



ITEM 11A

LAKE MINNETONKA CONSERVATION DISTRICT

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DATE: September 25, 2019

TO: LMCD Board of Directors

FROM: Vickie Schleuning, *Vickie Schleuning* Executive Director

SUBJECT: Watercraft Wastewater Discharge Suggested Code Amendment

ACTION

Board discussion and public input regarding a code amendment to reinforce state and federal laws regarding wastewater discharge from watercraft and a suggestion to remove certain wastewater devices from watercraft operating on Lake Minnetonka.

BACKGROUND

The discharge or depositing of sewage or wastewater in Lake Minnetonka is illegal. This code amendment clarifies current LMCD regulations and reinforces the state and federal laws that currently make it illegal to discharge wastewater from watercraft into many waterbodies in Minnesota and throughout the country. It also emphasizes the importance of keeping pollution out of the water to protect the public, aquatic plants, and animals.

Further, a marina owner has suggested that certain wastewater equipment, such as a macerator or grinder pump, be removed from watercraft that operate on Lake Minnetonka. After several conversations with various marina owners, code amendment language has been developed and attached for your review and public input. Removal of these pumps would prevent the intentional or accidental discharge of sewage from certain watercraft that have these devices.

Staff is working with Hennepin County and other stakeholders over the next few months to review options for reducing the risk of illness outbreaks at mass gatherings. While there are many possible ways that a pathogen could have been introduced resulting in the illness outbreak at Big Island on July 4th, this agenda item reflects one action that may help reduce the risk and educate boat owners regarding the importance of proper waste disposal. Also, any person that has knowledge of situations where waste was improperly or accidentally discharged should contact the LMCD right away.

ATTACHMENT

- Suggested Code Amendment Language Regarding Watercraft Wastewater Discharge
- General Information Regarding Sewage and Waste Disposal

**LAKE MINNETONKA CONSERVATION DISTRICT
STATE OF MINNESOTA**

ORDINANCE NO. _____

**AN ORDINANCE AMENDING THE LAKE MINNETONKA CONSERVATION
DISTRICT CODE OF ORDINANCES REGARDING SEWAGE DISCHARGES**

THE BOARD OF DIRECTORS OF THE LAKE MINNETONKA CONSERVATION
DISTRICT ORDAINS:

Article I. Definitions. Chapter I, Section 1.02, Subd. 47 of the Lake Minnetonka Conservation District Code of Ordinances is hereby amended as follows:

Subd. 47. “Sewage” means the water-carried waste products from residences, public buildings, institutions or other buildings, or any mobile source, including the excrementitious or other discharge from the bodies of human beings or animals, together with such ground water infiltration and surface water as may be present. For the purposes of this definition, “mobile source” includes, but is not limited to, watercraft, ice houses, aircraft, campers, or other vehicles or structures driven onto or placed on the Lake.

Article II. State Laws Incorporated. Chapter III, Section 3.17 of the Lake Minnetonka Conservation District Code of Ordinances is hereby amended as follows:

Section 3.17. Adoption of State Statutes and Regulations by Reference. The provisions of the following laws and regulations of the State of Minnesota are adopted by reference and made a part hereof as though fully set forth herein:

...

Subd. 16. Discharge from Marine Toilets. Minnesota Statutes, section 86B.325 (as amended).

Article III. Pollution; Sewage Discharges. Chapter IV, Section 4.01 of the Lake Minnetonka Conservation District Code of Ordinances is hereby amended as follows:

Section 4.01. Pollution of Waters of the Lake.

Subd. 1. Prohibition. No person shall pollute the surface waters of the district by placing or depositing or by permitting to be placed or deposited in, or upon said waters or upon any public or private property from which may run into said water any sewage, industrial waste, garbage, rubbish or other waste. This prohibition includes, but is not limited to, the following:

- a) The discharge of sewage from marine toilets or retention devices in violation of Minnesota Statutes, section 86B.325, which is adopted by reference into this LMCD Code by Section 3.17, Subd. 16; and

b) A person who urinates or defecates directly into the Lake.

Subd. 2. Retention Device Required. Minnesota Statutes, section 86B.535, prohibiting a watercraft from being equipped with a marine toilet unless it also equipped with an acceptable retention device, is hereby adopted by reference and made part hereof, including any amendments made thereto.

Subd. 3. Pump Removal. The owner of a watercraft equipped with a pump capable of pumping sewage or other wastes directly into the Lake, such pumps being commonly referred to as macerator pumps or grinder pumps, are required to have such pumps removed from the watercraft before placing the watercraft on the Lake. Additionally, the owner of such a watercraft shall cause the "Y" valve on such pumping system to be locked into the position so that sewage can only be removed by an on-land disposal system and cannot be manually or mechanically directed into the Lake. The handle shall be secured in such a way so as to prohibit sewage from being pumped or otherwise released directly into the Lake.

Subd. 4. Launching Prohibited. It shall be a petty misdemeanor for any person to launch a watercraft equipped with a marine toilet into the Lake without first inspecting the watercraft to confirm the pump is removed and the "Y" valve is locked as required in subdivision 3 of this section.

Subd. 5. Reporting Violations. Those service providers who provide watercraft launching, sewage pumping, or recovery services are required to report to the LMCD if they become aware of a watercraft being operated on the Lake, or that is being returned to the Lake, that is not in compliance with subdivision 3 of this Section. Failure to report such noncompliance is not punishable as a violation of this LMCD Code.

Subd. 26. Private Sewage Systems. Private sewage disposal systems designed for soil absorption of subsurface disposal shall be operated as such and any surface discharge from either is prohibited.

Subd. 37. Littering. No person shall throw or otherwise discard or deposit any bottle, can, carton, or other food or beverage wrapper or container, leaves, branches, grass clippings or any other rubbish or wastes in the waters of the district or on the shoreline of such waters.

Subd. 48. Pieces of Ice. No person shall leave on the surface of the ice or snow pieces of ice cut from the Lake. All such pieces of ice cut from the Lake shall be removed from the Lake, replaced in the hole from which they were cut, or deposited under the surface of the ice.

Subd. 59. Variances. Where, upon the written application of the responsible person or persons, other than metropolitan sewer board sewage facility operators, the Board finds that by reason of exceptional circumstances strict conformity with any of the provisions contained herein would cause undue hardship, would be unreasonable, impractical, or not feasible under the circumstances, the Board may permit a variance from these provisions upon such condition and within such time limitations as it may

prescribe, for prevention, control, or abatement of pollution in harmony with the intent of state, federal and Lake Minnetonka Conservation District Laws.

Article IV. Declaration. This enactment is adopted by a majority vote of all the members of the Board, has the effect of an ordinance, and is in effect on the first day of publication after adoption.

Adopted this ____ day of _____ 2019.

BY THE BOARD OF DIRECTORS

Gregg Thomas, Chair

ATTEST:

Ann Hoelscher, Secretary

Date of Publication: _____, 2019

Effective Date: _____, 2019

New material is double-underlined and removed material is ~~stricken~~.

Summary Regarding Watercraft Wastewater Disposal & Regulations

Excerpts From Various Sources

Overview of Pollutant Disposal Laws

Signs like these are posted at marine sanitation pump-out stations in Minnesota. It is illegal to discharge waste, oil, or trash into any state or federally controlled waters. This is for very good reasons:



- Sewage carries disease and other pollutants that are harmful to people, aquatic plants and animals.
- Trash thrown into the water can injure swimmers and wildlife alike. It can also plug engine cooling water intakes.
- Pollution is unsightly and takes away from your enjoyment of the water.

Boat operators need to be aware of the following regulations for waste, oil, and trash disposal that apply to both federally controlled and state waters. The Refuse Act 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.

Discharge of Sewage and Waste

Under state law, toilets on board boats must be no-discharge devices (see exceptions below). Waste must be retained on board for proper disposal after returning to shore.

If you have a recreational boat with permanently installed toilet facilities, it must have an operable marine sanitation device (MSD) on board. All permanently installed devices must be U.S. Coast Guard–certified.

There are three types of MSDs.

- Types I and II MSDs are usually found on large boats. Waste is treated with special chemicals to kill bacteria before the waste is discharged. Types I and II MSDs with “Y” valves that direct the waste overboard must be secured so that the valve cannot be opened. This can be done by placing a lock or non-reusable seal on the “Y” valve or by taking the handle off the “Y” valve.
- A Type III MSD, the simplest and most common, consists of holding tanks or portable toilets. It requires only a small storage space and is simple to operate. Type III MSDs have the least effect on the environment since the waste is to be discharged on shore into a local sewage treatment facility.

Type I and II USCG–certified treatment / discharge marine sanitation devices are currently legal only on the Mississippi River below Lock and Dam #2 (at Hastings) and on Lake Superior. This is a result of the federal preemption of state law. MSDs on boats less than 65 feet in length must be USCG–certified Type I or II devices.

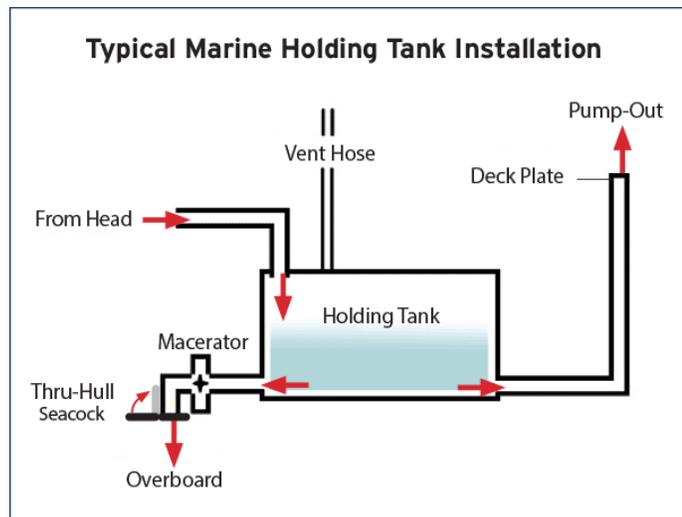
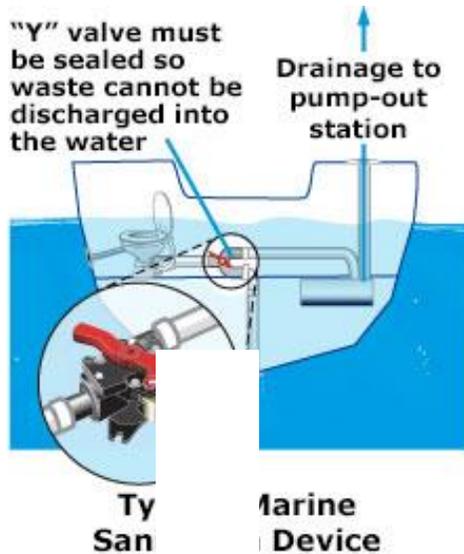


Diagram Source: Boat US

Discharge of Trash

The Act to Prevent Pollution from Ships places limitations on the discharge of garbage from boats. It is illegal to dump refuse, garbage, or plastics into any state or federally controlled waters. Many forms of litter can kill birds, fish, and marine mammals.

- You must store trash in a container while on board and place it in a proper receptacle after returning to shore.
- If boating on federally controlled waters and your boat is 26 feet or longer, you must display a Garbage Disposal Placard in a prominent location. The Garbage Disposal Placard is a durable sign that is at least 4 x 9 inches and notifies passengers and crew about discharge restrictions.

It is illegal for any vessel to dump plastic trash anywhere in the ocean or navigable waters of the United States. Annex V of the MARPOL TREATY is a new International Law for a cleaner, safer marine environment. Each violation of these requirements may result in civil penalty up to \$25,000, a fine up to \$50,000, and imprisonment up to 5 years.

U.S. lakes, rivers, bays, sounds, and 3 miles from shore
ILLEGAL TO DUMP:
 Plastic Garbage
 Paper Metal
 Rags Crockery
 Glass Dunnage
 Food

3 to 12 miles
ILLEGAL TO DUMP:
 Plastic
 Dunnage (lining & packing materials that float)
 Also, if not ground to less than one inch:
 Garbage Metal
 Paper Crockery
 Rags Food
 Glass

12 to 25 miles
ILLEGAL TO DUMP:
 Plastic
 Dunnage (lining & packing materials that float)

Outside 25 miles
ILLEGAL TO DUMP:
 Plastic

State and local regulations may further restrict the disposal of garbage

Working together we can all make a difference!

Source: Boaters Ed Course

2018 Minnesota Statutes

86B.325 DISCHARGE FROM MARINE TOILETS PROHIBITED.

(a) A person owning or operating a watercraft or other marine conveyance on the waters of this state may not use, operate, or allow the use or operation of a marine toilet or similar device for the disposition of sewage or other wastes unless the toilet wastes are retained for disposition on land by means of facilities constructed and operated in accordance with rules adopted by the state commissioner of health and approved by the Pollution Control Agency.

(b) A person may not:

(1) discharge sewage or other wastes into the waters of this state directly or indirectly from a watercraft or other marine conveyance; or

(2) place, leave, discharge, or cause to be placed, left, or discharged a container of sewage or other wastes into waters of this state by a person whether or not the owner, operator, guest, or occupant of a watercraft or other marine conveyance.

(c) Toilets must be sealed or otherwise rendered inoperative so that human or other waste cannot be discharged from the toilet into waters of this state.

History:

1990 c 391 art 9 s 17

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Environmental Protection Agency Information

Vessel Sewage Discharges: Statutes, Regulations, and Related Laws and Treaties

You may need a PDF reader to view some of the files on this page. See [EPA's About PDF page](#) to learn more. *Section 312 of the Clean Water Act (CWA) sets out the principal framework for regulating sewage discharges from vessels into the U.S. navigable waters and is implemented jointly by the U.S. Environmental Protection Agency (EPA) and the U.S. Coast Guard. However, sewage discharges from certain vessels may also be subject to regulation under other federal statutes or international treaties.*

Statutes

Clean Water Act Section 312 (33 U.S.C. 1322)

CWA sections 312(a) – (m) provide the statutory framework under which the EPA and the U.S. Coast Guard regulate sewage discharges from vessels. See Clean Water Act Section 312 ([33 U.S.C. 1322 \(PDF\)](#)(10 pp, 170 K)).

Note on the relationship between CWA sections 312 and 402:

Section 301(a) of the CWA provides that "the discharge of any pollutant by any person shall be unlawful" unless the discharge is in compliance with certain other sections of the Act. 33 U.S.C. 1311(a). The CWA defines "discharge of a pollutant" as "(A) any addition of any pollutant to navigable waters from any point source, (B) any addition of any pollutant to the waters of the contiguous zone or the ocean from any point source other than a vessel or other floating craft." 33 U.S.C. 1362(12). A "point source" is a "discernible, confined and discrete conveyance" and includes a "vessel or other floating craft." 33 U.S.C. 1362(14). A person may discharge a pollutant without violating the section 301 prohibition by obtaining a [National Pollutant Discharge Elimination System \(NPDES\)](#) permit under section 402 of the CWA. ([33 U.S.C. 1342 \(PDF\)](#)(8 pp, 164 K)).

Vessel sewage discharges defined in CWA section 312 are excluded from Vessel General Permit (VGP) coverage although certain vessels are required to obtain coverage under EPA's NPDES VGP for discharges incidental to the normal operation of those vessels (see below for information on the VGP). While sewage is defined as a "pollutant" under the CWA, **sewage from vessels** within the meaning of section 312, is exempt from this statutory definition [33 U.S.C. 1362(6); see also 33 U.S.C. 1322(a)(6) (definition of "sewage")]. Sewage from vessels also includes graywater for commercial vessels operating on the Great Lakes and is also exempt [33 U.S.C. 1322(a)(10) (definition of "commercial vessels" for purposes of section 312)]. Therefore, vessel owners/operators are not required to obtain NPDES permits before discharging sewage. However, vessels discharging graywater and sewage in one effluent stream, and are not otherwise "commercial vessels" under CWA section 312, are required to follow the requirements outlined in CWA section 312 and the VGP.

Implementing Regulations

The EPA regulations implementing CWA section 312 (standards for marine sanitation devices (MSDs)): [40 C.F.R. 140 et seq \(PDF\)](#)(5 pp, 229 K).

U.S. Coast Guard regulations implementing CWA section 312 (regulations governing the design, construction, certification, installation and operation of MSDs): [33 C.F.R. 159, Subparts A-D \(PDF\)](#)(18 pp, 273 K).

Related Laws and Treaties

Sewage discharges from certain vessels may also be subject to regulation under other Federal statutes and/or international requirements. Examples of these regulations include Title XIV, which applies to certain cruise ships operating in Alaska, and MARPOL Annex IV, which applies if the vessel's flag State is a party to Annex IV. Discharges of graywater and sewage that have been mixed into one effluent stream are also regulated under the NPDES VGP, issued by the EPA pursuant to section 402 of the CWA.

"Title XIV" (33 U.S.C. 1901 Note)

On December 21, 2000, Congress enacted an omnibus appropriation bill that included new statutory requirements for certain cruise ships discharging graywater and sewage in Alaska [Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 2001, Pub. L. No. 106-554, 114 Stat. 2763, enacting into law Title XIV of Division B of H.R. 5666, 114 Stat. 2763A-315, and codified at [33 U.S.C. 1901 \(PDF\)](#)(7 pp, 154 K) Note ("Title XIV")].

Title XIV did not supersede regulation of sewage discharges from cruise ships under CWA section 312. Rather, Title XIV establishes separate requirements for the discharge of treated sewage and graywater from those cruise ships with capacity for 500 or more passengers and operating in certain waters in Alaska. Like the CWA section 312 program, Title XIV is jointly implemented by the EPA and the U.S. Coast Guard.

Vessel Discharge Permit Program (Vessel General Permit)

Pursuant to section 402 of the CWA, [33 U.S.C. 1342 \(PDF\)](#)(8 pp, 164 K), the VGP, finalized by the EPA in 2008, regulates discharges incidental to the normal operation of vessels operating in a capacity as a means of transportation. Recreational vessels as defined in section 502(25) of the CWA are not subject to the VGP. In addition, with the exception of ballast water discharges, non-recreational vessels less than 79 feet (24.08 meters) in length, and all commercial fishing vessels regardless of length, are not subject to the VGP.

The VGP includes:

- general effluent limits applicable to all covered discharges;
- general effluent limits applicable to 26 specific discharge streams;
- narrative water-quality based effluent limits;
- inspection, monitoring, recordkeeping, and reporting requirements; and
- additional requirements applicable to certain vessel types.

Vessel sewage discharges within the meaning of CWA section 312 are excluded from coverage under the VGP. However, as noted above, graywater and sewage discharges mixed into one effluent stream are subject to the permit (except those discharges from "commercial vessels" (as defined at 33 U.S.C. 1322(a)(10)) operating on the Great Lakes). This one effluent

stream must meet the discharge limitation requirements in Parts 2 and 5 (if applicable) of the VGP, and any applicable CWA section 312 requirements for sewage discharges.

See Vessel Discharge Permit Program (Vessel General Permit).

MARPOL Annex IV

The principal international instrument regulating sewage discharges from vessels is Annex IV to the "International Convention for the Prevention of Pollution from Ships, 1973, as modified by the Protocol of 1978 relating thereto" ("MARPOL Annex IV"). The United States is not a party to MARPOL Annex IV, and thus is not bound by the Annex's provisions. However, ocean-going vessels operating in U.S. navigable waters which are registered in foreign countries may be subject to the MAPROL Annex IV requirements.

More information regarding MARPOL Annex IV can be accessed on the IMO website.