

LAWS AND REGULATIONS

This chapter of laws, regulations, and permit information is by no means comprehensive. It is meant to provide the following:

- ✓ An introduction to the responsibilities of certain federal and state agencies
- ✓ An overview of some relevant laws
- ✓ A synopsis of information about pertinent permits and licenses

Selected Federal Agencies

U.S. Environmental Protection Agency (EPA)

This agency is responsible for ensuring that environmental protections are included in U.S. policies concerning economic growth, energy, transportation, agriculture, industry, international trade, and environmental quality. EPA's policies are targeted to prevent pollution wherever possible and to reduce risk to people and ecosystems in the most cost-effective manner. The agency also provides business, state and local governments, communities, and citizens with information on how to prevent pollution and protect human health and the environment. The Office of Water is responsible for implementing the Clean Water Act, portions on the Coastal Zone Act Reauthorization Amendments of 1990, the Resource Conservation and Recovery Act, and the Marine Plastics Pollution Research and Control Act, among others.

National Oceanic and Atmospheric Administration (NOAA)

An agency within the U.S. Department of Commerce, NOAA's mission is to conserve and wisely manage the nation's coastal and marine resources to ensure sustainable economic opportunities. NOAA is also responsible for describing and predicting changes in the earth's environment. The agency provides a wide range of observational, assessment, research, and predictive services for estuarine and coastal Great Lakes regions. In partnership with the EPA, NOAA implements the Coastal Zone Act Reauthorization Amendments of 1990.

U.S. Army Corps of Engineers (USACE)

USACE is responsible for ensuring adequate flood control, hydro-power production, navigation, water supply storage, recreation, and fish and wildlife habitat. USACE contracts and regulates coastal engineering projects, particularly harbor dredging and beach nourishment projects. They also review and permit coastal development and restoration projects. The majority of marina development and expansion projects, including dredging, will require a permit from USACE.

Selected Federal Agencies

- U.S. Environmental Protection Agency (EPA)
- National Oceanic and Atmospheric Administration (NOAA)
- U.S. Army Corps of Engineers (USACE)
- U.S. Fish and Wildlife Services (USFWS)
- U.S. Coast Guard (USCG)

Selected State Agencies

- Illinois Department of Natural Resources (IDNR)
- Illinois Environmental Protection Agency (IEPA)
- Illinois Emergency Management Agency (IEMA)
- Office of the Illinois State Fire Marshal (OSFM)

Selected Federal Laws that Affect Marinas

- Clean Boating Act of 2008
- Clean Vessel Act
- Coastal Zone Act Reauthorization Amendments of 1990
- Federal Endangered Species Act
- Federal Water Pollution Control Act
- Fish and Wildlife Coordination Act
- Marine Plastic Pollution Research and Control Act
- Oil Pollution Act of 1990
- Refuse Act of 1899
- Resource Conservation and Recovery Act

Selected State Laws that Affect Marinas

- Boater Registration and Safety Act
- General Solid Waste Management
- Hazardous Waste Management
- Illinois Environmental Protection Act
- Illinois Pesticide Act
- Oil Spill Reporting and Response
- Petroleum Dispensing and Fueling
- Rivers, Lakes, and Streams Act
- Sewage Management
- Stormwater Management

Environmental Permits and Licenses

- Clean Water Act Section 404 Permit
- Illinois Construction Permits
- NPDES Stormwater Discharge Permits
- NPDES Pesticide Application Point Source Discharge Permit

Links

- Federal Agencies
- State Agencies
- Illinois General Assembly

U.S. Fish and Wildlife Service (USFWS)

This is the agency within the U.S. Department of the Interior that is responsible for the management and enhancement of fish, wildlife, and natural habitats. USFWS implements and enforces numerous environmental laws that affect marinas, including the Endangered Species Act and the Migratory Bird Treaty Act. Along with other federal agencies, USFWS also reviews and comments on permit applications required for marina development and expansion projects.

U.S. Coast Guard (USCG)

An arm of the U.S. Department of Homeland Security, USCG promotes maritime safety and marine environmental protection, enforces maritime law, manages all federal navigation aids, and regulates and monitors recreational and commercial vessels and waterfront facilities. In addition, the USCG reviews and comments on permit applications for coastal engineering projects.

Selected State Agencies

Illinois Department of Natural Resources (IDNR)

IDNR is responsible for the preservation, protection, and effective management of Illinois' natural, recreational, and cultural resources. The department implements state and federal laws that protect and enhance the state's natural resources and coordinates the many disciplines and programs necessary to provide a clean environment and a full range of outdoor recreational opportunities for Illinois citizens and visitors. As the public trustee for the portions of Lake Michigan that lie within the state, IDNR oversees any manmade changes to the lakebed and the Chicago River.

Illinois Environmental Protection Agency (IEPA)

This agency protects environmental quality in Illinois by enforcing environmental regulations and managing state and federal clean air, water, and land permit programs. IEPA is responsible for overseeing and promoting market-based approaches for preventing water pollution, including stormwater runoff. It is also charged with educating citizens, companies, and government agencies on best practices for securing the health of the environment. Through its Office of Emergency Response, IEPA also works with other agencies to respond to environmental emergencies involving oil or hazardous materials and oversees clean-up efforts.

Illinois Emergency Management Agency (IEMA)

IEMA is responsible for preparing the state for natural or man-made disasters and hazards. Through its State Emergency Response Commission, IEMA prepares communities for chemical emergencies and responds to reported releases of oil or hazardous chemicals. IEMA also establishes and supports Local

Emergency Planning Committees.

Office of the Illinois State Fire Marshal (OSFM)

This agency implements programs designed to save lives and property from fire and explosions. OSFM is responsible for inspecting and licensing aboveground and underground petroleum tank systems. In addition, OSFM conducts operator training required by state and federal law.

Selected Federal Laws that Affect Marinas

Clean Boating Act of 2008 (33 U.S.C. 1342r)

An amendment to the Clean Water Act, this law exempts recreational vessels from the requirement to obtain an NPDES permit for discharges incidental to normal operations. Instead, boaters are required to comply with discharge management practices established by EPA and regulated by USCG. In addition, the Clean Boating Act requires EPA to evaluate recreational vessel discharges and develop industry performance standards based on its management practices.

Clean Vessel Act (33 U.S.C. 1322)

This act provides funds to conduct boater environmental education and construct, renovate, and operate pump-out stations. Under this act, marinas can receive up to \$12,500 in grant funding to install a pump-out system. In exchange for grant funding, marina owners agree to maintain pump-out systems in good operating condition for a minimum of 10 years and not to charge more than \$5 per pump-out. The pump-out system must be able to accept waste from portable toilets, as well as holding tanks, and must be available to the public during reasonable business hours.

Coastal Zone Act Reauthorization Amendments of 1990 (16 U.S.C. 1455b)

The motivation for the Illinois Clean Marina Program, Section 6217 of this law requires that nonpoint source pollution from marinas be contained. The Illinois Clean Marina Program helps ensure this requirement is met by promoting voluntary adoption of best management practices to minimize the effect of marinas on surrounding land and water.

Federal Endangered Species Act (16 U.S.C. 1531)

The Endangered Species Act protects species that are in danger of extinction throughout all or a significant portion of their range. Under this act, a biological assessment is required to determine if endangered species are present before construction activities may begin.

Federal Water Pollution Control Act (33 U.S.C. 1251-1376)

Commonly known as the Clean Water Act, this law addresses

many aspects of water quality protection. It provides the authority for the National Pollutant Discharge Elimination System (NPDES) permit program for point sources of pollution. The Clean Water Act also prohibits the discharge of raw sewage within U.S. waters and requires that all recreational boats with installed toilets have an operable marine sanitation device on board.

The act prohibits the discharge of oil or hazardous substances into U.S. navigable waters. It also prohibits the use of chemical agents like soap, detergents, surfactants, or emulsifying agents to disperse fuel, oil, or other chemicals without permissions from USGS. All boats 26 feet in length or over are required to display a placard that is at least 5x8 inches, made of durable material, and fixed in a conspicuous place, such as in the machinery spaces or at the bilge pump control station. The placard must read:

Discharge of Oil Prohibited

The Federal Water Pollution Control 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 or causes a sludge or emulsion beneath the surface of the water. Violators are subject to a penalty of \$5,000.

The Clean Water Act requires that the U.S. Coast Guard be notified any time a spill produces a sheen on the water. Failure to report a spill may result in civil penalties. Report spills to (800) 424-8802.

Fish and Wildlife Coordination Act (16 U.S.C. 1344)

This law requires a USFWS review of the potential effects that proposed water resource development projects may have on fish and wildlife. Under this law, fish and wildlife resources must receive consideration equal to other parts of the project. In addition, it requires federal agencies that construct, license, or permit water resource development projects to first consult with USFWS and state fish and wildlife agencies regarding the impacts on fish and wildlife resources and measures to mitigate these impacts.

Marine Plastic Pollution Research and Control Act (33 U.S.C. 1914-1915)

The MPPRCA of 1987 restricts the overboard discharge of garbage. Under this law, it is illegal to dump plastic, paper, rags, glass, metal, crockery, dunnage (lining and packing material, nets, lines, etc.), and food into any U.S. lake, river, and bay. Ports and terminals, including recreational marinas, must provide adequate and convenient receptacles for their customers, including transients. All boats over 40 feet must also have a written waste management plan on board.

Oil Pollution Act of 1990 (33 U.S.C. 2701-2720)

This law primarily addresses commercial oil shipping. However, some of the requirements are applicable to recreational boating. Under this law, the responsible party for any boat or facility that discharges oil is liable for the removal costs of the oil and

any damages to environmental quality, real or personal property, subsistence uses, public services, revenues, profits, or earning capacity. The financial liability for all non-tank vessels is \$600 per gross ton or \$500,000, whichever is greater. In addition, substantial civil penalties may be imposed for discharging oil and for failure to report a spill, remove oil, or comply with regulations.

Refuse Act of 1899 (33 U.S.C. 407)

It is illegal under this law to throw, discharge, or deposit any refuse matter of any kind—including trash, garbage, oil, and other liquid pollutants—into waters of the United States.

Resource Conservation and Recovery Act (42 U.S.C. 6921-6939)

RCRA establishes standards for handling, transporting, and disposing of materials that are ignitable, corrosive, reactive, or toxic. Facilities that generate these materials, known as hazardous waste, are categorized as a specific type of generator depending upon the quantity of hazardous waste generated and stored on-site. Some requirements laid out in this law apply to all hazardous waste generators, but most are specific to the amount of waste being generated. For a list of these requirements, see the Waste Containment and Disposal chapter of this guidebook.

Selected State Laws and Rules that Affect Marinas

Boater Registration and Safety Act (625 ILCS 45/4-9)

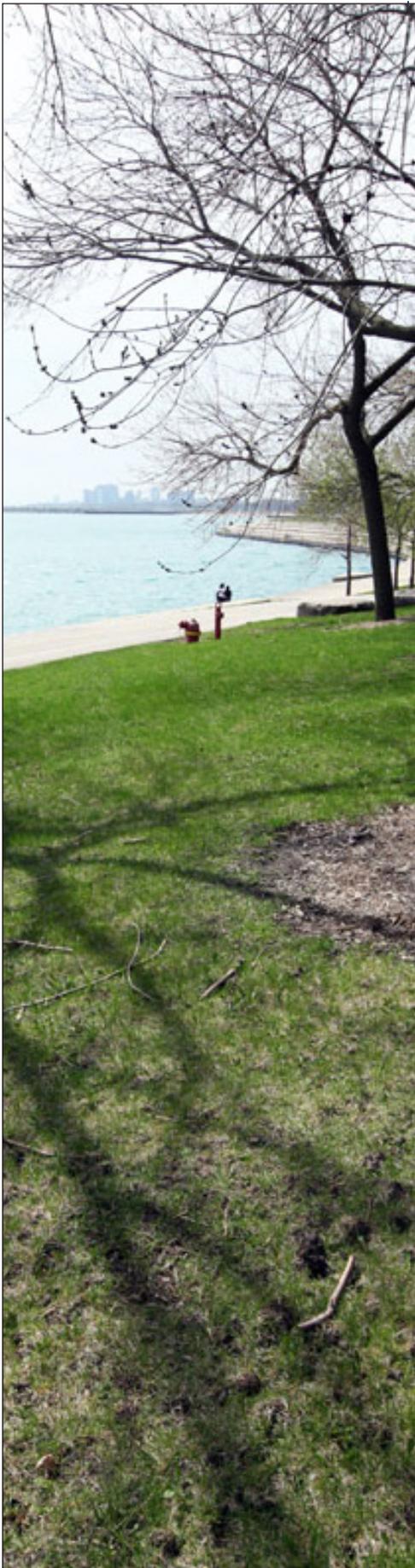
It is illegal under this act to discharge sewage into state waterways. Required measures for preventing illegal discharge are outlined in the Federal Clean Water Act. Any vessel with an installed toilet must be equipped with a USCG-certified Type I, Type II, or Type III marine sanitation device (MSD). Vessels 65 feet and under may have any of the three types of MSDs. Vessels over 65 feet must have a Type II or III system. Additionally, Type I and Type II systems must display a certification label affixed by the manufacturer. This label is not required on Type III systems.

General Solid Waste Management (35 IAC 807-810)

These rules establish procedures for the storage, transport, and disposal of solid waste, including special waste. Solid waste management requirements differ depending on the material and quantity. See the Waste Containment and Disposal chapter in this guidebook or visit www.epa.state.il.us/land/waste-mgmt for more information.

Hazardous Waste Management (35 IAC 720-729)

These rules expand upon the federal Resource Conservation and Recovery Act and outline requirements for hazardous waste management in Illinois. Requirements under these laws differ depending on the amount of hazardous waste generated on-site.



See the Waste Containment and Disposal chapter in this guidebook or visit www.epa.state.il.us/land/hazardous-waste for more information.

Illinois Environmental Protection Act (415 ILCS 5)

The Illinois Environmental Protection Act establishes a unified, statewide program for protecting and enhancing environmental quality. This act is at the center of the state's efforts to limit the negative impacts of activities on the environment and to ensure that any adverse effects are borne by those who cause them. Included in this law is a ban on the disposal of certain materials in Illinois landfills or incineration facilities. Materials include major appliances, lead acid batteries, yard waste, waste oil, and electronic waste. Visit www.epa.state.il.us/land/waste-mgmt/facility-tables/index.html for a list of approved recycling facilities.

Illinois Pesticide Act (415 ILCS 60)

The Illinois Pesticide Act (415 ILCS 60) requires marinas that apply antifouling paints to boats to follow certain licensing and certification regulations. These requirements differ depending on whether the marina is applying the antifouling paints in a for-hire status and whether the paint is a restricted-use product. In Illinois, antifouling paints containing tributyl tin are classified as a restricted-use pesticide. The federal Organotin Antifouling Paint Control Act (OAPCA) also restricts the use of tin-based paints on aluminum vessels, boats larger than 82 feet (25 meters), outboard motors, and lower drive units. See the Vessel Maintenance and Repair chapter in this guidebook for more information on specific antifouling paint requirements.

Oil Spill Reporting and Response (41 IAC 176.300-176.360)

Under these rules, owners or operators of petroleum storage tanks are required to immediately report the spill or release of petroleum to IEMA at (800) 782-7860. Spills must also be reported to the National Response Center at (800) 424-8802. Failure to report any spill may result in substantial fines. Owners and operators are also required to immediately clean up any petroleum spill or overfill of 25 gallons or less.

Petroleum Dispensing and Fueling (41 IAC 175.250)

It is illegal under this rule for boaters to fuel their own vessels at a marina. Marinas must ensure that an attendant is always available to fuel vessels for customers. This rule also requires that emergency shutoff switches be installed at each fueling facility in case of fire or physical damage.

Rivers, Lakes, and Streams Act (615 ILCS 5)

This law governs the use of public waters and gives IDNR the authority to regulate construction activities in state waterways. Marina development and expansion projects require joint permits

from USACE, IDNR, and IEPA. See the Environmental Permits and Licenses section below for more information on required permits.

Sewage Management (77 IAC 800.1300)

This rule requires marinas to provide pump-out stations wherever boats equipped with toilets are allowed to dock in recreational areas. Shoreside restrooms for both men and women are also required if marinas provide docking facilities for overnight sleeping. Restrooms must be located within 500 feet of recreational areas.

Stormwater Management (35 IAC 309)

This rule gives IEPA the authority to implement the National Pollutant Discharge Elimination System (NPDES) created by Clean Water Act. The system regulates stormwater discharge from construction sites, industrial facilities, and selected municipalities. Most marinas are required to have a Storm Water Permit for Industrial Activities. See the Environmental Permits and Licenses Section below for more information.

Environmental Permits and Licenses

Clean Water Act Section 404 Permit

Under Section 404 of the Clean Water Act, the majority of marina development and expansion projects along the Great Lakes, including dredging, will require a joint permit from USACE, IDNR, and IEPA. Before a Section 404 permit can be issued, IEPA must certify that the proposed project is in compliance with the state's water quality standards (33 U.S.C. 1341). For individual permits, certification occurs during the application review. In order for nationwide permits and other general permits issued by USACE to be valid in Illinois, IEPA must have already certified that the activities they permit will meet water quality standards. Applications that fail to meet water quality standards can be denied even if the proposed activity complies with all other Section 404 provisions. For additional information on the certification program, call the IEPA Watershed Management Section at (217) 782-3362.

Illinois Construction Permits

In addition to federal permits, 17 IAC 3700-3708 require marinas to obtain a permit from IDNR for any construction project in a public body of water. Permits are usually required for individual projects, although some common construction activities are covered under statewide and regional permits. Work that meets all the specified limits of a statewide or regional permit is automatically approved. Marina projects that may require permits include dredging, control of aquatic nuisance species, placement of docks/piers, bank stabilization, and building of marina breakwater structures. For more information and to learn more about statewide and regional permits, visit www.dnr.illinois.gov/

[WaterResources/Pages/Permit%20Programs.aspx](#).

NPDES Stormwater Discharge Permits

The National Pollutant Discharge Elimination System (NPDES) Storm Water Management Program, created in an amendment to the Federal Clean Water Act, regulates stormwater discharge from construction sites, industrial facilities, and selected municipalities. IEPA is in charge of implementing the program and issuing general permits in Illinois. For more information, visit www.epa.state.il.us/water/permits/storm-water/index.html.

Most marinas and boatyards are considered Tier II industries, and are required to have a Storm Water Permit for Industrial Activities if they allow boat maintenance, mechanical repair, painting, cleaning, fueling, lubrication, or provide outdoor boat storage (35 IAC 309). For more information and to access permit forms, visit www.epa.state.il.us/water/permits/storm-water/industrial.html. Some marinas, such as those managed by the Chicago Parks District, may be covered by a Municipal Separate Storm Sewer System (MS4) permit. Consult with your municipality to determine if your marina is part of an MS4 or visit www.epa.state.il.us/water/permits/storm-water/2000-urbanized-area-list.pdf for a list of cities with MS4 permits.

Under 35 IAC 309, marinas are also required to have a General Storm Water Permit for Construction Activity before beginning projects that will disturb one acre or more of land. Landowners need to submit an application called a Notice of Intent (NOI) to request coverage under these permits. Instructions and permit forms can be found at www.epa.state.il.us/water/permits/storm-water/construction.html.

As a condition of stormwater permits, each marina must develop a site-specific Stormwater Pollution Prevention Plan (SWPPP) and implement best management practices to ensure that stormwater leaving the marina property will not harm the surrounding water quality. Guidance for developing a SWPPP for construction sites can be found at www.epa.gov/npdes/pubs/sw_swppp_guide.pdf. Similar information for industrial operators can be found at www.epa.gov/npdes/pubs/industrial_swppp_guide.pdf.

Discharges incidental to the normal operation of recreational vessels are exempt from obtaining a NPDES permit. These discharges include graywater, bilge water, cooling water, weather deck runoff, oil water separator effluent, or effluent from properly functioning marine engines.

NPDES Pesticide Application Point Source Discharge Permit

Part of the National Pollutant Discharge Elimination System (NPDES), Illinois created the General NPDES Permit for Pesticide Application Point Source Discharge in 2011. Marinas are required to

have this permit if they use biological or chemical pesticides on the water or along the shoreline to manage plants, insects, or animals (35 IAC 309). Marinas can either acquire this permit for themselves or contract with a permitted commercial pesticide applicator. Eligibility and application requirements can be found at www.epa.state.il.us/water/permits/pesticide/general-permit.pdf.

As a condition of the General Permit for Pesticide Application, marinas that apply pesticides to more than 80 acres of water surface area or 20 linear miles of shoreline annually must develop and implement a Pesticide Discharge Management Plan. Visit www.epa.state.il.us/water/permits/pesticide/pdmp.html for more information.

Links

Federal Agencies

- ✓ U.S. Environmental Protection Agency (EPA): www.epa.gov
- ✓ National Oceanic and Atmospheric Administration (NOAA): www.noaa.gov
- ✓ U.S. Army Corps of Engineers (USACE): www.usace.army.mil
- ✓ U.S. Coast Guard (USCG): www.uscg.mil
- ✓ U.S. Fish and Wildlife Service (USFWS): <http://www.fws.gov>

State Agencies

- ✓ Illinois Department of Natural Resources (IDNR): dnr.state.il.us/home.htm
- ✓ Illinois Environmental Protection Agency (IEPA): www.epa.state.il.us
- ✓ Illinois Emergency Management Agency (IEMA): www.state.il.us/iema/index.asp
- ✓ Office of the Illinois State Fire Marshal (OSFM): www.sfm.illinois.gov

Illinois General Assembly

- ✓ www.ilga.gov

