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RE: Western State Conveyance Drainage Requirements (NSGLC-16-04-01)

Dear Tom,

On January 14, 2016, during a WISCE conference call, you requested information about which western states require drain plugs to be removed. To assist you in your research, the National Sea Grant Law Center offered to review our compilation of state laws and regulations and inventory relevant provisions. The results of our initial review are below. Five western states expressly require boaters to remove drain plugs. Seven states, including Montana, require boaters to drain conveyances, but do not specify how to do so. Three states require water to be drained as part of the inspection process.

Requirements to “Pull Your Plug”

Five western states – Arizona, Kansas, New Mexico, North Dakota, and South Dakota – have regulations that require boaters to remove the drain plug. Each state’s language is slightly different, however.

Arizona

In Arizona, boaters must “remove any plug” upon removing a watercraft, vehicle, or equipment from listed waters. In full, Ariz. Admin. Code § 12-4-1102 states:

B. Upon removing a watercraft, vehicle, conveyance, or equipment from any waters listed in Director's Order 2 and before leaving that location, a person shall:

1. Remove all clinging materials such as plants, animals, and mud.

2. Remove any plug or other barrier that prevents water drainage or, where none exists, take reasonable measures to drain or dry all compartments or spaces that hold water. Reasonable measures include, but are not limited to, emptying bilges, application of absorbents, or ventilation.

Some additional detail regarding which plugs should be removed is provided in Director's Order 3, which requires boaters to "Remove the plug (when so equipped) and drain the water from the bilge, live-well, and any other compartments that may hold water." Boaters must also "Drain water from engine, engine compartments, and engine cooling systems."

Kansas

Kansas' drain plug removal requirements apply statewide and specify when the plug must be removed. Kan. Admin. Reg. § 115-30-13 states:

The livewells and bilges shall be drained and the drain plugs removed from all vessels being removed from the waters of the state before transport on any public highway of the state.

New Mexico

On February 12, 2016, new rules will come into effect in New Mexico that require the removal of drain plugs. A brand new section of the code, N.M. Code R. § 19.30.14.12(F) states:

The owner or operator of any conveyance or equipment transported in New Mexico shall remove any plug or other barrier that prevents water drainage, drain bilge lines, ballast tanks and live wells and take reasonable measures to decontaminate all equipment, compartments or spaces that are wet or hold water.

North Dakota

North Dakota's removal requirement applies to all watercraft either upon entering the state or when leaving infested waters within the state. N.D. Admin. Code 30-03-06(d) currently states:

All drain plugs must be removed from all watercraft and recreational, commercial, and construction bilges and confined spaces, when entering the state or leaving any state waters infested with class I prohibitive aquatic nuisance species.

In December 2015, the North Dakota Game and Fish Department proposed a rule change to broaden this provision to apply statewide. A hearing on this regulatory change was held on January 12, 2016. The proposed regulatory language is:

All drain plugs that may hold back water must be removed, and water draining devices must be open on all watercraft and recreational, commercial, and construction equipment bilges and confined spaces. during any out-of-water transport of same.

South Dakota

South Dakota's drain plug removal requirements are stated in the negative. Drain plugs must be removed, except when the boat is in a boat ramp parking area, being launched, or en route to fish cleaning station. S.D. Admin. R. 41:10:04:03 states:

No person may launch or attempt to launch a boat or boat trailer into the waters of the state with an aquatic invasive species attached or onboard. Except for emergency response boats, all trailered boats shall have all drain plugs, bailers, valves or other devices used to control the drainage of water opened or removed except while in a boat ramp parking area, being launched or loaded, or en route from a body of water to an immediately adjacent fish cleaning station.

Requirements to Drain Conveyances

Seven states – Colorado, Montana, Nevada, North Dakota, Texas, Utah, and Washington – have laws or regulations requiring boaters to drain conveyances.

- 2 Colo. Code Regs. § 405-8:803(G) states that “It is the responsibility of the vessel or other floating device operator to drain water from all compartments and motors/engines in between launches.”
- Montana Code Ann § 80-7-1010(2) and § 80-7-1015(7) states that “After use in a body of water within an invasive species management area, all vessels, equipment, bait containers, livewells, bilges, and other boating-related equipment, excluding marine sanitary systems, must be drained in a way that does not impact any state waters before being transported on land or a public highway, as defined in 61-1-101, except where allowed by the department of fish, wildlife, and parks.”
- Nev. Admin. Code § 488.520(1)(e) state that persons required to decontaminate a vessel, must “[a]t or reasonably near the site at which the vessel or conveyance is taken out of the impaired body of water, drain all water from the vessel or conveyance and from any equipment on the vessel or conveyance, including, without limitation, any water held in a ballast tank, motor cooling system, bilge, live well, motor or lower outboard unit.”
- N.D. Admin. Code § 30-03-06-05(2) states that “[a]ll water must be drained from all watercraft and recreational, commercial, and construction equipment bilges and confined spaces, livewells, and baitwells, when out of water or upon entering the state...”
- Texas Admin. Code § 57.1001 states that “[e]xcept as provided in paragraph (2) of this section, no person may use any public roadway other than a boat ramp to transport a vessel to or from a public water body to which the provisions of paragraph (3) of this section apply unless all bilges, live wells, and other similar receptacles and systems holding or capable of holding water on board the vessel as a result of immersion in or transfer from the public water body have been drained.”
- Utah Admin Code r. 657-60-5(1)(a) states that an “[o]wner, operator or possessor of any conveyance or equipment that has been in infested water, or water subject to a closure order or

control plan, must upon leaving the water ‘immediately drain all water from the equipment or conveyance at the take out site, including water held in ballast tanks, bilges, livewells, motors, and other areas of containment.’”

- Wash. Rev. Code § 77.135.110(1) requires a person in possession of an aquatic conveyance to meet “clean and drain” requirements after use in a water body. Section 77.135.010(5) states that clean and drain “means to remove the following from areas on or within an aquatic conveyance to the extent technically and measurably possible: (a) Visible native and nonnative aquatic animals, plants, or other organisms; and (b) Raw water.”

Draining Requirements as Part of Inspections:

In addition, three states – Colorado, Idaho, and Wyoming – require inspectors to drain water from conveyances as part of the inspection process.

- 2 Colo. Code Regs. § 405-8-803(2)(F): “All vessels or other floating devices of any kind, are subject to inspection in accordance with WID procedures prior to launch onto, operation on or departure from any waters of the state or vessel staging areas. All compartments, equipment and containers that may hold water, including, but not limited to, live wells and ballast and bilge areas shall be drained as part of all inspections.”
- Idaho Admin. Code r. 02.06.09.202(03): “All conveyances are subject to inspection. All compartments, equipment and containers that may hold water, including, but not limited to live wells and ballast and bilge areas shall be drained as part of all inspections.”
- Wyo. Code R. § 3(i): “Authorized inspectors shall determine if there is reason to believe that aquatic invasive species are present by interviewing the person transporting the conveyance or using visual and tactile inspection methods. As part of all inspections, all compartments, equipment, and containers that may hold water, including, but not limited to, live wells, ballast and bilge areas shall be completely drained as directed by authorized inspectors.”

I hope you find this information useful. If you have any follow-up questions or would like additional information, just let me know.

Sincerely,



Stephanie Otts
Director, National Sea Grant Law Center