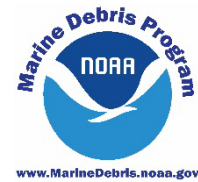


State of New York



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

NOAA Marine Debris Region:
Northeast



Definition of a Vessel

New York defines a “vessel” under Article 1 of the state’s Navigation Laws as follows (N.Y. Nav. Law § 2(6)):

Vessel: shall mean any floating craft and all vessels shall belong to one of the following classes:

- A) **Public Vessel:** shall mean and include every vessel which is propelled in whole or in part by mechanical power and is used or operated for commercial purposes on the navigable waters of the state; that is either carrying passengers, carrying freight, towing, or for any other use; for which a compensation is received, either directly or where provided as an accommodation, advantage, facility or privilege at any place of public accommodation, resort or amusement.
- B) **Residential Vessel:** shall mean and include every vessel which is used primarily as a residence.
- C) **Pleasure vessel:** shall mean and include every vessel not within the classification of public vessel or residential vessel. However, the navigation laws do not apply to rowboats, canoes and kayaks except as otherwise expressly provided.

Under this definition the term “vessel” does not include a crew racing shell, designed primarily for practice or racing in the sport of crew or scull racing.

Definition of an Abandoned and/or Derelict Vessel

The laws of New York do not provide a definition for an “abandoned” or “derelict” vessel, but they do have a definition of “wreck” under the navigation laws that can be used to address derelict vessels.

Wreck: shall mean any wrecked property, other than an abandoned historic shipwreck.

In a 1953 New York court decision, “wreck,” “wreck of the sea,” and “shipwrecked goods” were all defined as those goods cast upon land by the sea, and left there, within some county. They were not wrecks so long as they remained at sea in the jurisdiction of the admiralty. (See *Baker v. Hoag*, 7 N.Y. 555, 1853 WL 5979).

New York laws also provide a definition for “abandoned historic shipwreck” under N.Y. Nav. Law § 2(33), as referenced in the definition for “wreck”.

Abandoned historic shipwreck: shall mean wrecks situated on or under lands owned by the state, in which the state holds title pursuant to the Abandoned Shipwrecks Act of 1988 (43 U.S.C. 2101) or which, by reason of their antiquity, history, architecture, archaeology or cultural value, have state or national importance and are eligible for inclusion on the state register of historic places, and which have been abandoned by the owner of record. The term shall include the wreck, its cargo, and contents.



Formal State Program for Abandoned Vessels

The State of New York does not have a formal program for removing and disposing of abandoned or derelict vessels, or any general laws that specifically address them. In New York, abandoned and/or derelict vessels that are considered “wrecks” by the state are governed by the disposition of wrecked property under the state’s navigation laws (N.Y. Nav. Law § 130). Under Article 10, Wrecks, the county sheriff has the authority to take possession of wrecked property in the name of the state. The provisions under Article 10 also address notification requirements, salvage claims and disposal (sale), but are primarily directed at the property that is found within wrecks and not on the vessels. New York does have laws under Vehicle and Traffic, Article 33, that address abandoned vehicle, but vessels do not fall within the definition of vehicles as provided.

It is unlawful for any person to take, or knowingly come into possession, of property from a stranded (wrecked) vessel, or other property that has been cast onto land from the sea or found in a bay or creek (N.Y. Nav. Law § 139(a)). If they do not turn the property over to the state official with jurisdiction within 48 hours they will be guilty of a misdemeanor, which can result in a fine between \$250 and \$500 and/or imprisonment for up to 30 days for the first offense.

Designation of Abandoned and/or Derelict Vessels

New York statutes do not outline a designation process for declaring a vessel as abandoned or derelict. If the vessel is considered a “wreck” by the State pursuant to N.Y. Nav. Law § 130, then it can be taken into possession under the state’s authority.

The New York Boaters Guide (2015) does state that if a boat is stolen, lost, abandoned or destroyed the owner must notify the Division of Motor vehicles in writing within 15 days.

Responsibility for Removal of Abandoned or Derelict Vessels

Under New York’s navigation laws, it is the responsibility of the sheriff of every county, in which any wrecked property is found, to take all necessary measures for saving and securing the property when no owner or other person entitled to possession of the property appears, and to take possession in the name of the people of the state (N.Y. Nav. Law § 130). It is unlawful to keep wrecked goods under New York law (N.Y. Nav. Law § 139(a)).

Removal and Disposal Requirements/Guidelines

New York does not have any laws or guidelines that specify how a vessel should be removed. They do address the disposition of wrecked property once an officer takes possession of it pursuant to N.Y. Nav. Law § 130. When a sheriff takes possession of wrecked property they are required to have the property appraised by disinterested persons and store it in a safe place in order to answer any claims of the person(s) entitled to the property. They are also required to immediately publish a notice, directed to all interested parties, that runs for at least four successive weeks in one or more newspapers in the county where the wrecked property was saved (N.Y. Nav. Law § 139). The expenses incurred from publishing the notice becomes a charge on the property or related future proceeds. The notice must contain:

- a minute description of the wrecked property, and every bale, bag, box, cask, piece, or parcel, and of the marks, brands, letters, and figures on each, and;
- state where the wrecked property is located and its actual condition, and;



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- provide the name, if known, of the vessel and of the master and supercargo of the vessel, and;
- provide the place where the vessel is and it's actual condition.

The owner or consignee of the saved wrecked property may claim the property or the proceeds within a year after it has been found (N.Y. Nav. Law § 132). After establishing ownership, the owner is entitled to have the court issue an order directing the sheriff having possession of the property or the proceeds to deliver them to the claimant, subject to a reasonable salvage fee and any other necessary expenses incurred in the preservation and keeping of the property.

If the court rejects a claim for wrecked property the claimant can still take action for the recovery of such property or proceeds against the officer who has possession of the wrecked property (N.Y. Nav. Law § 134). However, if the plaintiff's action succeeds in court they must pay for the salvage and expenses charged on the property, and they also become liable for the costs of the defense; which must be paid from the recovered damages. When an officer is ordered to return the property to a successful claimant, they must present a written statement of the claims for the expenses incurred while saving the property to the claimant (N.Y. Nav. Law § 135). If the claimant refuses to allow the claim, the amount of the salvage and expense may be adjusted by the court. Once the adjusted claim is paid the officer must return the property or the proceeds to the claimant as ordered. The officer's salvage claim cannot exceed one-half of the wrecked properties value (N.Y. Nav. Law § 136).

Pursuant to N.Y. Nav. Law § 138, if the wrecked property is not claimed within a year, or if the salvage and expenses on the property have not been paid within three months of being adjusted, or an action for the recovery of the property has been filed, the officer with custody of the wrecked property is required to sell it at public auction. After deducting the salvage charge and expenses, which have been adjusted by an order of the court, the officer must transfer any remaining proceeds of the sale to the state comptroller, pursuant to provisions of the Abandoned Property Law (§ 1307), for the benefit of the parties interested, and it will be considered abandoned property paid to the state.

Differences between Commercial and Recreational Vessel Treatment

Provisions under New York's navigation laws do not make a distinction between commercial and recreational vessels when addressing wrecked property.

Vessel Size Requirements or Limits

New York statutes do not set any size requirements or limits for abandoned or derelict vessels.

Funding Sources

The State of New York does not have a dedicated funding source to pay for the removal and disposal of abandoned or derelict vessels.

Lead State Agency

The navigation laws of New York are administered by the Commissioner of Parks, Recreation and Historic Preservation.

Email: through website

Telephone: 518-474-0456

Website: <http://nysparks.com/>



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Insurance Requirements for Vessels

Vessel insurance is not required under New York law.

Specific Location Factors, Limitations and Additional Information

In Richmond County, New York, it is a misdemeanor to intentionally beach or abandon any vessel, ship, boat or other watercraft on the underwater lands of navigable waters of the state surrounding the county, without permission from the owners or lessee's with authority of the uplands abutting these underwater lands.

Prioritization Scheme

New York does not have a formal process to prioritize the removal of abandoned and derelict vessels.

Legislation and Administrative Codes

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

New York Consolidated Laws and Administrative Code (2015):

<http://public.leginfo.state.ny.us/navigate.cgi>

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.