

New Jersey does not have a formal abandoned and derelict vessel program with dedicated funding, but the state has enacted legislation that deals specifically with abandoned vessels under the Abandoned or Sunken Vessels Disposition Law. This law addresses the possession, titling and junk certification of abandoned vessels.

Under New Jersey statutes, it is unlawful for any owner to abandon a vessel without consent upon public land or waters, municipal land, on private property or on the water immediately adjacent unless it is an emergency (N.J. Rev. Stat. § 12:7C-9-3(a)). It is also unlawful to willingly abandon a flat-bottomed boat, barge, scow or raft pursuant to N.J. Rev. Stat. § 12:7C-1.

Any person who abandons a vessel in violation of N.J. Rev. Stat. § 12:7C-9-3(a) is liable to a civil penalty of up to \$1000, with each additional day of violations considered separate offenses (N.J. Rev. Stat. § 12:7C-9-3(c)). Violations of the ordinances or resolution established under N.J. Rev. Stat. § 12:7C-9.1(a) can result in a civil penalty from \$100 to \$1,250 for each day the vessel remains docked. In addition, any person who violates N.J. Rev. Stat. § 12:7C-1 and abandons a flat-bottomed boat, barge, scow or raft can be charged with a misdemeanor under criminal law.

Designation of Abandoned and/or Derelict Vessels

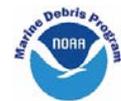
In New Jersey, abandoned and derelict vessels are administered through the Abandoned or Sunken Vessels Disposition law (N.J. Rev. Stat. § 12:7C-7). Vessels believed to be abandoned pursuant to N.J. Rev. Stat. § 12:7C-9(b) (see definitions above) may be impounded at the direction of authorized officials or law enforcement officers having enforcement authority.

Pursuant to N.J. Rev. Stat. § 12:7C-9.1(a), municipalities may also adopt an ordinance or harbor commissions can pass resolutions requiring all vessel owners and operators under their jurisdiction to register their vessels. Registration is required when mooring or docking a vessel in municipal waterways or groundings on land, which must be done in designated areas. The registration must include the contact information of the owner or operator and state the length of time the vessel will remain. If a vessel remains moored, docked or grounded for 7 days without registering, a notice can be posted on the vessel that informs the owner or operator that they have 7 days to remove the vessel (and the trailer if grounded) before it will be removed and put into holding (N.J. Rev. Stat. § 12:7C-9.1(d)).

Violations of the ordinances or resolution established under N.J. Rev. Stat. § 12:7C-9.1(a) can be found liable of a civil penalty from \$100 to \$1,250 for each day the vessel remains, with monies received for these violations being paid into the treasury of the local municipality for general uses (N.J. Rev. Stat. § 12:7C-9.1(f)). Funds collected from civil penalties associated with violations of N.J. Rev. Stat. § 12:7C-9 are paid into the general funds of the municipality where the violation occurred (N.J. Rev. Stat. § 12:7C-9(c)).

If the owner of the impounded vessel fails to claim it and pay reasonable costs for the removal and storage within 30 days of impoundment, it will be considered prima facie evidence and establish a presumption of abandonment (N.J. Rev. Stat. § 12:7C-10). If a vessel is designated as abandoned under this section, the municipality or harbor commission can institute proceeding to acquire title.

This can also be done by a landowner, lessee or his agent when the vessel is on private property. Any time before the final title acquisition is completed, the owner, lessor or lienholder of the vessel may reclaim possession providing they pay the associated costs and



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assessed penalties. The person or entity wishing to acquire title to an abandoned vessel is required to secure the last known address of the owner and lienholder(s) from the Motor Vehicle Division, if available, and notify them by registered letter (N.J. Rev. Stat. § 12:7C-11).

The notice must state that if the vessel is not claimed and removed within 30 days, then the title application submitted by the private property owner, municipality or harbor commission will be processed by the Commission. If the contact information of the vessel owner or lienholder(s) is unknown, then the notice is not required. In addition, the person or entity seeking title is required to publish the notice in a local newspaper of general circulation pursuant to N.J. Rev. Stat. § 12:7C-12. This notice must also state that if the vessel is not claimed and removed within 30 days, the title application will be submitted and contain the following information:

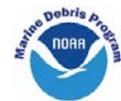
- current location of the vessel;
- description of the vessel;
- location of abandonment; and
- vessel's identifying numbers.

If the vessel remains unclaimed by the end of the mandatory 30 day waiting period, the title transfer application can be submitted to the Motor Vehicle Commission (N.J. Rev. Stat. § 12:7C-13). The application must be accompanied by affidavits that state the vessel has been abandoned and provide proof that the notification requirements under N.J. Rev. Stat. § 12:7C-11 and § 12:7C-12 were satisfied. Once these materials are received by the commission and the associated fees/taxes paid, a title to the vessel will then be issued to applicant. Pursuant to N.J. Rev. Stat. § 12:7C-15, all costs incurred in receiving title are the responsibility of the applicant; however, if the applicant is a municipality or harbor commission, they have the right to attempt to recover the costs from the previous owner.

Abandoned flat-bottom boats, barges, scows or rafts are addressed under separate provisions within N.J. Rev. Stat. § 12:7C. In New Jersey, it is unlawful to willfully abandon any flat-bottom boat, barge, scow or raft on public or private property without consent (N.J. Rev. Stat. § 12:7C-1). Evidence of abandonment for flat-bottom boats, barges, scows or rafts is presumed if the vessel remains moored, docked or grounded on public land or waters or on private property for a period greater than 20 days without consent (see definitions).

Vessels presumed to be abandoned under this standard can be seized and forfeited to the local municipality pursuant to N.J. Rev. Stat. § 12:7C-2. Prior to seizing the vessel, the municipality must notify the last known owner in writing, if known, and post a copy of the notice on the vessel. The notice must state that if the vessel is not removed within 72 hours then forfeiture will occur; however, the provisions of this statute do not apply to innocent owners and the rights of valid lienholders are not affected. After a period of at least 90 days from the date of forfeiture, the municipality has the right to sell the flat-bottom boat, barge, scow or raft at public auction, providing they give notice of the sale, by certified mail, to the owner and lienholders (if known). In addition, the municipality must also provide notice in a local newspaper at least 5 days before the sale is to occur.

At any time prior to the public sale of an abandoned flat-bottom boat, barge, scow or raft the owner, or other entitled entity, can redeem the vessel, providing they pay the actual costs of removal and storage, including 6% interest, or \$10 a day starting from the time of forfeiture,



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whichever is greater (N.J. Rev. Stat. § 12:7C-3). In addition, under the provisions of N.J. Rev. Stat. § 12:7C-5, barge owners may be required to post a \$25,000 bond with the governing body of the municipality with jurisdiction if they remain docked in or on the bank of a river for more than 10 consecutive days. Barges, ships and boats owned/operator by common carriers for interstate commerce and seasonal pleasure craft are exempt from this bond provision. Money from the bond, if forfeited, will be used to cover the costs of removing the vessel if it sinks or can no longer navigate under its own power.

It is also required by New Jersey law that the owner of record send written notice to the Division of Motor Vehicles within one week of the change in status when a vessel is sold, transferred, lost, destroyed or abandoned (N.J. Rev. Stat. § 12:7-34.45).

Responsibility for Removal of Abandoned or Derelict Vessels

Under N.J. Rev. Stat. § 12:7C-9(b), the owner of an impounded abandoned vessel is responsible for all removal, transport, storage, disposal, and incidental costs. If the vessel is on private property and the property owner (or lessee) attempts to receive title pursuant to N.J. Rev. Stat. § 12:7C-15, all costs incurred in receiving title are the responsibility of the applicant and the costs associated with removal and disposal are the responsibility of the previous owner; however, if the applicant is a municipality or harbor commission, they have the right to attempt to recover the title application costs from the previous owner.

If the vessel has been declared a nuisance vessel under N.J. Rev. Stat. § 12:4-5, the owner is responsible to remove the vessel; however, if the owner does not comply with the removal notice, the county then becomes responsible for the removal and associated costs.

Removal and Disposal Requirements/Guidelines

If a vessel is considered abandoned under N.J. Rev. Stat. § 12:7C-9, it may be removed from a municipal waterway, impounded and stored under direction of the municipality or harbor commission (N.J. Rev. Stat. § 12:7C-9(b)(2)). When an abandoned vessel is removed, the official with jurisdiction of the waterway is required to file an incident report with the Motor Vehicle Commission (N.J. Rev. Stat. § 12:7C-9(b)).

After an applicant receives title to an abandoned vessel found on private property, they have the right to remove or dispose of the vessel with all associated costs becoming the responsibility of the previous owner, providing they have been identified (N.J. Rev. Stat. § 12:7C-16). Previous owners who chose not pay the removal/disposal costs can be assessed an additional civil penalty of up to \$1000, which is paid into the general fund of the local municipality. If a new title holder disposes of an abandoned vessel, they are required to notify and provide details of the disposal to the Motor Vehicle Commission within 15 days (N.J. Rev. Stat. § 12:7C-17). Pursuant to N.J. Rev. Stat. § 12:7C-18, the New Jersey Motor Vehicle Commission can also receive title to an abandoned vessel providing they follow all the same procedures required under the Abandoned or Sunken Vessel Disposition Law (as summarized above). Attempting to obtain a title of an abandoned vessel by fraudulent means can result in a civil penalty of up to \$1000 (N.J. Rev. Stat. § 12:7C-19).

Differences between Commercial and Recreational Vessel Treatment

Laws addressing abandoned vessels in New Jersey do not distinguish between commercial or recreational vessels. They do, however provide separate provisions under N.J. Rev. Stat. § 12:7C for dealing with abandoned flat-bottomed boats, barges, scows or rafts.



Vessel Size Requirements or Limits

New Jersey statutes do not specify any size requirements or limitation under their laws addressing abandoned vessels.

Funding Sources

The State of New Jersey does not have a dedicated funding source for dealing with abandoned or derelict vessels. Costs of removing and disposing of vessels can be recovered through the sale of forfeited vessels or through penalties collected for statute violations. The state may also receive funds from bonds secured as a requirement under N.J. Rev. Stat. § 12:7C-5 that can be used to remove the bonded vessel if it becomes stranded or sinks.

Lead State Agency

The Motor Vehicle Commission administers the laws for abandoned vessels in New Jersey.

Email: through website

Telephone: 888-486-3339 or 609-292-6500

Website: <http://www.state.nj.us/mvc/>

Insurance Requirements for Vessels

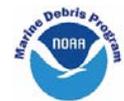
New Jersey does not require vessel insurance. The state may require vessel owners to secure bonds of \$25,000 when docking a vessel for more than 10 consecutive days in or on the banks of any river, pursuant to N.J. Rev. Stat. § 12:7C-5, to be used if the vessel sinks or becomes stranded.

Specific Location Factors, Limitations and Additional Information

Under New Jersey law if a boat, barge or scow is stranded or sunk in any navigable waters of the state and left for 30 days by the owner or person in charge, the board of freeholders of the county are required to investigate the vessel if they receive written notice of the vessel from at least six county residents (N.J. Rev. Stat. § 12:4-5). After an investigation by the board, if the vessel is found to be an obstruction to navigation, or likely to become one, they must give notice to the owner or person responsible, if known, that the vessel is a nuisance and must be removed within 30 days. If the address of the owner or responsible person is not known, then the notice must be published in any newspaper with circulation in the county where the vessel is located.

If the nuisance vessel is not removed within 30 days after receiving notice, the board of freeholders can declare the vessel a public nuisance and forfeited to the state (N.J. Rev. Stat. § 12:4-6). Once it has been declared a nuisance vessel, it can be removed, by contract or otherwise, and sold at public auction to defray the costs associated with its removal. They can also transfer the vessel to the contractor as whole or part of the compensation for removal.

The costs of removal, including incidental costs, must be calculated and certified by the board of freeholders at which point they can be released from the county treasurer (N.J. Rev. Stat. § 12:4-7). The account can then be certified by the Division of Navigation of the Department of Conservation and, upon approval, funds will be reimbursed to the county out of any funds appropriated for these purposes from the state treasury. Pursuant to N.J. Rev. Stat. § 12:4-9, the maximum amount that can be spent on the removal of any one sunken or stranded boat, barge or scow under these provisions is \$1000.



Prioritization Scheme

The State of New Jersey does not currently have a prioritization scheme in place for the removal of abandoned or derelict vessels.

Legislation and Administrative Codes

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

New Jersey Statutes (2015):

<http://www.njleg.state.nj.us/>

New Jersey Administrative Code (2015):

<http://www.lexisnexis.com/hottopics/njcode/>

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.