

Appendix I: Summary Of Environmental Laws And Regulations

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This section presents an overview of some relevant laws and regulations that apply to marinas and boaters. The information presented in this section is not comprehensive. Some of these laws and regulations are discussed in greater detail throughout this guidebook. In addition to the environmental laws and regulations discussed below there may be local environmental codes or requirements. When storing hazardous substances, please check with your local fire department and building department regarding storage and handling requirements.

Federal and State Agencies that Regulate Environmental Issues at Marinas

- **Environmental Protection Agency (EPA)** is responsible for ensuring environmental protection federally and delegates certain environmental compliance programs to the state.
- **United States Army Corps of Engineers (ACOE)** builds structures for flood control, manages hydropower structures, maintains navigation channels, is responsible for dredging oversight, and is concerned with providing protection to wetlands and fish and wildlife habitat.
- **United States Coast Guard (USCG)** is an arm of the U.S. Department of Transportation that protects the public, the environment, and U.S. economic interests. They are responsible for responding to spills on the water and for enforcing regulations affecting aquatic mammals.
- **Oregon Department of Environmental Quality (DEQ)** is dedicated to protecting human health and the environment in the State of Oregon. DEQ is responsible for administering delegated federal environmental laws and regulations regarding solid waste disposal, water quality, and hazardous waste management discussed in the subsection below entitled *Federal Laws and Regulations*. In addition, they administer the laws and regulations unique to Oregon that are discussed in the subsection below entitled *Additional State Laws and Regulations*.
- **The Oregon State Marine Board** registers boats and provides boating safety education and funding for recreational facilities associated with recreational boating such as launch ramps, sewage pump-out stations, restrooms, and parking lots. They are the Clean Marina Program lead agency.
- **Oregon Department of Fish and Wildlife** is responsible for protecting Oregon's fish and wildlife and their habitat.
- **Oregon Division of State Police** is responsible for enforcing fish and wildlife laws and responding to emergencies including fires and spill response.

Federal Laws and Regulations

Litter Laws on The Water

THE REFUSE ACT OF 1899

The Refuse Act of 1899 prohibits throwing, discharging, or depositing any refuse matter of any kind (including trash, garbage, oil and other liquid pollutants) into the waters of the United States.

ANNEX V OF MARPOL (MARINE POLLUTION) 1973, 1978

This international law prohibits dumping plastic refuse and garbage mixed with plastic into any waters and restricts dumping of other forms of garbage. It is illegal to dump plastic, dunnage, lining or packing materials that float, or any garbage within 25 miles of an ocean shoreline and in U.S. lakes, rivers, bays, and sounds.

THE FEDERAL WATER POLLUTION CONTROL ACT (THE CLEAN WATER ACT)

The Clean Water Act prohibits the discharge of oil or hazardous substances into U.S. navigable waters. All vessels greater than 26 feet must display a MARPOL placard outlining the garbage dumping restrictions. All vessels over 40 feet must also have a written waste management plan on board.

The use of soaps or other harmful dispersing agents to dissipate oil is prohibited [40 CFR 110.4].

Ports and terminals, including recreational marinas, must have adequate and convenient reception facilities for their regular customers. That is, marinas must be capable of receiving garbage from vessels that normally do business with them (including transients).

The Clean Water Act prohibits the discharge of oil or oily waste into or upon the navigable waters of the United States or the waters of the contiguous zone if such discharge causes a film or sheen upon, or discoloration of, the surface of the water. Discharges that cause a sheen on the water must be reported to the Coast Guard's National Response Center (1-800-424-8802) and to the Oregon Emergency Response System (1-800-OILS-911 or 1-800-452-0311). Violators are subject to a penalty of \$5,000.

Sewage Laws on the Water

SECTION 312 OF THE CLEAN WATER ACT

All vessels with an installed toilet must have a certified Marine Sanitation Device (MSD) attached. The direct discharge of sewage from a vessel is not permitted in virtually any inland bodies of water. Most recreational boats equipped with an MSD will have a Type III MSD – which is a holding tank. The holding tank cannot be emptied in waters of the United States. Sewage pumpouts are available at Ports and large marinas. Larger vessels have Type I or II MSDs.

NONPOINT SOURCE DISCHARGE

The Coastal Zone Act Reauthorization Amendments of 1990 (CZARA) Chapter 5 sets out pollution prevention guidelines for marinas and recreational boaters. CZARA provided the impetus for the DEQ “Best Management Practices for Oregon Marinas” manual. The Amendments require that nonpoint source pollution from marinas be contained.

Spill Plans

Under 40 CFR 112, any boating facility with an aboveground petroleum tank exceeding 660 gallons capacity, or aggregate aboveground petroleum storage greater than 1,320 gallons, or total underground storage capacity greater than 42,000 gallons must have a Spill Prevention, Control and Countermeasure (SPCC) Plan. A professional engineer must certify that there is adequate containment, training, and emergency response equipment to prevent spills and releases of oil.

Hazardous Waste Regulations

The Resource Conservation and Recovery Act requires businesses that generate waste to determine if their waste is hazardous. This is referred to as making a hazardous waste determination. Wastes that are ignitable, corrosive, reactive, toxic, or listed are considered hazardous and face additional restrictions on disposal and management. Additional requirements are in place for facilities that generate greater than 220 pounds of hazardous waste or 2.2 pounds of acutely hazardous waste per month.

Used Oil

Under 40 CFR 279, used oil that is recycled is subject to less stringent regulations than hazardous waste. Containers of used oil must be labeled “used oil.” Spills of used oil must be cleaned up immediately and wastes properly characterized and disposed. Used oil may be hauled off site for recycling by registered used oil transporters.

Habitat Protection

The 1973 Endangered Species Act provides for the conservation of ecosystems upon which threatened and endangered species of fish, wildlife, and plants depend, both through Federal action and by encouraging the establishment of State programs.

Environmental Permits and Licenses

NPDES Permits

National Pollution Discharge Elimination System (NPDES) permits are required for industrial wastewater discharges to surface waters and some stormwater discharges to surface waters not otherwise covered by NPDES general permit. An NPDES permit is required for domestic wastewater treatment facilities discharging to surface waters. Contact your local DEQ office for additional information or to apply for a permit.

Stormwater

In 1990, the EPA implemented regulations requiring permits for stormwater discharges from certain activities. The stormwater permit program requires that certain marinas classified with Standard Industrial Classification (SIC) system number 4493 be covered by a National Pollution Discharge Elimination System (NPDES) permit. Any marina or boat yard that performs boat construction or rebuilding and has a defined stormwater outfall needs a stormwater permit. Under the permit, marina operators must develop a stormwater pollution prevention plan and implement best management practices to ensure that stormwater leaving the marina property will not harm the quality of the surrounding waters. For additional information to apply for a permit, contact your local DEQ office.

Total Maximum Daily Loads (TMDLs)

The EPA requires state agencies such as the DEQ to calculate pollution load limits, known as TMDLs, for each pollutant entering a body of water. TMDLs describe the amount of each pollutant a waterway can receive and still not violate water quality standards. TMDLs take into account the pollution from all sources, including marinas.

Section 404

Section 404 of the Clean Water Act requires that any applicant for a permit to conduct any activity which may result in a discharge to waters of Oregon to obtain certification from DEQ that the activity complies with water quality requirements and standards. Section 404 permits are issued by the Army Corps of Engineers. In Oregon, projects in which the applicant will dredge, fill, or otherwise alter a waterway will require a permit from the Oregon Department of State Lands.

Additional State Laws and Regulations

Waste and Hazardous Waste

Abrasive Blast Waste Containing Pesticides that are not federally regulated as hazardous waste are considered special waste under OAR 340-101-0040. The abrasive blast waste associated with hull cleaning is subject to this regulation.

Water Quality

ORS 468B.025 Prohibited activities. No person shall: cause pollution of any waters of the state or place or cause to be placed any wastes in a location where such wastes are likely to escape or be carried into the waters of the state by any means.

ORS 468B.050 When permit required. Except as provided in ORS 468B.053 or 468B.215, no person shall discharge any wastes into the waters of the state from any industrial or commercial establishment or activity or any disposal system, without first obtaining a permit.

OAR 340-071-0140 requires persons who plan to build an on-site sewage disposal system to obtain a construction-installation permit or a Water Pollution Control Facility Permit before construction. On-site systems must obtain a WPCF permit if the system:

- ◆ Has a projected daily sewage flow greater than 2,500 gallons, or
- ◆ Handles sewage with a greater strength than residential wastewater, or
- ◆ Uses a technology identified by DEQ as warranting regulation.

General Permits

The Oregon Department of Environmental Quality issues general permits for certain activities such as washwater discharges. Permit number 1700A is a NPDES permit for washwater discharges to surface water and permit number 1700B is for washwater discharges to land.

Sewage Collection

The document “*Guidelines for Sewage Collection and Disposal for Recreational Boats, Commercial Vessels and Floating Structures*” (September 3, 1996, Oregon Department of Environmental Quality and State Marine Board) discusses the type of marine sanitation devices, discharges, and guidelines for determining the number of boat waste collection devices required at marinas and moorages.

Solid Waste

Under **OAR 340-093-0040** no person can dispose of or authorize the disposal of solid waste except at a solid waste disposal site permitted or authorized by the DEQ to receive that waste.

Spills

OAR Chapter 340 Division 109 requires reporting spills of reportable quantities to the Oregon Emergency Response, this includes any spill of oil causing a sheen to water or 42 gallons of oil on land. There are specified spill reporting quantities for oil and hazardous materials that facilities should be aware of. Reporting may be required to both state and federal agencies. The OERS number is 1-800-452-0311. This rule also requires a person to clean up spills of oil and hazardous material immediately, regardless of the quantity spilled.

ORS 466.652 requires any person owning or having control over oil or hazardous material who has knowledge of a spill or release to immediately notify Oregon Emergency Management as soon as that person knows the spill or release is a reportable quantity.

Air Quality

OAR Chapter 340 Division 264 regulates open burning. This division discusses general prohibitions for burning petroleum products and hazardous materials and discusses restrictions on demolition waste and commercial burning.

OAR 340-208-0200 sets out the rules for fugitive emissions.

OAR 340-208-0300 prohibits emissions causing a nuisance or resulting in particulate fall out on neighboring properties or into state waters.

State and Federal air permitting and reporting requirements are discussed in OAR chapter 340 Division 210 thru 220.

