



STATE OF MAINE
DEPARTMENT OF ENVIRONMENTAL PROTECTION



PAUL R. LEPAGE
GOVERNOR

PATRICIA W. AHO
COMMISSIONER

April 17, 2015

Robert Harmon
Morris Yachts, Inc.
27 Ramp Road
Trenton, ME 04605
rharmon@morrisyachts.com

RE: APPROVAL – Notice of Intent for Antifouling Paint Contaminated Vessel Wash Water General Permit #MEG170000

*Sent via electronic mail
Delivery confirmation requested*

Dear Mr. Harmon:

Enclosed, please find a Department Order approving coverage for Morris Yachts, Inc. under *General Permit – Antifouling Paint Contaminated Vessel Wash Water #MEG170000*, issued by the Department on October 14, 2014, for a five-year term.

A copy of the final Waste Discharge license #MEG170000 is available to view and download at: <http://www.maine.gov/dep/water/wd/antifouling-paint/index.html>. Please read the General Permit and its attached conditions carefully.

Any interested person aggrieved by a Department determination made pursuant to applicable regulations, may appeal the decision following the procedures described in the attached DEP FACT SHEET entitled "*Appealing a Commissioner's Licensing Decision.*"

Sincerely,

Bill Hinkel
Division of Water Quality Management
Bureau of Land and Water Quality
bill.hinkel@maine.gov
ph: 207.485.2281

Enc.

cc: Pam Parker, MDEP; Lori Mitchell, MDEP; Sandy Mojica, USEPA;
Olga Vergara, USEPA; Marelyn Vega, USEPA

AUGUSTA
17 STATE HOUSE STATION
AUGUSTA, MAINE 04333-0017
(207) 287-7688 FAX: (207) 287-7826

BANGOR
106 HOGAN ROAD, SUITE 6
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(207) 941-4570 FAX: (207) 941-4584

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312 CANCO ROAD
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1235 CENTRAL DRIVE, SKYWAY PARK
PRESQUE ISLE, MAINE 04769
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STATE OF MAINE
DEPARTMENT OF ENVIRONMENTAL PROTECTION
17 STATE HOUSE STATION AUGUSTA, MAINE 04333-0017

DEPARTMENT ORDER

IN THE MATTER OF

MORRIS YACHT, INC.) GENERAL PERMIT #MEG170000
MOUNT DESERT, HANCOCK COUNTY, MAINE) ANTI FOULING
#W009130-5Y-A-N) PAINT CONTAMINATED
#MEG170003) VESSEL WASH WATER
GENERAL PERMIT COVERAGE APPROVAL) **NEW**

In compliance with the applicable provisions of *Pollution Control*, 38 M.R.S.A. §§ 411 – 424-B, *Water Classification Program*, 38 M.R.S.A. §§ 464 – 470, *Federal Water Pollution Control Act*, Title 33 U.S.C. § 1251, applicable rules of the Maine Department of Environmental Protection (Department), and in consideration of supportive data, agency review comments and other related materials on file, the Department has considered the Notice of Intent submitted by MORRIS YACHT, INC. for coverage under *General Permit – Antifouling Paint Contaminated Vessel Wash Water*, #MEG170000, issued by the Department on October 14, 2014, and FINDS THE FOLLOWING FACTS.

APPLICATION SUMMARY

On March 25, 2015, the Department accepted as complete for processing a Notice of Intent form from Morris Yachts, Inc. for coverage under *General Permit – Antifouling Paint Contaminated Vessel Wash Water*, #MEG170000, issued by the Department on October 14, 2014. Morris Yachts, Inc. proposes to discharge treated antifouling paint contaminated vessel wash water from a boatyard/shipyard with haul and launch capacity located in Mount Desert, Maine, to the Atlantic Ocean at Northeast Harbor, Class SB, in Mount Desert, Maine. Morris Yachts, Inc. proposes to wash a total of 60 vessels per year (3 per day) with an average length of 38 feet using a pressure washer with an average flow of 3 gallons per minute. Morris Yachts, Inc. proposes to collect and treat wastewater using a 1 micron filtration system prior to discharge to Northeast Harbor via a ¾-inch diameter outfall pipe that is submerged to a depth of 5 feet at mean low water. Morris Yachts, Inc. was previously covered under *General Permit – Antifouling Paint Contaminated Vessel Wash Water*, #MEG170000, issued by the Department on October 14, 2009.

AUTHORIZED DISCHARGES

Morris Yachts, Inc. is authorized to discharge only: 1) in accordance with Morris Yachts, Inc.'s Notice of Intent accepted for processing on March 25, 2015; and 2) in accordance with the terms and conditions of *General Permit – Antifouling Paint Contaminated Vessel Wash Water*, #MEG170000, issued by the Department on October 14, 2014. Discharges of pollutants other than treated antifouling paint contaminated vessel wash water or from any other point source are not authorized under this General Permit approval and must be reported in accordance with Standard Condition B(5), *Bypasses*, of *Maine Pollutant Discharge Elimination System Permit Standard Conditions Applicable To All Permits*, revised July 1, 2002, attached to General Permit #MEG170000 and incorporated herein by reference.

CONCLUSIONS

1. The discharge of treated antifouling paint contaminated vessel wash water in accordance with General Permit #MEG170000, either by itself or in combination with other discharges, will not lower the quality of any classified body of water below such classification.
2. The discharge of treated antifouling paint contaminated vessel wash water in accordance with General Permit #MEG170000, either by itself or in combination with other discharges, will not lower the quality of any unclassified body of water below the classification which the Department expects to adopt in accordance with State law.
3. The provisions of the State's antidegradation policy, *Classification of Maine waters*, 38 M.R.S.A. § 464(4)(F) will be met.
4. The discharge of treated antifouling paint contaminated vessel wash water in accordance with General Permit #MEG170000 is subject to effluent limitations that require application of best practicable treatment as defined in *Conditions of licenses*, 38 M.R.S.A. § 414-A(1)(D).

ACTION

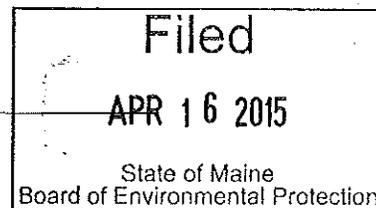
Based on the findings and conclusions as stated above, the Department APPROVES Morris Yacht, Inc. to discharge an unspecified volume of treated antifouling paint contaminated vessel wash water in accordance with *General Permit – Antifouling Paint Contaminated Vessel Wash Water*, #MEG170000, issued by the Department on October 14, 2014, subject to the terms and conditions therein and in this approval.

Authorization to discharge under this approval becomes effective upon the date of signature below and expires at midnight on March 25, 2019, concurrent with the expiration date of #MEG170000. Prior to expiration of General Permit #MEG170000, the Department must make a determination if it is to be renewed, and, if so, must commence renewal proceedings. If the General Permit is to be renewed, the General Permit and this approval under it shall remain in effect until the Department takes final action on the renewal. [*Maine Administrative Procedure Act*, 5 M.R.S.A. § 10002, *Rules Concerning the Processing of Applications and Other Administrative Matters*, 06-096 CMR 2(21)(A) (last amended August 25, 2013), and *General Permits for Certain Wastewater Discharges*, 06-096 CMR 529(3)(c) (last amended June 27, 2007)]

DONE AND DATED AT AUGUSTA, MAINE THIS 16th DAY OF April, 2015.

DEPARTMENT OF ENVIRONMENTAL PROTECTION

BY: Michael Kuhn
PATRICIA W. AHO, Commissioner



Date filed with Board of Environmental Protection _____

PLEASE NOTE ATTACHED SHEET FOR GUIDANCE ON APPEAL PROCEDURES

Notice of Intent was received by the Department on: March 25, 2015

Notice of Intent was accepted as complete for processing by the Department on: March 25, 2015

This Order prepared by Bill Hinkel, BUREAU OF LAND & WATER QUALITY

SPECIAL CONDITIONS

A. EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

The permittee is authorized to discharge treated antifouling paint contaminated wash water from **OUTFALL # 001A** to the Class SB or SC waters identified in the approved NOI. Such discharges are limited and must be monitored by the permittee as specified below⁽¹⁾.

Reporting must take place annually from August through December⁽²⁾.

Effluent Characteristic	Discharge Limitations		Concentration		Minimum Monitoring Requirements	
	Monthly Average	Daily Maximum	Monthly Average	Daily Maximum	Measurement Frequency	Sample Type
Flow [50050]	600 gpd [07]	1,000 gpd [07]	---	---	1/Discharge Day ⁽²⁾ [01/DD]	Measure [MS]
BOD ₅ [00310]	2.82 lbs./Day [26]	7.56 lbs./Day [26]	Report mg/L [19]	Report mg/L [19]	1/Month ⁽²⁾ [01/30]	Grab [GR]
TSS [00530]	0.59 lbs./Day [26]	1.15 lbs./Day [26]	Report mg/L [19]	Report mg/L [19]	1/Month ⁽²⁾ [01/30]	Grab [GR]
Copper (Total) [01042]	0.004 lbs./Day [26]	0.015 lbs./Day [26]	---	---	1/Month ⁽²⁾ [01/30]	Grab [GR]
Lead (Total) [01051]	0.008 lbs./Day [26]	0.592 lbs./Day [26]	---	---	1/Month ⁽²⁾ [01/30]	Grab [GR]
Zinc (Total) [01092]	0.088 lbs./Day [26]	0.255 lbs./Day [26]	---	---	1/Month ⁽²⁾ [01/30]	Grab [GR]

FOOTNOTES: See Page 11 of the General Permit for applicable footnotes.



DEP INFORMATION SHEET

Appealing a Department Licensing Decision

Dated: March 2012

Contact: (207) 287-2811

SUMMARY

There are two methods available to an aggrieved person seeking to appeal a licensing decision made by the Department of Environmental Protection's ("DEP") Commissioner: (1) in an administrative process before the Board of Environmental Protection ("Board"); or (2) in a judicial process before Maine's Superior Court. An aggrieved person seeking review of a licensing decision over which the Board had original jurisdiction may seek judicial review in Maine's Superior Court.

A judicial appeal of final action by the Commissioner or the Board regarding an application for an expedited wind energy development (35-A M.R.S.A. § 3451(4)) or a general permit for an offshore wind energy demonstration project (38 M.R.S.A. § 480-HH(1)) or a general permit for a tidal energy demonstration project (38 M.R.S.A. § 636-A) must be taken to the Supreme Judicial Court sitting as the Law Court.

This INFORMATION SHEET, in conjunction with a review of the statutory and regulatory provisions referred to herein, can help a person to understand his or her rights and obligations in filing an administrative or judicial appeal.

I. ADMINISTRATIVE APPEALS TO THE BOARD

LEGAL REFERENCES

The laws concerning the DEP's *Organization and Powers*, 38 M.R.S.A. §§ 341-D(4) & 346, the *Maine Administrative Procedure Act*, 5 M.R.S.A. § 11001, and the DEP's *Rules Concerning the Processing of Applications and Other Administrative Matters* ("Chapter 2"), 06-096 CMR 2 (April 1, 2003).

HOW LONG YOU HAVE TO SUBMIT AN APPEAL TO THE BOARD

The Board must receive a written appeal within 30 days of the date on which the Commissioner's decision was filed with the Board. Appeals filed after 30 calendar days of the date on which the Commissioner's decision was filed with the Board will be rejected.

HOW TO SUBMIT AN APPEAL TO THE BOARD

Signed original appeal documents must be sent to: Chair, Board of Environmental Protection, c/o Department of Environmental Protection, 17 State House Station, Augusta, ME 04333-0017; faxes are acceptable for purposes of meeting the deadline when followed by the Board's receipt of mailed original documents within five (5) working days. Receipt on a particular day must be by 5:00 PM at DEP's offices in Augusta; materials received after 5:00 PM are not considered received until the following day. The person appealing a licensing decision must also send the DEP's Commissioner a copy of the appeal documents and if the person appealing is not the applicant in the license proceeding at issue the applicant must also be sent a copy of the appeal documents. All of the information listed in the next section must be submitted at the time the appeal is filed. Only the extraordinary circumstances described at the end of that section will justify evidence not in the DEP's record at the time of decision being added to the record for consideration by the Board as part of an appeal.

WHAT YOUR APPEAL PAPERWORK MUST CONTAIN

Appeal materials must contain the following information at the time submitted:

1. *Aggrieved Status.* The appeal must explain how the person filing the appeal has standing to maintain an appeal. This requires an explanation of how the person filing the appeal may suffer a particularized injury as a result of the Commissioner's decision.
2. *The findings, conclusions or conditions objected to or believed to be in error.* Specific references and facts regarding the appellant's issues with the decision must be provided in the notice of appeal.
3. *The basis of the objections or challenge.* If possible, specific regulations, statutes or other facts should be referenced. This may include citing omissions of relevant requirements, and errors believed to have been made in interpretations, conclusions, and relevant requirements.
4. *The remedy sought.* This can range from reversal of the Commissioner's decision on the license or permit to changes in specific permit conditions.
5. *All the matters to be contested.* The Board will limit its consideration to those arguments specifically raised in the written notice of appeal.
6. *Request for hearing.* The Board will hear presentations on appeals at its regularly scheduled meetings, unless a public hearing on the appeal is requested and granted. A request for public hearing on an appeal must be filed as part of the notice of appeal.
7. *New or additional evidence to be offered.* The Board may allow new or additional evidence, referred to as supplemental evidence, to be considered by the Board in an appeal only when the evidence is relevant and material and that the person seeking to add information to the record can show due diligence in bringing the evidence to the DEP's attention at the earliest possible time in the licensing process or that the evidence itself is newly discovered and could not have been presented earlier in the process. Specific requirements for additional evidence are found in Chapter 2.

OTHER CONSIDERATIONS IN APPEALING A DECISION TO THE BOARD

1. *Be familiar with all relevant material in the DEP record.* A license application file is public information, subject to any applicable statutory exceptions, made easily accessible by DEP. Upon request, the DEP will make the material available during normal working hours, provide space to review the file, and provide opportunity for photocopying materials. There is a charge for copies or copying services.
2. *Be familiar with the regulations and laws under which the application was processed, and the procedural rules governing your appeal.* DEP staff will provide this information on request and answer questions regarding applicable requirements.
3. *The filing of an appeal does not operate as a stay to any decision.* If a license has been granted and it has been appealed the license normally remains in effect pending the processing of the appeal. A license holder may proceed with a project pending the outcome of an appeal but the license holder runs the risk of the decision being reversed or modified as a result of the appeal.

WHAT TO EXPECT ONCE YOU FILE A TIMELY APPEAL WITH THE BOARD

The Board will formally acknowledge receipt of an appeal, including the name of the DEP project manager assigned to the specific appeal. The notice of appeal, any materials accepted by the Board Chair as supplementary evidence, and any materials submitted in response to the appeal will be sent to Board members with a recommendation from DEP staff. Persons filing appeals and interested persons are notified in advance of the date set for Board consideration of an appeal or request for public hearing. With or without holding a public hearing, the Board may affirm, amend, or reverse a Commissioner decision or remand the matter to the Commissioner for further proceedings. The Board will notify the appellant, a license holder, and interested persons of its decision.

II. JUDICIAL APPEALS

Maine law generally allows aggrieved persons to appeal final Commissioner or Board licensing decisions to Maine's Superior Court, see 38 M.R.S.A. § 346(1); 06-096 CMR 2; 5 M.R.S.A. § 11001; & M.R. Civ. P 80C. A party's appeal must be filed with the Superior Court within 30 days of receipt of notice of the Board's or the Commissioner's decision. For any other person, an appeal must be filed within 40 days of the date the decision was rendered. Failure to file a timely appeal will result in the Board's or the Commissioner's decision becoming final.

An appeal to court of a license decision regarding an expedited wind energy development, a general permit for an offshore wind energy demonstration project, or a general permit for a tidal energy demonstration project may only be taken directly to the Maine Supreme Judicial Court. See 38 M.R.S.A. § 346(4).

Maine's Administrative Procedure Act, DEP statutes governing a particular matter, and the Maine Rules of Civil Procedure must be consulted for the substantive and procedural details applicable to judicial appeals.

ADDITIONAL INFORMATION

If you have questions or need additional information on the appeal process, for administrative appeals contact the Board's Executive Analyst at (207) 287-2452 or for judicial appeals contact the court clerk's office in which your appeal will be filed.

Note: The DEP provides this INFORMATION SHEET for general guidance only; it is not intended for use as a legal reference. Maine law governs an appellant's rights.
